

## **MINUTES OF THE BOARD OF SELECTMEN MEETING**

April 13, 2015

Meeting held at Town Hall

**MEMBERS PRESENT:** Chairman Robert Merry, Vice Chairman Joseph Perry, Clerk Robert Snow, (Town Administrator Deborah Eagan, Assistant Town Administrator Amy Lydon), David Petersen (ABSENT)

**PUBLIC ATTENDEES:** Police Chief Robert Barker; Barry Marshall, Resident; Tom Mullen, Thomas A. Mullen, P.C.; James P. Bedard, Rowley Police; Lawrence White, Finance Committee; Alice Garner, Resident; Robert Garner, Resident; Lucy Lockwood, Resident; Matthew Coburn, Resident; Alison Galati, Resident; Paul Gaiser, Resident; William Eldridge, Resident; Christine Eldridge, Resident; Andrea Georgetti, Resident; Joseph Rocco, Resident; Marilyn Jarvis; Anthony Turco, Attorney

### **CALL MEETING TO ORDER**

Chairman Robert Merry called the meeting to order at 7:03 p.m. He said the meeting is being audio and video recorded digitally.

### **PLEDGE**

Bob Snow led the Pledge of Allegiance.

### **APPOINTMENTS AND HEARINGS**

7:00 p.m. Appointment - Attorney Thomas Mullin and Attorney Judy Pickett to discuss town counsel services.

Attorney Thomas Mullin said Judy Pickett cannot be here tonight because her husband is ill. He said Brackett & Lucas is dissolving effective June 30, 2015. He said he asked Judy Pickett to join his firm and she agreed. He said his firm serves as Town Counsel for Wakefield (since 1994) and Lynnfield (since 2003), as well as for numerous other agencies. He said he hopes to offer Rowley a seamless continuity of service with Pickett as the primary contact and Meredith Freed as the backup. He said the rates will be the same at \$145 per hour and \$125 per hour for an Associate, and Town Meeting attendance will be provided at no cost. He said there is one potential conflict as he represents Said Abuzzara who is a developer in Rowley, but after June 30, 2015 he will take no further part with this client. He said he has spoken to Steven Fletcher who will step in as special counsel and handle Abuzzara and the same rate, and Abuzzara understands this. He said he has a relationship with Brody Hardoon, a premier litigation firm in Massachusetts, and this firm's services would be available to the Town at a discounted rate.

He said his philosophy is the best lawsuit is one that you don't defend. He said he and Judy would like to hold a free seminar for town boards, committees and employees at our choice of time to review the open meeting law and public records law.

Snow said he knows Mullen from the time that he served on the Planning Board and is impressed with his credentials. Perry said he feels more comfortable now than before and said welcome to Rowley.

Bob Snow made a motion to appoint the Law Offices of Thomas A. Mullen, P.C. as the Town Counsel effective July 1, 2015, Joseph Perry second, all in favor - aye (3-0).  
Dave Petersen - ABSENT

### **GENERAL BUSINESS**

1. Sign May 12, 2015 Annual Town Election Warrants

Joseph Perry made a motion to sign the May 12, 2015 Annual Town Election Warrant, Bob Snow second, all in favor - aye (3-0). Dave Petersen - ABSENT

The Selectmen signed the warrant.

2. Review Zoning Board of Appeals special permit application from Michael Bontos for the change of a non-conforming use.

Chairman Merry said this application is pretty straightforward. The Board decided to notify the ZBA that they don't have any concerns about the application, but to make note of the letter from the Building Inspector dated February 24, 2015.

### **CITIZEN QUERY - 7:15 PM - 7:20 P.M.**

Citizen query opened at 7:15 p.m. and closed at 7:20 p.m. There were no citizen queries.

### **GENERAL BUSINESS**

3. Road Opening Permit application from National Grid to open 38 Fenno Drive at pole #7 for corrosion work.

Snow said this application is in order.

Bob Snow made a motion to sign approve the Road Opening Permit application from National Grid to open 38 Fenno Drive at pole #7 for corrosion work, Joseph Perry second, all in favor - aye (3-0). Dave Petersen - ABSENT

The Selectmen signed the permit.

4. Letter from Sean McFadden requesting to lift the hiring freeze for the position of administrative assistant.

Chairman Merry read the letter from Sean McFadden. Merry said it is too bad that we are losing Colleen Cooper, she did a great job.

Joseph Perry made a motion to lift the hiring freeze for the position of administrative assistant for the Assessor's Office, Bob Snow second, all in favor - aye (3-0). Dave Petersen - ABSENT

5. Email letter from Ryan Lennon regarding resignation from the Eastern Essex Veterans Services District

Chairman Merry read the email. Snow said he is speechless. He said Lennon was one heck of a replacement and did a good job of filling Terry Hart's shoes. He said it sounds like he is moving up in his career, he did a great job, and they will be meeting replacement candidates.

Bob Snow made a motion to accept Ryan Lennon's resignation with regrets, Joseph Perry second, all in favor - aye (3-0). Dave Petersen - ABSENT

### **APPOINTMENTS AND HEARINGS**

7:20 p.m. Appointment - Police Chief Robert Barker to present James Bedard for appointment as a reserve police officer.

Chairman Merry read the letter from Police Chief Robert Barker. Barker said he is trying to beef up the staff to cut down on overtime expenses. Bedard said he is very excited, he is looking forward to the training and getting on the streets and serving the citizens of Rowley.

Joseph Perry made a motion to appoint James Bedard as a reserve police officer effective April 14, 2015 expiring on June 30, 2015, Bob Snow second, all in favor - aye (3-0). Dave Petersen - ABSENT

### **GENERAL BUSINESS**

6. Letter from Community Action, Inc. regarding website

Chairman Merry read the letter into the record.

Bob Snow made a motion to provide a link on the Town of Rowley website to Community Action, Inc.'s webpage, Joseph Perry second, all in favor - aye (3-0). Dave Petersen - ABSENT

## **NEW BUSINESS**

1. Review and approve Antique/Junk license renewals

Chairman Merry said, "We are still waiting for one more renewal which we haven't received yet, so there is nothing for the Selectmen to approve under this agenda item."

2. Application from Catherine Reardon for Antique license for 29R Main Street

Chairman Merry said, "Catherine Reardon has submitted a complete application for the antique/junk license at 29R Main Street. All light, water and tax bills are current."

Bob Snow made a motion to approve the antique license for Catherine Reardon at 29R Main Street, Joseph Perry second, all in favor - aye (3-0). Dave Petersen - ABSENT

3. One-day liquor license application from Village Pancake House for Saturday, July 25, 2015

Chairman Merry said, "The Village Pancake House is requesting a one-day liquor license for Saturday July 25, 2015 at 1:30 p.m. for a bridal shower. Police Chief Robert Barker has approved this application."

Joseph Perry made a motion to approve the one-day liquor license application from Village Pancake House for Saturday, July 25, 2015, Bob Snow second, all in favor - aye (3-0). Dave Petersen - ABSENT

4. Memo from Conservation Agent Brent Baeslack regarding invasive species on Town property.

Chairman Merry read the memo from Conservation Agent Brent Baeslack regarding invasive species on Town property.

Joseph Perry made a motion to authorize Chairman Merry to sign the Mass Audubon permission form to allow control of invasive species on municipal property, Bob Snow second, all in favor - aye (3-0). Dave Petersen - ABSENT

Merry signed the permission form.

## **APPOINTMENTS AND HEARINGS**

7:30 p.m. Appointment - Barry Marshall to discuss Kathleen Circle

Barry Marshall said he has lived in Rowley for 35 years and there is a sinkhole between his house and his neighbor's house. He said the Highway Department has said that Kathleen Circle was never accepted, but the bond was released to the developer. He

said he needs the Town to fix the sinkhole and asked if the bond was released why the road wasn't accepted. Merry said typically the contractor finishes the work and requests the Town to accept the road, the Planning Board usually handles this and he is unsure about the bond. Marsh said the developer is dead. He said the road has been plowed by the Town and has lights, and is being used as a public way. He asked why the road was plowed by the Town if it is private. Merry said it was plowed as a courtesy, but it was discovered that municipal funds cannot be used on private ways. Snow said there is also an insurance liability issue. Marshall asked why the road can't be repaired if it was plowed. Merry said we can't by state law. Marshall said the road can remain private and the residents will pay for plowing and repairs. He said his neighbors think he wants the road approved so that a 40B development can be put in behind his house. He said five or six years ago he was going to sell his house to a developer and the neighbors didn't want the 40B project to happen because they thought it would diminish their property values. He said if the Town stops plowing the road, he agrees and he is trying to figure out why the road wasn't accepted.

Snow said for Christopher Road, the property owners owned to the middle of the road, so they all had to sign off on the acceptance of the road. Eagan said in some cases with Christopher Road there were three separate trusts and the Town worked with the heirs to the developers in some cases, which takes a long time. Marshall said he is trying to figure out why the road wasn't accepted and he and the neighbors want this fixed.

Joseph Rocco of 20 Kathleen Circle said he would not like Kathleen Circle to become a public way. He said in 2001 Marshall made a deal that would have been a substantial financial gain if he sold his home and it became the access way for a 40B development. He said the sink hole is approximately 40 feet off of the street's curb and even if this was a public way, he questions if the Town would go 40 feet into Marshall's property to make this repair. He said he is one of many residents who don't want to see Kathleen Circle become a public way, he is here to voice his opinion, and many people have signed a petition to put an end to the request to make this a public way. Marshall said the Highway Department said the sinkhole is in line with the drainage pipe and his next step is to fill it with cement. Merry said they aren't here to discuss that.

William Eldridge of 37 Kathleen Circle said he and his wife pay for the bill for the lights on the street through their light bill and they are willing to continue doing this. He said he is willing to put a covenant on their house to ensure that no future development goes in behind their house.

Lucy Lockwood of 58 Kathleen Circle said they would like to support the Town in working to acquire the lot that lies behind three of the parcels of Kathleen Circle which was the subject of litigation for eight years between the Town and the developer for a 40B development. She said if acquired there would be no issues in the future about potential development of this land. She said if acquired, the land would link two other parcels under the care and custody of the Conservation Commission, and trails can be developed. She said the last contact with the land owner, Bruce Ashley, was made in

2009. She said Sally Taylor, the head of the Open Space Committee at that time, working with Essex County Greenbelt, reached out to the owner and he wanted a premium, which the Town cannot pay. She said it has been six years and it would be worthwhile to reach out to the owner again. Marshall said maybe the neighbors can all pitch in to buy the land. Merry suggested that Lockwood reach out to the Conservation Commission about this. Lockwood said she will send a letter to the Conservation Commission and the Open Space Committee tomorrow.

## **OLD BUSINESS**

1. Discuss Town Wharf re-bidding project

Chairman Merry read the following:

*The Harbormaster has asked that we re-advertise for the Wharf bid project now. The bid will be released on April 22, 2015. The funding of the contract will be subject to Town Meeting approval.*

Eagan said it is crucial to get this under contract and the rot is of concern to the Harbormaster. She said we would proceed with the project subject to Town Meeting approval.

2. Discuss Turf maintenance solicitation

Eagan said this is the same service as the Recreation Committee has been doing all along, and a request for price quotation was issued since a sealed bid was not necessary since the value is under \$25,000.

Bob Snow made a motion to release the Turf Maintenance Solicitation, Joseph Perry second, all in favor - aye (3-0). Dave Petersen - ABSENT

3. Authorize the MIIA FY 16 group health insurance renewal.

Chairman Merry said, "The Board of Selectmen needs to vote to authorize Debbie to renew the FY 16 MIIA group health insurance. The premiums for all MIIA plans are increasing by 7.14 percent."

Bob Snow made a motion to authorize Debbie to renew the FY 16 MIIA group health insurance, Joseph Perry second, all in favor - aye (3-0). Dave Petersen – ABSENT  
Chairman Merry said he is voting on this because of the rule of necessity.

## **ANNOUNCEMENTS**

- Informational Hearing on the Town Meeting Warrant is Monday, April 27, 2015 at 7:30 p.m. at Town Hall

- Town Meeting is scheduled for May 4, 2015 at 7:30 p.m. at the Pine Grove School
- Annual Town Election is Tuesday, May 12, 2015 from noon to 8:00 p.m. at St. Mary's Hall
- Drinking Water Week -- May 3-9 - Tours of the Town's new water treatment plant will be provided, contact Water Superintendent Marybeth Wiser at 978-948-2640, Ext 4, to schedule a tour.
- Check out the Library's website and Rowley Community Media for news on the Rowley Reads Program
- The Town has the following vacancies:
  - a) **Fence Viewer**– three positions;
  - b) **Board of Cemetery Commissioner** – one seat open through May 12
  - c) **Wood, Lumber & Bark Inspector**; and
  - d) **Zoning Board of Appeals Associate** – two open seats
  - e) **Historical Commission-Historic District Commission** - two seats
  - f) **Parks and Recreation Committee** - two seats
  - g) **Open Space Committee** is seeking membersFor more information on these positions, please contact the Selectmen's Office at 948-2372
- Rowley Food Pantry is in need of donations. The Food Pantry is open Tuesdays from 10:00 a.m. to 12:00 p.m. and Thursdays from 5:30 p.m. to 7:00 p.m.

## **APPOINTMENTS AND HEARINGS**

8:00 p.m. Town Administrator Deborah Eagan for annual performance review.

Eagan said she would like to waive her rights and to have this evaluation done in open session to make this is public document.

Chairman Merry read the memo from Town Administrator Deborah Eagan.

Perry said in his new position as Vice Chairman he worked closely with Eagan on the budget preparation, which was a new challenge. He said this is his fourth year on the Board and Eagan continues to amaze him with how hard she works, she puts packets together diligently and accurately, she meets the letter of the law with terrific ability. He rated her excellent.

Snow said he has been on the Board for seven years and has worked each position and Eagan is a factotum. He said she is a "jack of all trades" and has been through peaks and valleys. He said she guides the Board and the Board listens to her wisdom. He rated her excellent.

Merry said this is his third term and Eagan was hired just before his first term. He said he knew what the Board of Selectmen does, but Eagan led him through the first three years. He said what Perry and Snow have said about Eagan is true and she gets the

Board through situations. Perry said she makes their job easier and the learning curve is shorter with Eagan behind them. Snow said Eagan is very dedicated and he often sees her car at Town Hall on Saturdays and Sundays.

The Board went through the performance evaluation form and rated Eagan excellent in each category for an overall rating of 100%. Perry said we want Eagan to stick around for a long while.

Bob Snow made a motion to accept the evaluation completed for Deborah Eagan, Joseph Perry second, all in favor - aye (3-0). Dave Petersen – ABSENT

Eagan thanked the Board for working with her in a team environment and for their nice comments. She said the Board members have different backgrounds that they bring into play and she has wonderful coworkers. Merry said Eagan's interactions with the employees are very good, she runs a well-oiled clock and she is very much appreciated. Snow said he has worked with management teams for four decades and this office is the best he has seen.

## **ADJOURN**

There being no further business before the Board, Chairman Merry called for a motion to adjourn. Joseph Perry so moved, Bob Snow second, all in favor - aye (3-0). Dave Petersen - ABSENT.

Open meeting adjourned at 8:08

Respectfully submitted,  
Amy Lydon  
Assistant Town Administrator

## **ATTACHMENTS**

1. Meeting memo regarding 7:00 Appointment - Attorney Thomas Mullin and Attorney Judy Pickett to discuss town counsel services
2. Letter from Attorney Thomas A. Mullen, April 8, 2015, regarding Town Counsel Representation
3. Warrant for Annual Town Election, May 12, 2015
4. Zoning Board of Appeals special permit application from Michael Bontos, March 23, 2015
5. Road Opening Permit application from National Grid to open 38 Fenno Drive at pole #7
6. Letter from Sean McFadden, April 9, 2015, to lift hiring freeze for the position of administrative assistant.
7. Email from Ryan Lennon, April 13, 2015, regarding resignation from Eastern Essex Veterans Services District.
8. Press release regarding Ryan Lennon's resignation



9. Letter from Police Chief Robert R. Barker, April 8, 2015, presenting James Bedard for appointment of reserve patrolman.
10. Letter from Community Action, Inc., March 31, 2015, regarding website.
11. Meeting memo for New Business #1: Review and approve Antique/Junk license renewals
12. Meeting memo for New Business #2: Application from Catherine Reardon for Antique license for 29R Main Street
13. Application from Catherine Reardon for Antique license for 29R Main Street
14. Meeting memo for New Business #3: One-day liquor license application from Village Pancake House for July 25, 2015.
15. One-day liquor license application from Village Pancake House for July 25, 2015.
16. Memo from Conservation Agent Brent Baeslack, April 7, 2015, regarding invasive species on Town property, including attachments
17. Email from Barry Marshall, April 7, 2015, regarding Kathleen Circle
18. Assessor's property card for 43 Kathleen Circle
19. Letter from residents of Kathleen Circle to the Board of Selectmen dated April 12, 2015 and attached map
20. Meeting memo for Old Business #1: Discuss Town Wharf re-bidding project
21. Meeting memo for Old Business #2: Discuss Turf Maintenance solicitation
22. Draft Quote Form and Specifications for Turf Maintenance
23. Meeting memo for Old Business #3: Authorize MIIA FY 16 group health insurance renewal
24. MIIA FY 16 group health insurance renewal rates
25. Memo from Town Administrator Deborah Eagan to Board of Selectmen regarding performance appraisal
26. Completed employee performance appraisal forms for Deborah Eagan