

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

September 30, 2019

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

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

**PUBLIC ATTENDEES:** Kevin Moriarty; Deborah Riquier; Tom Riquier; Robert Barrows; David Zizza – FinCom; Rob Nixon – Taylor Lane LLC; Bernie Cullen – 283 Wethersfield Street

### **CALL MEETING TO ORDER**

Chairman Pierce called the meeting to order at 7:02 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.

### **GENERAL BUSINESS**

1. Request from the Planning Board to appoint Kevin Moriarty as Associate Member of the Planning Board

Chairman Pierce read the following:

*Kevin Moriarty submitted the attached resume and letter of interest to serve as an Associate Member of the Planning Board. Mr. Moriarty met with the Planning Board on September 24<sup>th</sup>, and Town Planner Kirk Baker reported the following:*

*“The Planning Board met with Kevin Moriarty pertaining to the Associate Planning Board member position and voted unanimously to recommend to the Board of Selectmen Mr. Moriarty’s appointment to that position.”*

Bob Snow made a motion to appoint Kevin Moriarty as Associate Member of the Planning Board, Deana Ziev second, all in favor – aye (4-0). Joe Perry – ABSENT.

2. Request from Library Director Pamela Jacobson to lift the hiring freeze for the position of Library Associate for Youth Services

Chairman Pierce read the request.

Bob Snow made a motion to lift the hiring freeze for the position of Library Associate for Youth Services, Deana Ziev second, all in favor – aye (4-0). Joe Perry – ABSENT.

### **NEW BUSINESS**

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

Chairman Pierce said Joe Perry is absent, so this will be tabled until next week.

2. Discuss adding the Pine Grove School playground equipment to the Town's insurance policy

Chairman Pierce read the following:

*We have just moved the Pine Grove School Building off the Builder's Risk Policy to the Town's Property Schedule. The Town has always insured the school building. The Triton School District insures the contents of the building. The old playground equipment was not listed on the Town's schedule.*

*When Debbie moved the newly renovated school building on to the Town's property policy, she sought confirmation from the Triton School Superintendent that the School District would be insuring the new playground equipment. Superintendent Forget said that the School's policy covers playground equipment on buildings that the School District owns. Because the Town owns the Pine Grove School building, he said that the new equipment would not be covered under the School District's policy, unlike the playground at the Salisbury Elementary School, which is owned by the District.*

*Debbie feels that the Board of Selectmen needs to approve adding the playground equipment to the Town's property policy. Additionally, the Town's insurance company is recommending that the Town obtain general liability and worker's compensation certificates of insurance from the School District for the following:*

- **General Liability** of at least \$1,000,000 Bodily Injury and Property Damage Liability with a \$3,000,000 Annual Aggregate Limit. The Town should be named as an "Additional Insured".
- **Automobile Liability** of at least \$1,000,000 Bodily Injury and Property Damage Combined Single Limit per accident. The Town should be named as an "Additional Insured".
- **Workers' Compensation Insurance** Proof of Coverage. The insurance company recommends at least \$1,000,000 of Employers Liability.
- **Umbrella Liability** of at least \$2,000,000 per occurrence with a \$2,000,000 Annual Aggregate. The Town should be named as an Additional Insured.

*The certificates are needed because the Town does not control or maintain the school building, grounds, and playground equipment. The Board needs to include the insurance certificates as part of the approval to add the playground equipment.*

Dave Petersen made a motion to approve adding the playground equipment to the Town's property policy, Bob Snow second, all in favor – aye (4-0). Joe Perry – ABSENT.

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

There were no Public Comments.

### **NEW BUSINESS**

3. Discuss Rob Nixon's proposal for a density bonus at Taylor Lane under the provision of the Town of Rowley Zoning Bylaw 6.4.7.2

Cliff Pierce said he is an abutter to this project, and he left the Selectmen's meeting room at 7:06 p.m.

Bob Snow read the following:

*Town Planner Kirk Baker sent us an email which states the following:*

*"The Planning Board has been reviewing the Falcon Ridge OSRD located at 430 Wethersfield Street (next to 390 Wethersfield Street, the Dodge Reservation which is owned by the Town of Rowley). The applicant, Rob Nixon, is proposing a 45 lot OSRD as determined under ZBL Section 6.4.6 (Development Density) and is now seeking a 9% Density Bonus (20% is the maximum permitted) under ZBL Section 6.4.7. This would result in 4 additional lots.*

*The mechanism Mr. Nixon has chosen for doing so under Section 6.4.7.2.(a) involves "on or off-site improvements or amenities that result in substantial benefit to the Town and which are beyond those necessary to mitigate the impacts of the proposed OSRD." Based on consultation with the Conservation Commission, Mr. Nixon is proffering amenities in the form of improvements to the Dodge Reservation property's trail system consisting of additional trails, existing trail improvements, benches, stormwater drainage improvement to the parking areas (see the full list of proposed improvements contained in the attached exhibit). The Planning Board has considered Mr. Nixon's proposal and the Board's members reached a consensus that the proposed amenities would be a viable option for meeting the requirements of ZBL 6.4.7.2.(a) by which the Board could grant a density bonus that would allow the addition of four building lots. Both the Planning Board and Conservation have advised Mr. Nixon that, because the Dodge Reservation is Town-owned property, that any proposed improvements or modifications to that property would require authorization from the Board of Selectmen.*

*In that regard, the Planning Board would like to request that Mr. Nixon's proposal for the aforementioned improvements to the Dodge Reservation be*

*included on the next upcoming Board of Selectmen meeting agenda, with the recommendation from the Planning Board that the proposed improvements are sufficient for the Planning Board to grant a density bonus that would support the addition of four building lots to the Falcon Ridge OSRD Plan. I have also attached a memo from Brent Baeslack pertaining to his perspective on the proposed improvements from a Conservation perspective.*

*Once the Board of Selectmen takes action on the request for authorization to make the improvements I can have the Planning Board follow up with its formal confirmation (or disconfirmation) that the density bonus can be applied to the project.*

Thanks  
Kirk Baker  
Rowley Town Planner  
Email: [kirk.baker@townofrowley.org](mailto:kirk.baker@townofrowley.org)  
Phone: 978-948-5549"

*The Taylor Lane developer, Rob Nixon, went to the Conservation Commission with a proposal to make improvements to the Dodge Reservation. Please see attachment. The ConCom and the Open Space Committee reviewed the proposal. (Please see attached memo from the ConCom to the Planning Board.) The Planning Board believes that this project is a "viable option" under 6.4.7.2 for the addition of four dwelling units. The Planning Board is referring this project to the Board of Selectmen because it will be on Town-owned land. The cost estimate to do this work is \$107,749.00. Conservation Agent Brent Baeslack copies materials he received from Mr. Nixon. (These pages are at the end of the packet.)*

*Debbie is not sure on the methodology that used to set a dollar amount tied to the value of the four additional units. However, the proposal from the contractor of \$107,749.00 to do this work does not include prevailing wage rate or additional required insurance coverages. Debbie feels that if this project is approved by the Town, it would require the payment of prevailing wage rates. She asked Town Counsel Tom Mullen for his thoughts on this, and he agreed that this work would need to include prevailing wage rates. Debbie also recommends that the contractor provide certificates of insurance and some type of project agreement that indemnifies the Town and contains a detailed written scope of work.*

Eagan said the Zoning Bylaw doesn't have any details on the calculation such as, for example, they are requesting four additional units at a certain fair market value, which equates to a certain amount of improvement work. She said this arrangement will need to have an agreement between the Town and the contractor. She said since this is a public project on Town property, prevailing wage rates will apply. She said she saw no reference to prevailing wage rates in the \$107,749 estimate provided for this work. She said the Planning Board is looking for the Selectmen to approve this project since it

would be done on Town property. She said once the scope of work is provided, we can pull the prevailing wage rates.

Planning Board Chairman Chris Thornton said there is no formula in the ordinance to determine this, but the Planning Board did consider the value being given to the Town. He said it seems the proposed improvements are substantial, they interplay with Town land, and the applicant is granting open space and providing access to Conservation land. He said the proposal includes a more substantial parking lot at the lower camp area at the former Girl Scouts camp; repairing the drainage; resurfacing and regarding the hill to the upper parking lot used by the camp; creating a more substantial trail base with a higher elevation from the lower parking lot to Smith Lane. He said the trail to be improved would be a five to seven foot wide stone dust trail, 1000 to 1500 feet in length, and the trail would be connected to this new neighborhood.

Bob Snow said the Girl Scout camp that Thornton is referring to is the YMCA Camp/Dodge Reservation.

Thornton said the developed yield of the land is 45 lots, and the density bonus is based on off site or on site amenities. He said the bylaw allows a 20% density bonus, but the applicant requested a 9% density bonus. He said they need the Town's consent and support to do this. He said the Planning Board supports this project, and there is a sound endorsement from the Conservation Commission as well.

Eagan asked how the estimate of \$107,749 is tied to the project. She said once the agreed upon scope of work is submitted, prevailing wage rates will apply, and the contractor will need to provide the required insurance certificates. She said the prevailing wages will likely result in an upward modification to the price for the improvements. Thornton said the applicant will need to consider those factors, and the Town should consider how the improvements should be quantified in the future. Petersen asked if this is a no bid project under this scenario. Eagan said she has never seen anything implemented under this section of the zoning bylaw, and this isn't a gift to the Town since the Town is receiving something in return. She said there needs to be an agreement in place, and she will need assistance from the Town's attorney on this. Petersen said he doesn't want to see the Town handed a lawsuit if the work isn't bid out, and he would like to see an opinion from Town Counsel about the proper procedure for this. Eagan said she will check on this, but she presumes it is okay since the Attorney General approved this bylaw. She said there are not enough details on how to implement this bylaw. Petersen asked if the 49 house lots are open for further negotiation. Thornton said the 45 lots are based on the subdivision yield on 90 acres without an OSRD. He said then they proposed an OSRD with a land donation and a higher density project. He said they are also proposing to re-engineer the dangerous bend/intersection on Wethersfield Street.

Petersen said when this project was first presented, they were shown a plan with two dead end roads which could be used to open additional land not owned by Nixon for future development. Thornton said the Planning Board requires the dead end roads,

but additional future development would be constrained without other means of access other than Wethersfield Street. Petersen said an affordable housing plan has been proposed off Daniels Road, and he thinks all that land connects. He said under proposal #4, there is no drawing that has been provided. Petersen later said that he did have the drawing in his meeting materials. Thornton said that is for the lower parking lot trail that leads to Smith Lane. Petersen said he has walked from the ballfield to the YMCA camp, and he is concerned that a six foot wide 3" road pack path will take away the beauty of walking on a path through the woods. Thornton said he did the walk two weeks ago with Brent and the patch was mostly impassable because it was overgrown. He said the proposed improvement will give access to the land to the public, and people can walk or jog on the path. He said the baseball field could also be used for the Fall Fest, and is a valuable amenity in Town.

Thornton said there is another much smaller project being proposed under this bylaw on Newbury Road, which would add a unit to a project that has already been approved. He said the proposed project is to clear access over wetlands and to create a boardwalk.

Petersen said he likes how this project includes the donation of land that is contiguous to other Town Conservation land. Thornton said rather than just getting land, this proposal allows the Town to use the land in a meaningful way. He said the proposal also includes benches and a trail map. Snow said we need to be careful how we do this going forward. Eagan said the estimate of \$107,749 may increase due to prevailing wages. Nixon said a lot of the work will be done on his land. Thornton said the prevailing wages will need to be paid for work done on Town land. Petersen said the Town Administrator will need to work with Town Counsel and the developer, and to make sure this isn't a biddable project.

Eagan said we will need a clear scope of work, and to put an agreement in place with Nixon and his subcontractor, including the indemnification language and prevailing wages. Petersen made a motion to approve the plan subject to the final costs, meeting legal requirements, and the Town Administrator working with the developer and other boards. This motion was not seconded. Eagan said she thinks we will need a contract between the Town and Nixon, signed by the Selectmen, Planning Board and Conservation Commission.

Thornton said if the Board can give a preliminary approval of this, they can move forward with the planning for this project.

Dave Petersen made a motion to preliminarily approve this subject to negotiations and final approval at a future date, Deana Ziev second, all in favor – aye (3-0). Joe Perry – ABSENT. Cliff Pierce – ABSENT.

Cliff Pierce returned to the Selectmen's table at 7:50 p.m.

4. 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 said the plans provided are impossible to read. Eagan said the quality of the printed plan is the same as the quality in the PDF file that we received. She said we can ask for a full set of plans and the Board can review this next week.

This item was tabled until next week.

### **OLD BUSINESS**

1. Update on Pine Grove School Project

This item was tabled until next week.

2. Discuss draft Triton Regional School District landlord tenant agreement with the Town

Chairman Pierce said this agenda item is mislabeled and should be about the Triton Regional Agreement. He said the Board of Selectmen looked at the proposed changes to the Triton Regional Agreement some time ago, and there were some objections, and those items have been taken out as follows:

- Proposal for the appointment of a vacant School Committee Seat: the proposed language including input from the other two towns when there is a vacancy in one town has been removed.
- Proposal for the Superintendent to have the right to speak at Town Meeting: this was contrary to the law and has been removed.

Pierce said all the other items in the agreement are the same. He said regarding the landlord tenant agreement, the Regional Agreement merely says that the towns and the district come together to agree on these responsibilities from time to time. He said the language in the Regional Agreement on this is very vague, and a landlord tenant agreement will be approved at a later time.

Snow asked if there is an adjustment if the number of students decrease. Pierce said Newbury objected to changing the way that the cost is apportioned to the Towns, and they like the way it is currently done. Bernie Cullen said the total Triton budget and the relative census of the towns determine each town's assessment. Snow said when enrollment decreases, he doesn't understand why Triton's total cost doesn't also decrease. Cullen said there are a lot of fixed costs that don't drop when enrollment drops by small amounts in each school. Petersen said the 49 houses discussed earlier

tonight will increase the enrollment numbers for Rowley relative to the other towns. Snow said there could be 75 kids from those 49 houses, and other homes could be built in Rowley. He asked if Pine Grove School has the capacity for these enrollment increases. Petersen said that is a discussion for another time, but now Newbury is not agreeing to a change in the apportionment. Snow asked if Rowley has the water capacity to support the proposed new homes in town. Cullen said water is not a problem. Petersen said we could stop selling water to other towns. Eagan asked if the Board would like to table this until Selectman Perry is back. The Board agreed to table this agenda item.

3. Sign Collective Bargaining Agreement with the American Federation of State, County and Municipal Employees AFL-CIO, Council 93, Local 2905

Chairman Pierce read the following:

*The AFSCME Union has submitted the signed collective bargaining agreement document for FY 20-21-22, which incorporates the Memorandum of Agreement, signed by the Town and the Union on April 8, 2019. The Board needs to vote and sign it. The original is in the Chairman's folder.*

Dave Petersen made a motion to sign the Collective Bargaining Agreement with the American Federation of State, County and Municipal Employees AFL-CIO, Council 93, Local 2905, Bob Snow second, all in favor – aye (4-0). Joe Perry – ABSENT.

The Selectmen signed the contract.

## **MINUTES**

- September 23, 2019

Bob Snow made a motion to approve the minutes of September 23, 2019, Deana Ziev second, all in favor – aye (4-0). Joe Perry – ABSENT.

## **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 repellent when outdoors during peak hours
- Pine Grove School Grand Re-Opening Celebration is scheduled for Saturday, October 5, 2019 from 1:00 p.m. to 3:00 p.m.
- The Rowley Public Library welcomes the public to a farewell gathering for Library Associate for Youth Services Miranda Griffiths on Saturday, October 5, 2019 from noon to 1:00 p.m.



- 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) Planning Board Associate Member;
  - 2) Two vacancies on the Conservation Commission;
  - 3) One vacancy on the Zoning Board of Appeals Associate seat; and
  - 4) 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.

## **ADJOURN**

Chairman Pierce called for a motion to adjourn. Dave Petersen so moved, Bob Snow second, all in favor - aye (4-0). Joe Perry - ABSENT

Meeting adjourned at 8:07 p.m.

Respectfully submitted,  
Amy Lydon  
Assistant Town Administrator

## **ATTACHMENTS:**

1. Meeting memo regarding General Business #1: Request from the Planning Board to appoint Kevin Moriarty as Associate Member of the Planning Board
2. Redacted letter of interest from Kevin Moriarty
3. Redacted resume from Kevin Moriarty
4. Request from Library Director Pamela Jacobson to lift the hiring freeze for the position of Library Associate for Youth Services
5. 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
6. Meeting memo regarding New Business #2: Discuss adding the Pine Grove School playground equipment to the Town's insurance policy
7. Email from Laura Peckham from MIIA regarding Town of Rowley Insurance Recommendations for the Pine Grove School Building Lease and the Pine Grove School Playground
8. Meeting memo regarding New Business #3: Discuss Rob Nixon's proposal for a density bonus at Taylor Lane under the provision of the Town of Rowley Zoning Bylaw 6.4.7.2
9. Town of Rowley Zoning Bylaw 6.4.7.2 excerpt

10. Email from Town Planner Kirk Baker regarding Planning Board items for follow-up
11. Memo to Planning Board from Conservation Agent Brent Baeslack regarding Request for Density Bonus – Offsite Improvements by Falcon Ridge OSRD
12. Quote from Bitterroot LLC for On and Off-Site Improvements
13. Request for density bonus
14. Proposal from F M Bridges & Son for proposed upgrades to Dodge Reservation
15. Plan from ASB Design Group, LLC for Falcon Ridge Off and On Site Proposed Improvement Plan
16. Email from Lisa Lozzi with attached 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
17. Meeting memo regarding Old Business #1: Update on Pine Grove School Project
18. Meeting memo regarding Old Business #2: Discuss draft Triton Regional School District landlord tenant agreement with the Town
19. Email from Cliff Pierce to Debbie Eagan regarding DCC: Regional Agreement Discussions and October DCC meeting, including attached Amended Regional Agreement – Updated September 9, 2019
20. Meeting memo regarding Old Business #3: Sign Collective Bargaining Agreement with the American Federation of State, County and Municipal Employees AFL-CIO, Council 93, Local 2905
21. Signed Collective Bargaining Agreement with the American Federation of State, County and Municipal Employees AFL-CIO, Council 93, Local 2905
22. Draft minutes of September 23, 2019