

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

October 7, 2019

Meeting held at Town Hall, 139 Main Street, Rowley, MA  
7:00 p.m.

**MEMBERS PRESENT:** Chairman Cliff Pierce; Vice Chairman Joseph Perry; Clerk Robert Snow; David Petersen, Deana M.P. Ziev (Town Administrator Deborah Eagan, Assistant Town Administrator Amy Lydon)

**PUBLIC ATTENDEES:** Brenden Doyle – Hog Island Oyster; Sarah O’Connell – Hog Island Oyster; Cheryl O’Connell – Hog Island Oyster; James O’Connell– Hog Island Oyster; Travis Kneeland – Shellfish Constable; Ronald Kneeland – Shellfish Commissioner; John H. Grundstrom – Clammer; Bernie Cullen – 283 Wethersfield Street; Libby Tucker – 186 Central Street

### **CALL MEETING TO ORDER**

Chairman Pierce called the meeting to order at 7:00 p.m. He said the meeting is being video recorded and televised live by Rowley Community Media.

### **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

### **NEW BUSINESS**

1. Discuss snow plowing at the Pine Grove School and the purchase of a snow blower for the Pine Grove School

Joe Perry said there is a much larger area to be plowed at the Pine Grove School now, and the school has been borrowing the Highway Department’s snow blower. He said a second unit is needed to be based at the school.

Joe Perry made a motion to purchase the same type of machine used by the Highway Department with the same attachments for \$70,000. He said they will also need a shed to store the unit, and a shed from Reed’s Ferry costs \$20,000. The vote was not completed.

Perry said he thinks it will be covered under the project budget, and the last figure he remembers of the remaining contingency budget is \$250,000. He said the number is not finalized. Snow asked what size the shed would be. Perry said he thinks eight feet by twenty feet. Ziev asked where the shed would go. Perry said he believes near the south wing. Ziev asked if there are any other expenses that need to be paid out of the \$250,000. Pierce said he is also concerned about this. Perry said he isn’t sure, but the project is finished and there will be no other expenses. Eagan said payment package #35 shows the running contingency balance. She said we are still working on finalizing

expenses that the MSBA doesn't see as reimbursable, as well as checking for duplication. She said we need time to confirm the balance with Pinck & Co. Perry said this can be purchased at a later date since there is time before it would be needed and delivery would take two to three weeks. Eagan said she will work with Pinck & Co. to get the balance information for the next meeting.

Bernie Cullen of 283 Wethersfield Street asked if the machine is just for snow blowing. Perry said yes, it is not a bobcat machine. He said he would have brought the documentation for tonight's meeting, but he had issues with his computer. Petersen said this is expensive, and you can purchase a truck with a plow for less than \$70,000. Eagan asked who will handle the procurement. Perry said he believes Larry Berger would handle it. Petersen said this is a lot of money for a single purpose machine, and he would like to see some alternatives before making a decision on this. Pierce asked if a used machine is a possibility. Perry said he doesn't believe so. Petersen said maybe the machine at the Highway Department could be given to the school, and a new one bought for the Highway Department since it would get more use. Perry said the machine would cover all of the snow removal at the school, not just the sidewalks. Ziev asked how snow will be removed around the rocks near the front entrance. Perry said a snow blower would be used around the rocks.

This item was tabled until the next meeting on October 21, 2019.

2. Review Zoning Board of Appeals Special Permit application for an in-law apartment filed by MGM Woodwrights, Inc., Eric Gundrum and Barry Moore for 157 Main Street

Chairman Pierce read the following:

*This item was tabled last week because the quality of the plans provided was poor and they could not be read. A copy of the original plans is in the Chairman's folder.*

Pierce said he has reviewed the plans, and he has no objections or comments on this. Petersen said he has no concerns.

### **7:10 to 7:15 p.m. PUBLIC COMMENT**

There were no Public Comments.

### **OLD BUSINESS**

1. Update on Pine Grove School Project

Perry said the Grand Opening of the school was great on Saturday. He said there was a large crowd, and ice cream was served. He said there were many comments about the playground. He said the playground designer did a fantastic job, and the surface is a safe rubber surface that looks like the salt marsh. He said the building is incredible and Dore & Whittier did an excellent job. Ziev said the playground is now accessible to

kids in wheelchairs and walkers, and it wasn't before with the mulch surface. She said she loves it and it looks great. Pierce said there are two more construction meetings and one more School Building Committee meeting. Perry said that is correct. He said the School Building Committee has been meeting for three years, and the construction meetings have been happening for two years.

2. Discuss draft Triton Regional School District Agreement

Chairman Pierce read the following:

*This agenda item was carried over from last week's meeting because Vice Chairman Perry was not present.*

*The Triton District Communications Committee is seeking input from the Boards of Selectmen and the Finance Committees in the three Towns.*

Pierce said as he said last week, this was discussed at the last District Communications Meeting. He said the sections of the revised agreement that were objected to have been removed as follows:

- The change to designate a successor School Committee representative involving input from the other two towns has been removed
- The change to allow the Chair of the School Committee the right to address Town Meeting has been removed
- The change for the budget timetable has been removed

Perry said the Board went through the agreement two years ago, and he took the Board's responses back to the School Committee and said we object to the whole thing. He said there was a lot of back and forth, and this version is being presented for approval. Petersen said this still needs to go before Town Meeting for approval.

Joe Perry made a motion to approve the revised Triton Regional School District Agreement, Deana Ziev second, all in favor – aye (5-0).

**7:15 p.m. PUBLIC HEARING** – Shellfish Aquaculture License Application filed by Brenden Doyle and James B. O'Connell of Hog Island Oyster LLC of 22 Hammond Street, Rowley, MA for a section of the Brown's Camp flat

Chairman Pierce read the following:

*The Board of Selectmen has received an Aquaculture License application from Brenden Doyle and James B. O'Connell of Hog Island and is required to hold a public hearing on it.*

Chairman Pierce read the Public Hearing Notice into the record. He stated that the hearing notice was posted in the following three locations Town Hall, Town Hall Annex, and Town Landing, and was also published in the September 24, 2019 edition of the Newburyport Daily News. He said the posting and the publishing of the notice are required under the State Shellfish Aquaculture License Statute, G.L. c.130 §57.

Chairman Pierce called for a motion to open the public hearing. Dave Petersen so moved, Bob Snow second, all in favor – aye (5-0).

Public Hearing opened at 7:19 p.m. Eagan said Brenden Doyle has the \$25 application fee with him. Doyle submitted the \$25 check to Chairman Pierce.

Chairman Pierce called Brenden Doyle and James O'Connell forward.

Chairman Pierce announced that the Public Hearing is open. He stated that the Applicant is applying for a Shellfish Aquaculture License for a 3.8 acre portion of the Brown's Camp Flat. He stated that coordinates latitude and longitude are listed on the application form and asked if anyone present wishes for the latitude and longitude coordinates to be read into the record. Nobody requested that the coordinated be read into the record.

Pierce asked Mr. Doyle and Mr. O'Connell to provide an overview of their shellfish aquaculture plans.

Doyle said Brown's Camp is at the end of the Rowley River where it goes into the Parker River on the left hand side. He said he submitted the electronic application with the required maps. He said the plan is to renovate the current structure into a hatching and nursery for the raising of spat into seed. He said they will use two types of cages: floating and flip up. He said they will include soft shell clams using nets. He said the application is for a hatchery to raise soft shell crabs, oysters, mussels and scallops. He said they want to dovetail with the current existing aquaculture leases, where others can apply for a flat and they can provide the seed, to kick start the industry in Rowley. He said the hatchery/nursery they are using as their foundation will help eliminate problems others have encountered using aquaculture leases. He said the building will allow them to stay on site to protect their investment. Petersen asked if the seed will be sold to everyone. Doyle said once they are certified they can sell seed wherever the wish to under Massachusetts law, but their intent is to focus on the Rowley shell fishermen. Pierce asked if there are other oyster hatcheries on the North Shore. Doyle said no, there is little aquaculture north of Boston. He said the topography is the same, but politics have prevented aquaculture from being successful on the North Shore.

Pierce read the letters from submitted to the Board of Selectmen on this application into the record from:

- Board of Shellfish Commissioners Chairman Ron Kneeland
- Harbormaster Bill DiMento
- Agricultural Commission Chairwoman Libby Tucker
- Conservation Agent Brent Baeslack memo with ConCom Determination of Applicability

Doyle said he previously responded to the questions in the letter from Ron Kneeland in an email to Shellfish Commissioner Paul Lees. He read the email into the record as follows:

*Hi Paul,*

*Thank you for the letter of recommendation, I can answer Ron's questions here and in my formal presentation to the selectmen, tentatively scheduled for October 7th at 7:15 PM. Which I hope you all will be able to attend.*

*1) As we discussed in the Shellfish Commission meetings, the maps provided show the river frontage and the proposed areas where farming activity will be conducted. The exact configuration and amount of equipment to be deployed is not 100% defined at this time. At this stage in the permitting process our goal is not be restricted by the amount of gear and equipment to be deployed, but to be able to plan our farm within the agreed area. In our conversation and site visit with the Harbor Master he has agreed the space is adequate for us to be able to co-exist with the existing activities.*

*2) The access to Hog Island creek will not be impeded, this access will also be used to access any farming activities within the creek by Hog Island Oyster LLC.*

*3) I am still in the planning and discussion phase for the exact location for overwintering. I have requested multiple locations for consideration to the Harbor Master. From his letter of recommendation his primary concern is the safe navigability of the river, his approval of the final location will ensure the clammer's use of the river is not impeded by the farming activities.*

*At this point in the process, the public meeting is the next step, the permit issued by the board of selectmen will be a conditional permit to start. Only once the State DMF (Department of Marine Fisheries) and MEPA (Mass Environmental Protection Agency) have reviewed and verified the plan including a biological survey of the location (shellfish abundance, eel grass and other protected resource abundance, sediment type, etc.) will they certify the license.*

*Let me know if this satisfies your questions and please don't hesitate to reach out if you require any additional information.*

*Thanks,*

*Brenden Doyle*

Ron Kneeland said he is satisfied with the responses provided by Doyle.

Pierce asked Doyle if he is complete with the permitting through the Conservation Commission. Doyle said no, it is on-going. He said the State does a biological survey to make sure the areas are non-productive shellfish areas, and he needs to map out where the mooring will be going for the Harbormaster. He said he needs both of these pieces of information for the Conservation Commission Notice of Intent application, but he needs the Board of Selectmen's permission first before he can take those next steps. He said the camp will be occupied on a semi-regular basis.

Shellfish Constable Travis Kneeland said he has no comments, this was discussed at their meetings, and he agrees with the letter submitted. Ron Kneeland agreed with Travis Kneeland's statements.

Libby Tucker said she would also like to point out the improvements to the water quality that projects like this one have made in areas such as the Chesapeake Bay.

John Grundstrom said he is a clammer and he thinks this is fabulous and wished the applicants luck. He said he did this successfully seven to eight years ago, but he wouldn't attempt it today with poachers in the area who will take the entire cage. He said it is a different atmosphere today than it was ten years ago. Snow said he talks to people who grew up in town and all they did growing up was shuck clams, and there were clam shacks everywhere. Doyle said technology will help cut down on poaching activities. He said the internet and cameras feed directly to the "cloud" so even if the equipment is destroyed, the image can still be seen. He said having the camp and the ability to stay overnight at the camp will help as well. He said the next steps are to go to the Department of Marine Fisheries and the National Heritage Association.

Bernie Cullen asked if the existing Town bylaws are sufficient against poaching. Doyle said the Town only has a certain amount of authority, and there is a push to revamp the State law. Travis Kneeland said the highest fee is \$300, and at the last Town Meeting it was voted to increase the fees. Snow said he was told that you can dig \$900 worth of clams per day, and with a \$300 maximum fine, they still wind up with \$600. Ron Kneeland said if a Rowley resident is fined multiple times they will lose their license for one year, but this can't be enforced with clambers from Ipswich. He said the Police Department would need to deal with any destruction of property. Petersen said it is important for the applicant to work with the Shellfish Commissioners and Constable and to come to the Board of Selectmen if bylaw changes are needed. Doyle said the bylaw allows for three additional Constables. Petersen said involvement in Shellfish in town has ebbed and flowed over the years, and everyone works together. John Grundstrom said being a Constable is an almost impossible job since the offenders break into groups and use technology to communicate to each other when the Constable is heading towards them. He said Ipswich doesn't help by patrolling. Doyle said a

possibility is patrolling via a drone. Snow said this is a unique bay that produces sweet clams, and he wishes the applicants the best.

Petersen asked if the building on the property has a septic tank. Doyle said there is a portable toilet serviced by the pump-out boat. Petersen asked if they are considering the rising ocean level for the renovations they are doing. Doyle said yes, they will work with the Conservation Commission on this.

Chairman Pierce called for a motion to close the public hearing. Bob Snow so moved, Joe Perry second, all in favor – aye (5-0).

Public Hearing closed at 7:49 p.m.

Pierce read the following:

*The Board then discusses the application. Approval of the application by the Board of Selectmen must be conditioned upon the Applicant obtaining all other required approvals. The Applicant must file a Notice of Intent Application under the State Wetlands Protection Act with the Conservation Commission. Additionally, the Applicant must obtain approval from the Division of Marine Fisheries.*

*Also, the Applicant is requesting a 10-year license pursuant to G.L. 130 §57. The Statute reads as follows: “Said license shall be for a period of not more than ten years and may be renewed for similar periods.”*

*However, we can’t see that the Board of Selectmen has ever issued a 10-year license. Our review shows that the Board has issued licenses with terms of five years. Our reading of the Statute is that the Selectmen cannot issue a license in excess of ten years.*

*Once the Board of Selectmen determines the conditions for approval of the License and the term of the License, Chairman Pierce will call for a vote to approve the application and to issue the License with the conditions and a License term.*

Doyle said five years won’t be enough, and he will just be getting started in two to three years. He said the five year licenses issued in the past were for leasing, and this situation is different since he owns the land. Eagan said the prior licenses were for town flats, and Doyle’s application is on his own property. Petersen said issue a ten year license. Perry said that sounds reasonable.

Bob Snow made a motion to approve the aquaculture license for ten years, conditioned upon the Applicant obtaining all other required approvals including a Notice of Intent Application under the State Wetlands Protection Act with the Conservation Commission and obtain approval from the Division of Marine Fisheries, Deana Ziev second, all in favor – aye (5-0).

### **OLD BUSINESS**

#### **3. Veterans Field Project Update**

Chairman Pierce read the following:

*We were unsuccessful with the fracking at the well. The well company said that while they were able to pump some water from the well, it was not a sufficient enough volume to irrigate the fields.*

*We were also unsuccessful in getting the PARC (Parkland Acquisitions and Renovations for Communities) Grant.*

*We are not sure what the Board would like to do next on this. Selectman Petersen will lead the discussion on this agenda item.*

Petersen said the well was drilled down 1,200 feet and fracked from top to bottom, and is only pumping 3.9 gallons per minute. He said for the irrigation system, 20 gallons per minute is needed. He said the other existing well produces 7 gallons per minute, and they use it now for 20 minutes, then shut it off to let the water build back up. He said if the system was designed to use less than 20 gallons per minute, the irrigation system would need to have many more zones on it. He said an option is to have a dowsers come to the site and to drill another well. He said without a well, there is no sense in building the field, and using town water is cost prohibitive. He asked the Board to think this over, and said he will research a couple of dowzers and contact Mike Sabatini to see if he has had any luck finding water on his adjacent land with the State's help.

### **MINUTES**

- September 30, 2019

Bob Snow made a motion to approve the minutes of September 30, 2019, Dave Petersen second, all in favor – aye (4-0). Joe Perry - ABSTAINED

### **ANNOUNCEMENTS**

- The Rowley Board of Health reminds residents that mosquitos carrying diseases have been identified in the region and that individuals should avoid outdoor activities from dusk to dawn, wear long sleeves and long pants and socks when outdoors, and to apply mosquito repellant when outdoors during peak hours
- Rowley Health Department Flu Shot Clinics will be held on Wednesday, October 9, 2019 from 2:00 p.m. to 6:00 p.m. at the Town Hall Annex and Thursday, October 10, 2019 from 6:30 p.m. to 8:30 p.m. at the Fire Station
- The Board of Selectmen has re-scheduled the appointment with Attorney Robert Scarano, William Lagorio, and John Grossi of the Massachusetts Thoroughbred Horsemen's Association to discuss a proposal for a horse race track off of Silva

Lane to Monday, October 21, 2019 at 7:00 p.m. in the All Purpose Room at the Pine Grove School

- Vacancies:
  - 1) Two vacancies on the Conservation Commission;
  - 2) One vacancy on the Zoning Board of Appeals Associate seat; and
  - 3) Several vacancies on the Rowley Cultural CouncilInterested residents should send a letter of interest to the Board of Selectmen or call the Selectmen's Office at 948-2372.

Ziev said the occupancy limit for the All Purpose Room at the school is 342, and she is concerned that we may go over the limit when the meeting for the racetrack proposal is held. Pierce said that is the biggest room available in town. Petersen said if the limit is exceeded, we could postpone the meeting and set up a satellite room in the gym at an expense. Eagan said she is not sure if chairs can be placed on the new gym floor. Petersen said the meeting at the school will be a live feed to Rowley Community Media channels and he encouraged people to watch from home. He said the Selectmen will not be taking a vote on the project that night. He said people can prepare questions to ask later. Pierce said there will be no formal vote until the Planning Board votes on the article. Petersen said we should publish a fact sheet in the newspaper and RCM to outline the format of the meeting and to state that no votes will be made. He said we should encourage people to watch from home since parking is limited. Bernie Cullen asked to have the steps laid out to review this size of a development, including the time horizon. Petersen said that is up to the developer. Eagan said we have no proposal or information on the project yet. Petersen said the legislature also would need to approve the project.

## **ADJOURN**

Chairman Pierce called for a motion to adjourn. Bob Snow so moved, Joe Perry second, all in favor - aye (5-0).

Meeting adjourned at 8:08 p.m.

Respectfully submitted,  
Amy Lydon  
Assistant Town Administrator

## **ATTACHMENTS:**

1. Board of Selectmen Public Comment Policy for Public Meetings
2. Meeting memo regarding New Business #1: Discuss snow plowing at the Pine Grove School and the purchase of a snow blower for the Pine Grove School
3. Meeting memo regarding New Business #2: Review Zoning Board of Appeals Special Permit application for an in-law apartment filed by MGM Woodwrights, Inc., Eric Gundrum and Barry Moore for 157 Main Street

4. Zoning Board of Appeals Special Permit application for an in-law apartment filed by MGM Woodwrights, Inc., Eric Gundrum and Barry Moore for 157 Main Street, including copy of original plan
5. Meeting memo regarding Old Business #1: Update on Pine Grove School Project
6. Photos from Ribbon Cutting Ceremony held at Pine Grove School
7. Meeting memo regarding Old Business #2: Discuss draft Triton Regional School District Agreement
8. Draft Triton Regional School District Agreement
9. Meeting memo regarding 7:15 p.m. Public Hearing: Shellfish Aquaculture License Application filed by Brenden Doyle and James B. O'Connell of Hog Island Oyster LLC of 22 Hammond Street, Rowley, MA for a section of the Brown's Camp flat
10. Copy of \$25 check submitted by Brenden Doyle for Shellfish Aquaculture License Application
11. Public Hearing Notice
12. Memo from Deborah Eagan to Board of Selectmen dated October 3, 2019 regarding Aquaculture License application, including attachments listed
13. Meeting memo regarding Old Business #3: Veterans Field Project Update
14. Draft September 30, 2019 meeting minutes