

## MINUTES OF THE BOARD OF SELECTMEN

September 28, 2020

Recorded from Town Hall, 139 Main Street, Rowley, MA

1:00 p.m.

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

### **CALL MEETING TO ORDER**

Chairman Pierce called the meeting to order at 1:04 p.m. He read the following:

Consistent with the Governor's orders suspending certain provisions of the Open Meeting Law and banning gatherings of more than 10 people, this meeting will be conducted by remote participation to the greatest extent possible. The public may not physically attend this meeting, but every effort will be made to allow the public to view and listen to the open session portion of the meeting in real time. Persons who wish to do so are invited to watch the open session portion of the meeting on Rowley Community Media TV / listen live on the RCM page on the Town's website at [www.townofrowley.net](http://www.townofrowley.net) or join the meeting from your computer, tablet or smartphone by using the link: <https://global.gotomeeting.com/join/374228141> can also dial in using your phone by calling [+1 \(872\) 240-3412](tel:+18722403412) and using access code 374-228-141. In the event that live transmission proves infeasible, an audio or video recording, transcript or other comprehensive record of the open session portion of the meeting will be made available on the Town's website as soon as possible.

**1:00 p.m. APPOINTMENT** – Treasurer/Collector Karen Summit to discuss OPEB Trust documents

Chairman Pierce read the following:

*The June 22, 2020 Annual Town Meeting approved an article to re-accept G.L. c32B §20, that statute which enables a municipality to establish an Other Post-Employment Benefits Liability Trust. We did this because in 2016, the Legislature re-voted G.L. c32B §20, concerning municipalities' authority to create OPEB trust accounts. Because of this "re-vote" by the Legislature, Town Counsel Tom Mullen recommended the Town "re-accept" the provision of G.L. c32B §20 and establish an OPEB trust fund.*

*Tom Mullen has reviewed and approved the attached trust instrument. The Town's financial advisors, Bartholomew & Company are requesting the Town to also approve a revised investment policy for the OPEB accounts. Tom Mullen has also reviewed the revised investment policy.*

*Treasurer/Collector Karen Summit will answer any questions from the Board.*

*If the Board is in agreement, the Board needs to vote to approve the trust document.*

Summit said the Declaration of Trust is a follow up item from the previously approved statute from Town Meeting. She said the OPEB Trust Investment Policy Statement is the formal trust document that protects the funds from being used for unintended items. The Board did not have any questions about these documents.

Joe Perry moved that the Board of Selectmen vote to approve and to sign the Form of Other Post-Employment Benefits (“OPEB”) Declaration of Trust and Agreement as presented to the Board at this meeting, Bob Snow second, all in favor, roll call vote— Bob Snow – aye; Joe Perry – aye; Dave Petersen – aye; Deana Ziev – aye; Cliff Pierce – aye.

Joe Perry moved that the Board of Selectmen vote to approve and to sign the Town of Rowley OPEB Trust Investment Policy Statement as presented to the Board at this meeting, Bob Snow second, all in favor, roll call vote— Bob Snow – aye; Joe Perry – aye; Dave Petersen – aye; Deana Ziev – aye; Cliff Pierce – aye.

Pierce said, “The two documents will be in the office for the Board members to sign.”

**1:20 p.m. APPOINTMENT** – Attorney Jill Mann to discuss re-alignment plans for intersection of Wethersfield Street and Taylor Lane

Chairman Pierce read the following:

*Attorney Mann’s Office called Debbie on Friday and asked that her appointment be cancelled today. Debbie is not sure why she cancelled the appointment, but the issue regarding getting power into the construction site may be resolved and there may not need to be any need to re-align the intersection.*

Pierce said if there is no reason for them to come back to the Board about this, they can re-align the intersection under the prior plan.

### **NEW BUSINESS**

1. Discuss request from Reverend Dr. Sara Singleton of Old South, First Presbyterian Church of Newburyport to use Pulpit Rock on Meetinghouse Lane to film a re-enactment of the late George Whitefield preaching at this location in the 1700s

Chairman Pierce read the following:

*Please see the attached request to use the Town’s historic Pulpit Rock site to film a reenactment of the late Rev. George Whitefield’s preaching. Pulpit Rock is located on the discontinued section of Meetinghouse Lane. They would like to use this site on October 3, 2020.*

*The letter does provide information on how they plan to address traffic issues and COVID-19 considerations.*

*The comments from the various departments that this was circulated to are as follows:*

***Police – Chief Dumas***

*“I spoke with the Pastor last week. I suggested drop off and pick up for the site. Parking on Leslie Road, especially in that area will be problematic. There really can be no parking on Leslie Road. If allowed it will be hard to control.”*

***Highway – Patrick Snow***

*“The parking on Leslie Road, Leslie road is a very narrow road and on street parking could create a safety issue. Any trash generated at the event be removed.”*

***Fire – Chief Broderick***

*“I agree with Pat Snow on the parking issue, they do seem to have a plan in place to provide parking and transport from another location to alleviate traffic issues.*

*I do want to stress that the ground cover is extremely dry due to lack of rain, and that they take all precautions to reduce the chance of a spark that could ignite leaves, twigs etc.*

*As for COVID-19 policy I defer that to the Board of Heath.”*

***Health – Frank Marchegiani***

*“The Health Department has reviewed and approved a revised COVID plan for this event. I also spoke to Ms. Cunningham and she has addressed our concerns.” (Ms. Jeanine Cunningham is the Clerk of Session of the church)*

***Historical Commission – Sara Bourque***

*“No specific issue(s) from Historic. I do echo the comments my colleagues have brought up about safety and traffic.”*

*Additionally, the Town’s insurance company recommends the church group provides a Certificate of insurance naming the Town as an Additional Insured for General Liability with Limits of \$1,000,000 Occurrence and \$3,000,000 Aggregate, and proof of Workers Compensation Coverage.*

*Does the Board wish to approve this request with the following conditions?*

- 1. Attendees must get a ride to the site and no cars are allowed to park on Leslie Road*

2. *All trash generated from the event must be removed and disposed of by the Old South, First Presbyterian Church of Newburyport*
3. *All precautions must be taken to reduce the chance of a spark that could ignite leaves, twigs etc. since the ground cover is extremely dry due to lack of rain*
4. *Old South, First Presbyterian Church of Newburyport provides the Town in advance of the event the following:*
  - a. *Certificate of insurance naming the Town as an Additional Insured for General Liability with Limits of \$1,000,000 Occurrence and \$3,000,000 Aggregate*
  - b. *Proof of Workers Compensation Coverage*

Bob Snow moved that this request be approved with the four conditions, Deana Ziev second, all in favor, roll call vote– Bob Snow – aye; Joe Perry – aye; Dave Petersen – aye; Deana Ziev – aye; Cliff Pierce – aye.

Snow said the Town of Rowley was part of the Great Awakening in the 1740s. He said Rev. Whitefield had a booming voice, and his sermon was heard by 30,000 people without amplification. He said this is part of our history.

## 2. Discuss Mill Road bridge

Chairman Pierce read the following:

*Debbie and Highway Surveyor Patrick Snow were contacted by MassDOT Area 4 Director Paul Stedman concerning severe deterioration of the Mill Road Bridge.*

*Debbie, Patrick, and Selectman Dave Petersen met with a MDOT engineer last Thursday at the site. The engineer told them that the bridge could be fixed by excavating down 10 inches and putting on a new deck with low-peak concrete. He said the new reinforced deck “becomes” the bridge and will hold 6,000 pounds. MDOT recommended to Debbie to reach out to Representative Brad Hill to see if there were any State funds to cover the cost. According to MDOT the estimated cost is \$160,000, if there are no unexpected structural issues. Debbie spoke with Brad on Friday and he is looking into this for the Town.*

Eagan said Representative Hill stopped by and told her he has been in communication with various State officials, and he is hopeful that we will be able to get some, if not all, funding from the State for this. She said MassDOT is involved in the planning and design, and we should know more in a month or so. She said there is a call with Senator Tarr’s Office later today. She said she will keep the Board updated about this.

## **OLD BUSINESS**

1. Discuss Pine Grove School punch list items and status of project closeout

Chairman Pierce read the following:

*During last week's meeting, the Board discussed in length the outstanding items on the punch list with Project Manager Andraya Lombardi and representatives from the Pine Grove School.*

Pierce read the memo from Treasurer/Collector Karen Summit regarding the Additional BAN borrowing costs. Pierce asked if the total cost for pushing these to mature in February are \$25,000. Summit said that is an approximation, and it will need to be added to the recap by the Assessor.

Chairman Pierce read the following:

*Debbie and Karen are reminding the Board that this project is well-beyond the completion date. The MSBA closeout process is very lengthy and time-consuming. The filing dates for the MSBA are about three months in advance of the meeting date. If we wanted to get on the December MSBA meeting, Anser Advisory would have to file all the closeout paper by October 9, but that won't be the case based on what Andraya reported to the Board last week and to the MSBA on the conference call. The next MSBA meeting is on February 11, 2021. The project must be completed, in its entirety, and all the paperwork needs to be completed and filed at the MSBA by November 20, 2020. By pushing this filing out to the February MSBA meeting, the Town will need to rollover the Bond-Anticipation-Note (BAN) which funds this project because it expires on December 18, 2020. This will cost the Town significant additional funds, which we were not budgeted this fiscal year. Treasurer/Collector Karen Summit estimates this will cost the Town approximately \$25,000. She had been in regular contact with representatives from Anser Advisory going back to June 1 concerning the need to complete the project well in advance of the expiration of the BAN. Chairman Pierce will read the attached memo from Karen, explaining the borrowing costs.*

Pierce asked what the value of the outstanding items is, and if it is a small amount, can the project still be closed in December. Eagan said we don't have a final number on the outstanding items and we are waiting for final invoices. She said Pinck provided a checklist of items that would need to be submitted to the MSBA by the end of October and they don't think these items will be done. She said there is no permanent occupancy certificate for the school from the Building Inspector. She said if we signed off on these items, she thinks they would become the responsibility of the Town. Pierce said it doesn't sound like we have much choice, and we should shoot for the February closeout date. Ziev asked why this is taking so long. She said it seems like they should wrap this up and move the camera. She said the walk-through scheduled for this week was cancelled abruptly, and what happens when we do the final walk-through and not everything is done. She said this delay is costing the Town money. Pierce said he doesn't understand why it is taking so long either, they had the whole summer to finish these items. He said it is ridiculous that work wasn't done because of the virus, they could have gotten permission to work in the empty building. Perry said they are using COVID as an excuse and there hasn't been much effort to complete the list.

Ziev said there are some minor issues, but the camera is an issue and why has it taken three months just to remount it. She said she doesn't want to wait until the final walkthrough. She said another issue is holes in the walls where the clocks didn't fit. She said this week's walkthrough was an opportunity to see the issues before the final walkthrough. She said she thinks they are dragging their feet, and it is unfortunate that the taxpayers have to pay for this. Petersen said it sounds like there are substantial issues with the paint, there is the outside work to be completed and doors with holes. He said we have no choice but to hold the closing until February, he hates to spend the \$25,000, but otherwise the Town would have to pay to correct these items. Ziev asked if there is any recourse for the \$25,000. She said it isn't the Town's fault that the items aren't completed, so why is the Town responsible for paying for this. Pierce said we might have recourse, but litigation is costly. Petersen said the issue with the camera location is between the architect and the contractor, not the Town, but he has heard there may be a change order for this. He asked what recourse there would be for this, and if the Town would have to go to court for this. Ziev said the paint is a significant issue because the whole hallway has scuff marks, even though there haven't been many students in the building. Petersen said Larry Berger should be on top of this. He said we have paid a \$42,000 increase in the contract, and he is upset about the work Larry and his company are doing. He said these are big issues, he is not happy with the status, and these need to be corrected in time for the February meeting.

Bob Snow said how many weeks have we been going through this. He said it feels like Groundhog Day. He said moving the camera should be simple. Ziev said it is disheartening that we are continuing to fight for these corrections, and they should want to move on. Snow said this is at least the third time the camera has been discussed.

Eagan asked if the Board would like her to send a letter to Pinck about two Selectmen being at the meetings. She said there could be a strongly worded letter that at the next Selectmen's meeting they need to provide a full update with a timeline for completion. She said the Town has to roll the ban and face thousands of additional costs. She said regarding the change order, they will need to prove that this is the responsibility of the Town. Pierce said Selectmen need to also be present at the project team meetings. Petersen said if the architect designed the camera to go in the wrong place, the architect is responsible for the costs to move it. He asked if this is resolved next week, can they meet the November deadline. He said they need to provide a schedule and timeline for completion at the next project meeting.

Bob Snow moved that a letter be sent to Pick as discussed, Dave Petersen second, all in favor, roll call vote— Bob Snow – aye; Joe Perry – aye; Dave Petersen – aye; Deana Ziev – aye; Cliff Pierce – aye.

Pierce said Perry and Ziev should be at the meetings.

2. Discuss Governor Baker's extension of the expiration date for restaurant temporary outdoor seating

Chairman Pierce read the following:

*On June 8, 2020, the Board of Selectmen approved procedures for allowing restaurants to have temporary outdoor seating and alcohol service under the Governor's Order for Phase II re-opening. COVID-19 Order No. 35 was issued on June 1, 2020 and Section 4 of this order allowed for this temporary outdoor seating which was to expire on November 1, 2020 unless the Order is rescinded sooner.*

*On September 10, 2020, Governor Baker issued an Order Making Certain Phase III Adjustments (COVID-19 Order No. 50). According to a communication we received from the ABCC:*

*Pursuant to this Order, local licensing authorities ("LLA") may approve requests for expansion of outdoor table service or extensions of earlier granted approvals issued pursuant to Section 4 of COVID-19 Order No. 35, from November 1, 2020, for any period up to and until sixty (60) days after the end of the state of emergency. The LLA may issue extensions automatically to all licensees, or may do so on request from individual licensees.*

*We asked for comments from the Police Chief, Fire Chief, Building Inspector and Health Director about outdoor seating after November 1, 2020. The Police Chief did not have any additional concerns with the extended time period. The Fire Chief, Building Inspector and Health Agent prepared a joint memo based on guidance they received from the Division of Professional Licensure and the Office of the State Fire Marshall. Their letter and the guidance it is based on are attached. Frank Marchegiani had the following additional comment to the joint memo: "In addition to Chief Broderick's letter, I would like to add that according to DPH, closed tents have always been allowed however they are considered an indoor space and must follow the COVID indoor dining standards."*

*To date, the Town has issued temporary licenses under COVID-19 Order No. 35 as follows:*

- Agawam Diner: Outdoor area with tent for food service. Business does not have liquor license.*
- Off the Vine: Outdoor area without a tent for food and alcohol service. Temporary liquor license to expire on November 1, 2020 unless the Order is rescinded sooner.*
- 255 Newburyport Turnpike (The Blue Boat): Outdoor area with tent for food and alcohol service. Temporary liquor license to expire on November 1, 2020 unless the Order is rescinded sooner.*
- The Rowley Veterans Association: Outdoor area without a tent for food and alcohol service. Temporary liquor license to expire on October 15, 2020 unless the Order is rescinded sooner.*

*Does the Board wish to allow extensions beyond November 1, 2020 for outdoor table service? If so, we think that it would be a better approach to ask license holders who wish to extend the time for their outdoor seating to complete a revised application form rather than automatically extend the time period for licenses that have already been issued. The revised application form will be written to address the issues raised by the department heads. We can prepare a draft of the revised application form for you to review and approve at your next meeting on October 5, 2020.*

Pierce said if an outdoor dining area is enclosed entirely in a tent, it becomes indoor dining, and businesses are not allowed to simply enclose the outdoor area. Petersen said he heard this discussion with the Building Inspector last week, and an enclosed outside area will require egresses and possibly heaters. He said businesses will need to carefully conform to all inspection issues. Ziev said businesses should have to apply for this.

Deana Ziev moved that any business with a temporary license for outdoor dining who wishes to extend the length of the license needs to complete a revised application, and to not automatically extend these licenses, Bob Snow second, all in favor, roll call vote—Bob Snow – aye; Joe Perry – aye; Dave Petersen – aye; Deana Ziev – aye; Cliff Pierce – aye.

### 3. Update on intersection of Route 1 and Central Street and Glen Street

Chairman Pierce read the following:

*Bob Snow was unable to schedule Mike Trepanier from MDOT for today's meeting. However, he did receive a brief update from Jonathan Freeman, an engineer at MDOT. Jonathan sent Bob the email below:*

*Hi Bob,*

*It was great talking with you previously!*

*The subject project is moving along and I am writing to request that you identify physical locations where I should post a (paper) flyer advertising a QR code and a URL where a Story Map will be uploaded to invite public comments. I hope to head to Rowley to post the flyers next Tuesday or Wednesday if possible, once we can confirm the date to use as a deadline for comments for the flyer.*

*Please find the flyer attached and comment if you have any edits as well.*

*Thank you,  
Jon*

*Jonathan E. Freeman, EIT, RSP1  
MassDOT Civil Engineer III/Project Manager*



10 Park Plaza, Suite 6340  
Boston, MA 02116

*Bob wants the Board to review the attached draft flyer on the Online Public Meeting to discuss the "Safety Improvements at Route 1, Central and Glen Streets". We can post it at Town Hall, Library, Website, and RCM. Does the Board have any comments?*

Snow said the MPO met last week, he brought up this subject, and twelve minutes later he received the email from Jonathan Freeman. He said he will forward additional information to the Board as he receives it. Perry asked what the date of the public meeting is. Snow said we don't know the date yet, and there was a serious accident at this intersection two weeks ago and a person was hospitalized. Perry said the 450<sup>th</sup> anniversary of the Town is coming up in a few years and he hopes this project is done by then.

4. Discuss October meeting schedule and format, and Town Hall public hours

Chairman Pierce read the following:

*This agenda item is a follow-up to a prior meeting discussion on continuing to have the meetings held through a virtual platform or in-person.*

*Would the Board prefer to meet virtually for a few more weeks, or would the Board like to meet in-person in the Town Hall Auditorium? We are limited in the Auditorium to a 16-person occupancy cap, that number includes the Selectmen, staff, and videographer.*

*As a follow-up to that discussion, what time would the Board like to meet?*

*On a related note, Debbie is recommending the Town Hall hours resume to their "normal" pre-COVID hours. There is a consensus with the Town Hall staff that it is easier to have the building open normal hours. Debbie is asking the Board to vote (ROLL CALL) to open the Town Hall for normal hours. If something changes with respect to COVID cases in Rowley, we can re-visit this.*

Snow said if it is a meeting that is expected to be slow, we can meet upstairs, but public hearings should be held online. Ziev asked if the capacity is 25 or 16 in the auditorium. Eagan said 16 - we are allowed to have 8 people per square foot, and the auditorium is 2,000 square feet. Snow said the Board should review this in another couple of weeks. Eagan said we will plan to meet virtually on October 5<sup>th</sup>, there is a holiday on October 12<sup>th</sup>, the meeting will be virtual on the 19<sup>th</sup> and this can be discussed again on the 19<sup>th</sup>.

Dave Petersen moved to resume normal pre-COVID hours at Town Hall, Bob Snow second, all in favor, roll call vote— Bob Snow – aye; Joe Perry – aye; Dave Petersen – aye; Deana Ziev – aye; Cliff Pierce – aye.

## **MINUTES**

- September 14, 2020

Joe Perry moved to approve the minutes of September 14, 2020, Bob Snow second, all in favor, roll call vote– Bob Snow – aye; Joe Perry – aye; Dave Petersen – aye; Deana Ziev – aye; Cliff Pierce – aye.

## **ADJOURN**

Chairman Pierce called for a motion to adjourn. Bob Snow so moved, Deana Ziev second, all in favor – aye- roll call vote – Bob Snow – aye; Joe Perry – aye; Dave Petersen – aye; Deana Ziev – aye; Cliff Pierce – aye.

Meeting adjourned at 1:50 p.m.

Respectfully submitted,  
Amy Lydon  
Assistant Town Administrator

## **ATTACHMENTS:**

1. Meeting memo regarding 1:00 p.m. Appointment – Treasurer/Collector Karen Summit to discuss OPEB Trust documents
2. Excerpt from the June 22, 2020 Annual Town Meeting Warrant with article #23 highlighted
3. Form of Other Post-Employment Benefits (“OPEB”) Declaration of Trust and Agreement
4. Town of Rowley OPEB Trust Investment Policy Statement
5. Meeting memo regarding 1:20 p.m. Appointment – Attorney Jill Mann to discuss re-alignment plans for intersection of Wethersfield Street and Taylor Lane
6. Meeting memo regarding New Business #1: Discuss request from Reverend Dr. Sara Singleton of Old South, First Presbyterian Church of Newburyport to use Pulpit Rock on Meetinghouse Lane to film a re-enactment of the late George Whitefield preaching at this location in the 1700s
7. Letter from Reverend Dr. Sara Singleton of Old South, First Presbyterian Church of Newburyport requesting to use Pulpit Rock on Meetinghouse Lane to film a re-enactment of the late George Whitefield preaching at this location in the 1700s
8. Approved COVID plan from Old South, First Presbyterian Church of Newburyport
9. Meeting memo regarding New Business #2: Discuss Mill Road bridge
10. MassDOT diver’s activity report for Mill Road bridge
11. Drawing from MassDOT for Mill Road bridge repair
12. Excerpt from Town of Rowley: Bridge Inventory Evaluation for Mill Road bridge
13. Meeting memo regarding Old Business #1: Discuss Pine Grove School punch list items and status of project closeout
14. Memo from Karen Summit regarding Additional BAN borrowing costs

15. Meeting memo regarding Old Business #2: Discuss Governor Baker's extension of the expiration date for restaurant temporary outdoor seating, including attachments to memo
16. Meeting memo regarding Old Business #3: Update on intersection of Route 1 and Central Street and Glen Street
17. Draft flyer for Route 1 at Central/Glen Street Improvement Project Online Public Meeting
18. Meeting memo regarding Old Business #4: Discuss October meeting schedule and format, and Town Hall public hours
19. Draft minutes of September 14, 2020