

MINUTES OF THE BOARD OF SELECTMEN MEETING

January 11, 2016

Meeting held at Town Hall, 6:15 p.m.

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

PUBLIC ATTENDEES: Lawrence White - FINCOM and Open Space Committee; Henry Rolfe - Independent Press; Bernie Cullen; Donald Thurston – ZBA; Robert H. Clewell – ZBA; Tom Heidgerd – ZBA; Robert Pomeroy – BadgeQuest; Town Counsel Tom Mullen

CALL MEETING TO ORDER

Chairman Robert Merry called meeting to order at 6:21 p.m.

6:15 p.m. JOINT MEETING – BOARD OF REGISTRARS EXECUTIVE SESSION

- To discuss Litigation strategy – Timothy Toomey v. Barbara R. DiMento, Board of Registrars, et al, and Board of Selectmen Superior Court Civil Action Docket#1677CV00001

Chairman Robert Merry called for a motion to open the Joint Meeting with the Board of Registrars by a roll call vote. Bob Snow so moved, Dave Petersen second, all in favor - roll call vote: Robert Snow – aye, Robert Merry – aye, Cliff Pierce – aye, David Petersen – aye. Joseph Perry – ABSENT.

Susan Hazen called for a motion to open the Joint Meeting with the Board of Selectmen by a roll call vote. Mildred Dummer so moved, Barbara DiMento second, all in favor -roll call vote: Susan Hazen – aye, Mildred Dummer – aye, Barbara DiMento – aye. Gordon Densmore – ABSENT.

Joint Meeting opened at 6:24 p.m.

Chairman Merry called for a motion to go into Executive Session for the purpose of discussing strategies with respect to litigation on the Timothy Toomey v. Barbara R. DiMento, Board of Registrars, et al, and Board of Selectmen Superior Court Civil Action Docket#1677CV00001 case because an Open Meeting may have a detrimental effect on the litigating position of the Town and to return to open session. Dave Petersen so moved, Bob Snow second, all in favor -roll call vote: Robert Snow – aye, Robert Merry – aye, Cliff Pierce – aye, David Petersen – aye. Joseph Perry – ABSENT.

Susan Hazen called for a motion to go into Executive Session for the purpose of discussing strategies with respect to litigation on the Timothy Toomey v. Barbara R. DiMento, Board of Registrars, et al, and Board of Selectmen Superior Court Civil Action Docket#1677CV00001 case because an Open Meeting may have a detrimental effect on the litigating position of the Town and to not return to open session. Mildred Dummer so moved, Barbara DiMento second, all in favor -roll call vote: Susan Hazen – aye, Mildred Dummer – aye, Barbara DiMento – aye. Gordon Densmore – ABSENT.

Executive session opened at 6:25 p.m.

Executive session closed and open session resumed at 7:09 p.m.

CITIZEN QUERY 7:05 p.m. – 7:10 p.m.*

Chairman Merry said Citizen Query will run from 7:10 p.m. until 7:15 p.m. Bernie Cullen asked for a status update on the recall election. Bob Merry said we have no idea and there is a pending court case.

GENERAL BUSINESS

1. Letter from Mary Hardy requesting streetlight on School Street

Chairman Merry recused himself from this topic since he is a Member of the Municipal Light Board. Bob Snow recused himself from this topic since he is a Member of the Municipal Light Board.

This item was tabled because a quorum of the Board was not present. The Board asked the staff to inform Mary Hardy that Selectman Perry has been ill, so this topic has been tabled due to a lack of quorum.

NEW BUSINESS

1. Stable License Application from Richard Sheehan for 66 Wilson Pond Lane

Chairman Merry read the following:

The following application has been submitted and all is in order with all taxes, light and water bills paid.

Richard Sheehan	5 horses	66 Wilson Pond Lane
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Dave Petersen made a motion to approve the stable license application for Richard Sheehan, Bob Snow second, all in favor - aye (4-0). Joseph Perry - ABSENT.

The Selectmen signed the license.

2. Discuss filing Open Meeting Law Complaint for December 21, 2015 email from Timothy Toomey

Chairman Merry read the following:

Water Board Vice Chairman Timothy Toomey violated the Open Meeting Law on December 21, 2015 when he sent an email to Debbie Eagan expressing his opinions and copying Water Commissioners John Manning and Stuart L. Dalzell, Sr. on the email message.

Chairman Merry will call for a motion to authorize him to file an Open Meeting Law Complaint with the Attorney General's Office.

Dave Petersen made a motion to authorize Chairman Merry to file an Open Meeting Law Complaint with the Attorney General's Office, Bob Snow second, all in favor - aye (4-0). Joseph Perry - ABSENT.

Bob Merry signed the complaint.

7:15 p.m. APPOINTMENT Zoning Board of Appeals Chairman Donald Thurston to discuss proposed Marion Way Comprehensive Permit Application submitted to MassHousing by Thomas Frangos and comments to MassHousing

- Discussion on Town Department comments on proposed Marion Way Comprehensive Permit application and Board of Selectmen's response to MassHousing on this proposed project

Eagan said Thurston is here to present the ZBA's perspective on this application. She said they spent five years reviewing a very similar application.

Thurston read his letter to the Board on this matter (COPY ATTACHED). He said the ZBA decision on Marion Way is also attached, which was rendered in April of 2015. He said for five years the Town's money and resources were spent on this project and he urged the Board of Selectmen to notify MassHousing that the Town doesn't endorse this project. Pierce said the ZBA decision is well thought out. Thurston said they have the right to appeal this decision, they have chosen not to. He said in the past other cases have been appealed, and a settlement has been negotiated with the help of MassHousing. He said this plan has ten buildings, with two units in each. He said each building is on less than 20,000 square feet, which is less space than the Town's Bylaw for a single family home. He said there is no open space in the plan, but they did add 2.1 acres to the new plan, which he believes is wetlands. He said he and Tom Heidgerd went through the entire packet and do not see any substantial changes from the initial application.

Tom Heidgerd said there is no point in the Town spending time on this represented proposal as there is not enough difference between the two applications. He said he is flabbergasted that they went to MassHousing with a plan that is 95% the same as the plan already rejected. He said the ZBA was open to options over the five-year review period, but the applicant did not consider any options. He said the applicant stated that they will use the road from this development to develop land beyond this property in the future. Pierce said he would think they would have appealed the ZBA decision, or changed the plan. Petersen asked what the normal course of action is. Pierce said normally the applicant would appeal to the Housing Appeals Commission, and MassHousing reviews it first. Eagan said this is the same developer, Town Counsel Pickett reviewed the Purchase and Sales Agreement and this can be filed again. Robert Clewell said under normal zoning 40A, there is a prohibition against bringing back an application that has been denied for two years, but 40B does not have a similar prohibition. Pierce said MassHousing has not taken a position on this application, they have just asked the Town for comments. He said the Board can layout to MassHousing the ZBA and other Departments concerns. He said the section of Daniels Road that Marion Way would intersect with is awful, and he has read that sixty houses may be developed on the land beyond Marion Way.

Thurston said they are cramming in twenty buildings, with two to three bedroom homes, some with garages, others without, so the plan equals more density in a narrow area. He said once this development is complete, they will develop the land behind it with sixty to eighty homes. Heidgerd said if MassHousing issues a letter of eligibility, the developer will be able to move forward with the 40B development, and there is a two year window to execute the plan. He said MassHousing may still issue the letter with the Selectmen's comments. He said then they will come back to the ZBA, but the ZBA has no reason to approve the project given the standing decision made in April 2015. Thurston said if they had appealed the decision, they could have negotiated a solution which would have been a better solution.

Dave Petersen made a motion to endorse the ZBA letter and the comments from the other Departments and support the ZBA on this, Bob Snow second, all in favor - aye (4-0). Joseph Perry - ABSENT.

Chairman Merry said this meeting is being audio and visually recorded digitally.

7:45 p.m. APPOINTMENT Robert Pomeroy, Esq., President of BadgeQuest, Inc. to discuss police chief recruitment process

Robert Pomeroy said he is the President of BadgeQuest and has been with the firm since 2001. He said they have done 165 promotional processes in Massachusetts, Connecticut and Maine, and have done 40 Police Chief searches. He said he is working with Eagan to gather the documents he needs, such as the job description, organization charts, budget and staffing information. He said he is working with Interim Commissioner Mulligan, who will help identify the project plan going forward. He said

they perform a job analysis so that they know the skills and abilities required for the Chief so that they can tailor the person to the community. He said the position has been advertised nationally, and there are four applicants so far, and he has spoken to a number of other people who plan to apply. He said Eagan has set an aggressive timetable. He said they review the applications weekly and will meet with the Screening Committee to do the first cut. He said forty to fifty applicants will move to step two which will require a three to four page response to a number of questions, and they will complete an employment application. He said they normally lose 10% to 15% of the applicants at this step. He said background checks will be performed on the finalists. He said he is a retired Chief from Plymouth, Massachusetts, he has served as the Interim Chief for a couple of communities since his retirement, and he is looking forward to working with the Town.

Eagan said a survey was distributed today to the employees of the Police Department. She said a draft Citizens Survey is included in the packet and asked the Board if they would like to do this and if so, how. Pomeroy said the employee survey is given to all employees, including the janitor, and is confidential. Pierce asked if a general question such as "How effective do you feel the Rowley Police Department is" should be added to the Citizens Survey. Pomeroy said a question like that would be used for a management survey, and they are looking forward, not backward. Snow asked if the forum will be online or on paper. Pomeroy said it can be either, and they will be due at the end of January. Petersen said this should be posted on the Town website. Petersen said it was a good decision to select a company to help the Town with this search, BadgeQuest is well qualified, this decision is critical to the Town, the Departments and the Citizens and he is impressed with Interim Commissioner Mulligan.

Dave Petersen made a motion to approve the distribution of the Citizen Survey, put it on the website and in various locations in the community and to issue the survey to the Police Department employees, Bob Snow second, all in favor - aye (4-0). Joseph Perry - ABSENT.

OLD BUSINESS

1. Sign February 2, 2016 Recall Election Warrant

Chairman Merry read the warrant.

Dave Petersen made a motion to sign the 2016 Recall Election Warrant, Bob Snow second, all in favor - aye (4-0). Joseph Perry - ABSENT.

The Selectmen signed the Warrant copies.

2. Stable License Application from Deborah Rosse for 532 Wethersfield Street

Chairman Merry read the following:

The following application has been submitted and all is in order with all taxes and water bills paid. Amy informed Deborah last week that there are two light bills outstanding totaling \$145.02. Deborah said she would take care of them. The bills are still outstanding as of today.

<i>Deborah Rosse</i>	<i>4 horses</i>	<i>532 Wethersfield Street</i>
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Dave Petersen made a motion to table this until the bills are paid, Cliff Pierce second, all in favor - aye (4-0). Joseph Perry - ABSENT.

3. Update on Prospect Hill project

Eagan read the following:

Debbie would like to update the Board on this project.

- The Conservation Commission approved the Notice of Intent application filed by Debbie last week with the Conservation Commission.*
- We just filed the Stormwater Permit Application with the Conservation Commission. The Conservation Commission will hold a hearing on January 26, 2016.*
- The construction estimates exceed the project budget.*

Original appropriation = \$150,000 (\$75,000 General Fund \$75,000 Water Dept. Bond)

\$150,000
- 37,000
\$113,000 - Balance

Revised Estimate of Construction Costs = \$190,000, making the shortfall of \$77,000.

\$190,000
113,000
\$ 77,000 - Balance

This project requires significant excavation and clearing. Once the site is properly cleared and excavated, the contractor will need to install rip and purchase the gravel, stone and loam and construct it in accordance with the engineering plans and the provisions of the stormwater permit. Because we want to have this

project done this summer, I am recommending that we go out to bid after we get the Stormwater Permit and have the construction bid subject to appropriation and have the Board of Selectmen have an article on the May 2, 2016 Special Town Meeting seeking the balance of the funds needed to do this project.

- *The Tata and Howard contract does not cover engineering services during the bidding phase. Tata and Howard has provided a proposal for engineering services during the bidding phase of this project in the amount of \$4,400. If we hired them they would assist with bidders' questions and interpretations of the engineering plans and specifications. Because we plan to go out to bid in early February, the Selectmen's Office will be extremely busy. If the Board believes that it will be beneficial to have the assistance of Tata and Howard during this period, we would need to adjust the Town Meeting article to \$81,400.*

Petersen said it is a must to hire Tata & Howard since this is so time consuming and technical. Merry said the road needs to be done right this time.

Dave Petersen made a motion to add \$4,400 for Tata & Howard to provide oversight, Bob Snow second, all in favor - aye (4-0). Joseph Perry - ABSENT.

MINUTES

1. Review and approve the following sets of minutes: May 18, 2015, June 1, 2015, June 15, 2015, and January 4, 2016
 - May 18, 2015

Bob Snow made a motion to approve the minutes from May 18, 2015, Dave Petersen second, all in favor - aye (3-0). Joseph Perry – ABSENT Cliff Pierce - ABSTAINED.

- June 1, 2015

Chairman Merry asked that three typos be corrected.

Bob Snow made a motion to approve the minutes as corrected from June 1, 2015, Dave Petersen second, all in favor - aye (4-0). Joseph Perry – ABSENT

- June 15, 2015

Bob Snow made a motion to approve the minutes from June 15, 2015, Dave Petersen second, all in favor - aye (4-0). Joseph Perry – ABSENT

- January 4, 2016

Bob Snow made a motion to approve the minutes from January 4, 2016, Dave Petersen second, all in favor - aye (4-0). Joseph Perry – ABSENT

ANNOUNCEMENTS

- Recall Election - February 2, 2016 from noon to 8:00 p.m. at St. Mary's Hall
- Last day to register to vote for the February 2, 2016 Recall Election is January 13, 2016. Contact the Town Clerk's Office at 948-2081 for more information on voter registration
- The Town has the following vacancies:
 - a. **Shellfish Commissioners** – two seats
 - b. **Fence Viewer** – three positions;
 - c. **Wood, Lumber & Bark Inspector**;
 - d. **Zoning Board of Appeals** – one seat
 - e. **Zoning Board of Appeals Associate** - two seats
 - f. **Historical Commission-Historic District Commission** – two seats
 - g. **Parks and Recreation Committee** – two seats; and
 - h. **Open Space Committee** is seeking one memberFor 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.

ADJOURN

There being no further business before the Board, Chairman Merry called for a motion to adjourn. Dave Petersen so moved, Bob Snow second, all in favor - aye (4-0).
Joseph Perry - ABSENT

Open meeting adjourned at 8:14 p.m.

Respectfully submitted,
Amy Lydon
Assistant Town Administrator

ATTACHMENTS:

1. Meeting Memo regarding 6:15 p.m. JOINT MEETING – BOARD OF REGISTRARS, Executive Session
2. Letter from Mary Hardy requesting streetlight on School Street
3. Meeting Memo regarding New Business #1: Stable License Application from Richard Sheehan for 66 Wilson Pond Lane
4. Stable License Application package from Richard Sheehan for 66 Wilson Pond Lane
5. Signed Stable License for Richard Sheehan for 66 Wilson Pond Lane
6. Meeting Memo regarding New Business #2: Discuss filing Open Meeting Law Complaint for December 21, 2015 email from Timothy Toomey
7. Signed Open Meeting Law Complaint for December 21, 2015 email from Timothy Toomey, including exhibit

8. Meeting Memo regarding 7:15 Appointment: Zoning Board of Appeals Chairman Donald Thurston to discuss proposed Marion Way Comprehensive Permit Application submitted to MassHousing by Thomas Frangos and comments to MassHousing
9. Letter from MassHousing to G. Robert Merry dated December 10, 2015 RE: Marion Way
10. Memo to Board of Selectmen from Conservation Agent Brent Baeslack Re: Marion Way 40B Development Proposal
11. Memo to Board of Selectmen from Town Planner Kirk Baker Re: Marion Way - 40B Comprehensive Permit Review, including attachments
12. Memo to Board of Selectmen from Fire Chief James Broderick regarding Marion Way 40B Development, including attachments
13. Memo to Board of Selectmen from Police Lieutenant Stephen May regarding Marion Way 40B Development
14. Memo to Board of Selectmen from Frank Marchegiani Re: MassHousing Comprehensive Permit Site Approval Application/Homeownership – Marion Way, Map 9, Block 23; Applicant: Thomas Frangos
15. Memo to Board of Selectmen from Highway Surveyor Patrick Snow Re: Comments on proposed 40B development Marion Way
16. Memo to Board of Selectmen from ZBA Chairman Donald Thurston Re: Comments on Proposed Marion Way Chapter 40B Application as requested by the MassHousing Finance Agency, including ZBA Decision on Application for a Comprehensive Permit Case # A10-06, including attachments
17. Meeting Memo regarding 7:45 p.m. APPOINTMENT: Robert Pomeroy, Esq., President of BadgeQuest, Inc. to discuss police chief recruitment process
18. Email from Robert J. Pomeroy, Esq. from BadgeQuest to Debbie Eagan regarding Citizen Survey, including attachment
19. Police Chief Recruitment Timeline
20. Job Vacancy Notice Chief of Police, Rowley
21. Signed warrant for Recall Election February 2, 2016
22. Meeting Memo regarding Old Business #2: Stable License Application from Deborah Rosse for 532 Wethersfield Street
23. Stable License Application package from Deborah Rosse for 532 Wethersfield Street
24. Unsigned Stable License for Deborah Rosse
25. Meeting Memo regarding Old Business #3: Update on Prospect Hill
26. Project Schedule Prospect Hill Access Road Stormwater Improvements
27. Proposal from Tata & Howard for Engineering Bidding Services
28. Prospect Hill estimate of Probable Construction Cost
29. Stormwater Management Permit Application January 2016 Prospect Hill Access Road Stormwater Improvements
30. Draft minutes: May 18, 2015; June 1, 2015; June 15, 2015; June 15, 2015; January 4, 2016

