

## MINUTES OF THE BOARD OF SELECTMEN MEETING

April 28, 2014

Meeting held at Town Hall Upstairs Auditorium

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

**PUBLIC ATTENDEES:** See attached attendance list

### **CALL MEETING TO ORDER**

Chairman Robert Snow called the meeting to order at 7:02 p.m. He said the meeting is being audio and video recorded digitally.

### **PLEDGE OF ALLEGIANCE**

Larry White led the Pledge of Allegiance.

### **CHAIRMAN'S COMMENTS**

None.

### **GENERAL BUSINESS**

#### 1. Antique/Junk License renewals

Chairman Snow read the following:

*The applicants below have submitted renewals for their Antique / Junk licenses to be renewed through May 1, 2015. The applicants do not have outstanding taxes, water or electric bills. All required forms and renewal fees have been submitted.*

<i>Applicant Name</i>	<i>Business Name</i>	<i>Business Address</i>
<i>Kathryn Hall</i>	<i>Bittersweet Collectibles</i>	<i>164 Main St</i>
<i>Judith Comley</i>	<i>Bargain Hut Realty Trust</i>	<i>280 Main St</i>

Joseph Perry made a motion to renew these two antique/junk licenses, Jack Cook second, all in favor – aye (5-0).

2. Request from Cemetery Board to lift hiring freeze to post two seasonal laborer positions

Chairman Snow said, "The Board of Selectmen needs to ratify the posting of the two seasonal laborer positions."

Joseph Perry made a motion to ratify the posting of the two seasonal laborer positions, Bob Merry second, all in favor – aye (4-0). Jack Cook - ABSTAINED

### **7:05 – 7:15 p.m. CITIZEN QUERY**

Citizen's Query opened.

### **GENERAL BUSINESS**

3. Request from Board of Water Commissioners to lift hiring freeze to post primary water operator position

Jack Cook made a motion to lift the hiring freeze to post the primary water operator position, Joseph Perry second, all in favor – aye (5-0).

4. Request from Board of Water Commissioners to lift hiring freeze to post seasonal laborer position

Jack Cook made a motion to lift the hiring freeze to post the seasonal laborer position, Joseph Perry second, all in favor – aye (5-0).

5. Letter from Ipswich American Legion Post 80 re: Annual Poppy Drive

Chairman Snow read the following:

*A letter has been received from Ipswich American Legion Post #80 advising the Board of Selectmen that the annual Poppy Drive will be held on May 16 - 18, 2014 at the Market Basket Supermarket, 275 Newburyport Turnpike. There is no motion needed because the Poppy Drive is being held on private property. (A COPY OF THE LETTER IS ATTACHED).*

6. Sign Annual Town Election Warrants

Joseph Perry made a motion to sign the Annual Town Election Warrants (COPY ATTACHED), Jack Cook second, all in favor – aye (5-0).

The Selectmen signed the Annual Town Election Warrants.

**7:05 – 7:15 p.m. CITIZEN QUERY**

Citizen's Query closed. There were no Citizen's queries.

**7:15 p.m.** – Street Layout Hearing – Gurczak Lane

Chairman Snow read the Hearing Notice into the record (COPY ATTACHED).

Joseph Perry made a motion to open the street layout hearing, Jack Cook second, all in favor – aye (5-0).

Snow read the memo from the Planning Board and the Board reviewed the mylar plan prepared by Larry Graham (COPIES ATTACHED).

Snow asked the audience if there are any questions. There were no questions.

Snow read the following:

*We will work on the remaining punch list items after town meeting. The Town appropriated the remaining bond at the November 4, 2013 Special Town Meeting (\$22,377).*

Snow called for a motion to layout Gurczak Lane as a public way.

Joseph Perry made a motion that Gurczak Lane, as described as follows, be laid out as a Town way, and further moved that the Town Administrator be directed to promptly file with the Town Clerk a report of this layout of Gurczak Lane as a Town way. That the private way known as Gurczak Lane, situated on the southerly sideline of Haverhill Street and running an approximate distance of 600 feet, shown on a plan entitled "Street Acceptance Plan Gurczak Lane Rowley, Mass." This being the roadway shown on a plan entitled "Definitive Plan, recoded with Essex South Registry of Deeds as Plan 6 in Plan Book 348, and to authorize the Board of Selectmen to acquire by gift, deed, or eminent domain the land, easements and rights therein located with the above-referenced Gurczak Lane, Jack Cook second, all in favor – aye (5-0).

The Board signed the written motion and Eagan left the room to post it with the Town Clerk.

Bob Merry made a motion to close the hearing, Joseph Perry second, all in favor – aye (5-0).

Hearing closed 7:22 p.m.

## **GENERAL BUSINESS**

### **7. Request from Rowley Historical Society to use Margaret Scott Green for annual plant sale**

Chairman Snow read the following:

*A letter has been received from Rowley Historical Society requesting the use of the Margaret Scott Green for their annual plant sale on Saturday, May 17, 2014, with a rain date of Sunday, May 18, 2014. The relevant Department Heads do not have any concerns regarding this request. (A COPY OF THE LETTER IS ATTACHED).*

Merry said he is on the Board of Directors for the Rowley Historical Society and recused himself.

Jack Cook made a motion to allow the Rowley Historical Society to use the Margaret Scott Green for the annual plant sale on Saturday, May 17, 2014 with a rain date of Sunday, May 18, 2014, Joseph Perry second, all in favor – aye (4-0). Bob Merry - RECUSED

### **8. Request from Friends of the Rowley Public Library to place Book Sale signs on town property**

Chairman Snow read the following:

*An email request has been received from the Friends of the Rowley Public Library to put up signs publicizing their annual book sale on Town property (EMAIL ATTACHED). The relevant Departments / Committees do not have any concerns regarding this request.*

Snow read the locations for the signs from the email request.

Jack Cook made a motion to allow the Friends of the Rowley Public Library to put signs up publicizing their annual book sale, Dave Petersen second, all in favor – aye (5-0).

### **9. Road Opening Permit request from National Grid for 250 Dodge Road for new gas service**

Dave Petersen made a motion to approve the road opening request for 250 Dodge Road, Jack Cook second, all in favor – aye (5-0).

The Selectmen signed the permit.

**10. Road Opening Permit request from National Grid for 36 Cross Street for new gas service**

Joseph Perry made a motion to approve the road opening request for 36 Cross Street, Dave Petersen second, all in favor – aye (5-0).

The Selectmen signed the permit.

**OLD BUSINESS**

**1. Letter from Cynthia Lucia re: Chapter 61 land**

Chairman Snow read the following:

*Cynthia Lucia responded to the Board of Selectmen's letter to her dated April 16, 2014, which the Board voted to send to her at the April 14, 2014 meeting. Attached is the letter sent to her and her response.*

Snow read the letter to Lucia and her response (COPIES ATTACHED).

Petersen recommended that this request be denied because they haven't provided any indication of their intent for the land as required under the law.

Dave Petersen made a motion to deny this request pending additional information, Jack Cook second, all in favor – aye (5-0).

**7:30 p.m.** Informational Hearing on the May 5, 2014 Annual and Special Town Meeting Warrants and Joint Meeting with the Finance Committee

- Discuss Board of Selectmen and Finance Committee recommendations on the FY 15 Water Budget and town meeting article recommendations

Chairman Snow called for a motion to open the joint meeting of the Board of Selectmen and the Finance Committee. Jack Cook so moved, Joseph Perry second, all in favor – roll call vote: Robert Merry – aye; Joseph Perry – aye; Robert Snow - aye; Jack Cook - aye; David Petersen - aye; Jami Snow - aye; Janet Bridges - aye; Sharon Emery - aye; Larry White - aye Peter Censullo – ABSENT

Joint meeting opened 7:32 p.m.

Chairman Snow read the following:

*This is an informational hearing on the May 5, 2014 Annual and Special Town Meeting Warrants. Both the Board of Selectmen and Finance Committee during tonight's hearing will each take up a discussion and a vote on a recommendation on the Water*

*Department budget, Article #6 and Article #7 of the May 5, 2014 Annual Town Meeting Warrant.*

*The format for the meeting will be as follows:*

- *Individuals who have questions need to clearly state his or her name and address.*
- *The Special Town Meeting Warrant will be taken up first. I will go through the warrant and ask if there are any questions on each article.*
- *ConCom Agent Brent Baeslack will provide a brief overview of Article #14 – the Girl Scouts land.*
- *Planning Board Member Cliff Pierce and Planner Kirk Baker will be available to discuss Articles 19 and 20 – zoning articles.*
- *The Annual Town Meeting will be taken up next.*
- *I will provide a budget overview before we start to review Article #5 – the FY 15 operating budget. Then, we will go through the budget by municipal program area. If someone has a question he/she needs to state the budget line.*
- *Articles #6 and #7 will be read by Water Board Chairman Tim Toomey. We have handouts ready with the updated version budgets. After the presentation, both the Finance Committee and Board of Selectmen will take up deliberations on Article #6 – As revised and Article #7 and a vote to either recommend or not to town meeting.*
- *I will continue with the articles, until we get to Article #22 – the ladder truck. Chief Broderick will provide an overview of this article.*
- *I will continue with the remaining articles.*

The informational hearing followed this format as outlined. A copy of the Annual and Special Town Meeting Warrants are attached. There was discussion on the Water Department budget. Finance Committee Chairman Larry White asked Water Commissioner Toomey why the water treatment plant budget decreased from \$272,000 in the warrant to \$155,000 in the handout. Toomey said the cost of electricity was reviewed and reduced since they determined that not all of the components would be working at the same time. White asked why there is a discrepancy on Form 1 for Medicare. Town Accountant Susan Bailey said that number will vary with payroll, so as payroll numbers were adjusted, that number changed. Toomey said it is a good budget, there are no rate increases and the rate specialist has reviewed and verified the rates. Moderator Joan Petersen asked if the whole packet will be distributed. Eagan said just the first three pages will be. Joan Petersen said that is acceptable and she will announce at Town Meeting that the Water Department budget numbers have changed and that everyone has a handout. Sharon Emery asked if the discount date is moving

to the end of the month. Toomey said it will. Treasurer Karen Summit said the Board of Water Commissioners voted on this and it will be effective starting in July.

Sharon Emery made a motion to recommend Article 6, Jami Snow second, all in favor – roll call vote: Jami Snow - aye; Janet Bridges - aye; Sharon Emery - aye; Larry White - aye. Peter Censullo – ABSENT

Jami Snow made a motion to recommend Article 7, Janet Bridges second, all in favor – roll call vote: Jami Snow - aye; Janet Bridges - aye; Sharon Emery - aye; Larry White - aye. Peter Censullo – ABSENT

Jack Cook made a motion to recommend Article 6 and Article 7, Joseph Perry second, all in favor – aye (5-0).

The remaining articles were reviewed.

Chairman Snow called for a motion to close the joint meeting of the Board of Selectmen and the Finance Committee. Sharon Emery so moved, Jami Snow second, all in favor – roll call vote: Robert Merry – aye; Joseph Perry – aye; Robert Snow - aye; Jack Cook - aye; David Petersen - aye; Jami Snow - aye; Janet Bridges - aye; Sharon Emery - aye; Larry White - aye Peter Censullo – ABSENT

Joint meeting closed 8:14 p.m.

**8:00 p.m.** Appointment - Howard Vogel to discuss Conservation Commission opening

This appointment was cancelled and will be rescheduled.

**8:15 p.m.** Public Hearing - Liquor license transfer Rowley Golf Course LLC d/b/a Rowley Country Club

Chairman Snow read the public hearing notice into the record (COPY ATTACHED).

Chairman called for a motion to open the hearing. Joseph Perry so moved, Jack Cook second, all in favor – roll call vote: Robert Merry – aye; Joseph Perry – aye; Robert Snow - aye; Jack Cook - aye; David Petersen - aye.

Public hearing opened at 8:21 p.m.

Snow asked the applicants to identify themselves. Jill Mann said she is the attorney for the applicant. She said the application is to transfer the license that was originally held by Burton Page who sold the physical assets of the restaurant to Rowley Country Club LLC. She said Rick Nekoroski is the manger who is TIPS certified and Servesafe certified.

Snow said, "The applicant is changing the type of license from a general on premises license to restaurant on premise license. Burton Page had a general on premises license. The building is currently not occupied as a restaurant. Burton sold pre-packaged food with disposable utensils and plates." Mann said she thought it was an existing restaurant since they sold food. Nekoroski said they sell pre-packaged sandwiches and hotdogs, and that there is no kitchen.

Snow said, "The application presented to the Board has a seating capacity of 30 inside and 50 on the deck. Burton Page's license had a total seating capacity of 24, which includes seats inside and outside on the deck." Mann said she thinks Burton did not include the deck in his numbers, but she didn't do the application for him.

Snow said, "Burton Page's license runs from April 1 through November 30, Monday through Saturday 10 a.m. to 9:00 p.m. and Sunday 11:00 a.m. to 9:00 p.m. (The applicant has not specified hours of operation.)" Mann said these same hours will be retained.

Snow said, "Who is going to be the manager? Amy was told by Stephen Dotolo that he was going to be the manager. The application has the name Richard Nekoroski. There are concerns about the number of hours the manager is going to be on site. Burton's application stated 35 hours. There is obviously a big difference." Nekoroski said Dotolo will work for him and he is the manager, he will be onsite for twenty hours, but involved in the operations daily. He said Dotolo will be onsite as well, and is the general manager, but he would be the manager for the liquor license.

Snow read the comments from the department heads and the letter from abutter Nicole Thornton (COPIES ATTACHED).

Planning Board member Cliff Pierce said they are concerned about the noise levels with a capacity of fifty people and said a closing time of 9:00 p.m. is pretty late.

Nicole Thornton said on the Town's website there is a plan for the Town to create a scenic road by-law within the Town for rural, meandering roads with stone walls. She said Dodge Road is a winding small country road. She said with the construction vehicles, delivery vehicles, and buses, it is hard for two vehicles to pass at the same time, and it is more difficult with pedestrians as well. She said at the hearing for the previous applicant she was told that the Selectmen could deny the license, but it would be overturned by the ABCC and the Town would incur legal costs. She said she contacted the ABCC who told her that the under Massachusetts General Law 138 section 12, the local licensing authority can deny an application for a license in certain geographic areas of town where the character of the neighborhood warrants it. She said Dodge Road has been designated as a scenic road and the neighborhood has dramatically changed in the past ten years with the addition of the condominiums, traffic has increased, speeding is an issue and there are more developments coming. She



asked the Board to reconsider their decision, and she thinks the ABCC would back-up a denial of this license given the location.

Petersen said they are increasing the seating capacity, it is a nine hole course that has been running for forty to fifty years that previously had a full restaurant and function hall, which is now a small clubhouse that serves beer and wine. He asked if there has been noise or alcohol related problems there in the past year. He said it is hard to deny the application since a license was issued last year. He said the capacity has tripled from 24 to 80 and asked if it could be reduced to a more reasonable amount. Nicole Thornton said it is difficult to judge how the past year was because from 7 a.m. to 7 p.m. there is construction noise and her house shook and they couldn't open their windows. She said the clubhouse is only 100 feet away now, but before it was 300 feet away. She said there is a new owner, so you can't compare it to the previous owner last year. She said the website is advertising tournaments and corporate events and the next thing will be a band, and they will be making announcements. She said the other club was already there when they built their house and they were willing to put up with that noise.

Cook said the Board voted to grant the license last year, the Police Chief hasn't reported any issues, and there is only one person present against the license. He said he feels for Thornton's position, but given that there have been no violations and there aren't any others against the license, it is hard to now turn down this application. Thornton said as a Selectman, you need to look out for the best interests of the Town. Cook said there haven't been any issues, there are signs posted not to drink and drive and radar patrols are in place for speeding issues.

Petersen said the change is in the ownership and not in the establishment, and his only concern is the increase in seating capacity. He said this can be monitored going forward once the construction is complete. Merry said the Board can address complaints received at renewal time, but no complaints have been reported at the time of renewal. Perry said the increase in seating capacity is concerning.

Mann said they are cognizant of the safety issues, and all servers will be TIPS or serve-safe certified. She said the prior establishment had a full liquor license, but their application is for beer and wine only, and the idea is for people to enjoy a beer after a round of golf, and people won't be boozing there. She said the Building Inspector told them the capacity is 42 people, there is no bar outside, people have to come inside for a drink, so they can control the noise and who is outside. She said the capacity is hard to police since they could have 42 people, all of whom are only having a sandwich and not beer or wine.

Nekoroski said it is a nine-hole course, and at most, they will have four golfers at each hole. He said the most people they would have for an outing would be 70 - 72, but they have nothing scheduled of that size, and they haven't had anything of that size since he has been involved. He said they have some outings scheduled for 25 - 30 golfers, leagues have 12 - 36 golfers, so on average, there would be 18 - 20 golfers. Mann

suggested a total occupancy up to 40, with a maximum of 24 outside. Cook said not all customers will want beer. Mann said this limit would apply to the whole business, and they can't distinguish between those drinking or not drinking. She said if there is an issue with noise it will be addressed and the staff is TIPS certified. Nicole Thornton said she is concerned with the advertising for large corporate events and asked what the operating hours will be. Mann said Monday - Saturday from 10:00 a.m. until 9:00 p.m. and Sundays from 11:00 a.m. to 9:00 p.m. Nekoroski said the largest event planned is 24 people for the Special Olympics. Thornton said last year was an anomaly with the construction. Petersen said there were no complaints last year, the seating capacity increase is being limited to 40 and they will review this year during next year's renewal. Merry said we need to give them a chance and if there are issues, it can be addressed at the renewal. Petersen suggested that the applicant check periodically with the neighbors and iron out any issues that may pop up. Mann said she will revise the application to show a capacity of forty total, and change it to general on premises license.

Jack Cook made a motion to grant the license transfer with a capacity limit of forty, with the same operating hours as the previous owner, Dave Petersen second, all in favor – aye (5-0).

Chairman called for a motion to close the hearing. Jack Cook so moved, Joseph Perry second, all in favor – roll call vote: Robert Merry – aye; Joseph Perry – aye; Robert Snow - aye; Jack Cook - aye; David Petersen - aye.

Hearing closed at 9:19 p.m.

## **OLD BUSINESS**

### **2. Town Administrator update**

Eagan read the following:

- *Annex exterior project is going well. The contractor is working on the fourth side of the building. I authorized an extension to May 30 because of the unforeseen "sill" work.*
- *The Town Hall clock is being repaired. It should take about six weeks.*
- *Water Department Update*
  - 1) *The DEP conducted an inspection last Thursday. The inspector seemed to be satisfied with the current state of the water treatment plant. Pending the results of water quality test, the Town may be able to run water into the system by next week. I observed the water operators during the inspection. They were able to show and demonstrate all the facets of the plant. I was very impressed and am confident in their abilities. They have a full knowledge on how to operate the plant. The primary water operator*

*has resigned and his last day is May 18<sup>th</sup>. We have two capable secondary operators.*

- 2) The Water Board's contract with Weston & Sampson expired on April 18. During my meeting with the Water Board on April 22, 2014, they voted to extend it to June 13, 2014.*
- 3) The Water Board approved a change order for the septic system wiring work. This work is supposed to start this week. We need to get the septic system in operation so that we can apply for an occupancy permit.*
- 4) I am working on Change Order #7 involving the monopole on Smith Lane and the antenna on the Water Tower. The Water Board will hold a special meeting tomorrow at 11:00 a.m. to review this change order.*

## **NEW BUSINESS**

1. Request from VFW Post 5707 to hold annual Memorial Day parade and ceremonies

Jack Cook made a motion to approve the request from the VFW, Joseph Perry second, all in favor – aye (5-0).

## **MINUTES**

- March 24, 2014

Joseph Perry made a motion to approve the minutes from March 24, 2014, Jack Cook second, all in favor – aye (5-0).

- March 24, 2014 Executive Session

These minutes were not ready for approval.

## **ANNOUNCEMENTS**

- The Town has the following vacancies:
  - **Council on Aging Board** – one seat;
  - **Conservation Commission** – one seat;
  - **Finance Committee** – one seat;
  - **Fence Viewer**– two positions;
  - **Wood, Lumber & Bark Inspector**; and
  - **Zoning Board of Appeals Associate** – two open seatsFor more information on these positions, please contact the Selectmen's Office at 948-2372
- 375<sup>th</sup> Anniversary information and events are posted on the Town's website, [www.townofrowley.net](http://www.townofrowley.net)
- Battery recycling box located at the Town Hall and Library

- One Book One Community Program hosted by Rowley Public Library
- 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.
- Town Meeting will be held on Monday, May 5, 2014
- Water Customers need to call Pennichuck at 1-800-553-5191 now for billing, payment and customer service questions.
- Prescription Drug Take Back Day - Saturday, April 26 - 9 a.m. to 1 p.m. at the Rowley Council on Aging
- Compact fluorescent light bulbs may be recycled at the Rowley Municipal Lighting Plant. Light bulbs can be brought down during normal business hours.
- White Goods/Light Goods Household Recycling Day - Saturday, May 17 from 8:30 a.m. to 11:30 a.m. at the Rowley Highway Department

There being no further business before the Board, Chairman Snow called for a motion to adjourn. Jack Cook so moved, Joseph Perry second, all in favor – aye (5-0).

Open meeting adjourned at 9:30 p.m.

Respectfully submitted,  
Amy Lydon  
Assistant Town Administrator

**ATTACHMENTS:**

1. Job Vacancy Notice Cemetery Laborer
2. Letter from Ipswich American Legion Post 80 re: Annual Poppy Drive
3. Notice of Hearing – Gurczak Lane
4. Memo from the Planning Board regarding Gurczak Lane
5. Mylar plan prepared by Larry Graham for Gurczak Lane
6. Excerpt from November 4, 2013 Special Town Meeting Warrant
7. Signed motion to layout Gurczak Lane as a public way, stamped by the Town Clerk
8. Letter from Rowley Historical Society to use Margaret Scott Green for annual plant sale
9. Email request from the Friends of the Rowley Public Library to put up signs publicizing their annual book sale on Town property
10. Road Opening Permit 250 Dodge Road
11. Road Opening Permit 36 Cross Street
12. Letter to Cynthia Lucia from Robert Snow dated April 16, 2014
13. Letter from Cynthia Lucia to Board of Selectmen dated April 22, 2014
14. Chapter 61 law excerpts
15. Special and Annual Town Meeting Warrants
16. FY 15 Financial summary & warrant article summary
17. FY 15 Water Department Budget
18. Presentation on Fire Ladder Truck
19. Public Hearing Notice regarding liquor license for Rowley Golf Course

20. Emails from department heads regarding liquor license application from Rowley Golf Course
21. Letter from Nicole Thornton regarding liquor license application
22. Liquor license application from Rowley Golf Course
23. Request from VFW for Memorial Day Ceremonies
24. Emails from department heads regarding request from VFW for Memorial Day Ceremonies