

MINUTES OF THE BOARD OF SELECTMEN MEETING

September 9, 2013
Meeting held at Town Hall

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

PUBLIC ATTENDEES: Larry White - FINCOM, William Freitag, Don Thurston, Robert H. Clewell, Ken Ward – Building Inspector, Tom Heidgerd – ZBA, Brent Baeslack – Conservation Agent, Anne Gagnon – MA Dept. of Fish & Game, Donald E. Galicki, Judy Pickett – Brackett & Lucas, Ron Keefe – Highway Surveyor, Daniel Sczepanski – Rowley Town Common Restoration Committee, Steve Fletcher – Brackett & Lucas

CALL MEETING TO ORDER

Chairman Robert Snow called the meeting to order at 7:03 p.m. He said the meeting is being video and audio taped.

PLEDGE OF ALLEGIANCE

Larry White from the Finance Committee led the Pledge of Allegiance.

CHAIRMAN'S COMMENTS

Chairman Snow said as we near the anniversary of September 11th, we remember the three Rowley residents who were killed on American Airlines Flight 11, Laurie Olsen Neira, James Trentini and Mary Trentini. He called for a moment of silence to remember those lost in this tragedy.

7:05 – 7:15 p.m. CITIZEN QUERY

Citizen's query was opened.

GENERAL BUSINESS

1. Request from YMCA to hold annual Rowley Poker Road Race

Chairman Snow read the following:

Gerry Beauchamp, the Director of the Ipswich YMCA, has requested permission to hold their annual 5k run in Rowley on Saturday September 28, 2013 starting at 9:00 a.m. to raise money for the Ipswich YMCA (email attached). 120 runners are expected to take this route:

Start on Bradford Street at the Rowley VFW; Right onto Summer Street; Left onto Main Street; Left onto Central Street; Left onto Bennett Hill Road; Left onto Wethersfield; Right onto Bradford Street; Finish at Rowley VFW.

The race will begin and end on private property at the VFW. The Selectmen need to approve the use of the public roadways for the race.

All questions and concerns from the Police Chief, Fire Chief, Coordinator of Health Services, and Highway Surveyor have been satisfactorily addressed and there are no outstanding concerns from these departments.

We have requested a certificate of insurance listing the Town of Rowley as an additional insured with general liability limits of \$1,000,000 per occurrence and \$3,000,000 general aggregate.

Dave Petersen made a motion to approve the use of the public roadways for the annual YMCA Rowley Poker Road Race, Jack Cook second, all in favor – aye (5-0).

2. Review Zoning Board of Appeals Memo on ZBA application for 111 Newburyport Turnpike

Chairman Snow read the following:

The Board needs to review the application submitted by Artistic Landscapes c/o Anthony Hurley, One Sawmill Way, Georgetown to the ZBA for a variance and special permit for 111 Newburyport Turnpike groundwater recharge, parking within the 50' setback and for storage bins within the side and rear setbacks from the requirements of the Town's zoning bylaws:

- 6.1.3.2.4 (b)
- 4.7.2 (f)
- 4.11.3.2 (c)

Does the Board have any comments that they wish to forward to the ZBA concerning this application? (COPY ATTACHED)

Petersen said he is ok with this application. Eagan said the excerpts of the relevant laws are included in the packets (COPIES ATTACHED).

Dave Petersen made a motion to let the ZBA know that there are no comments from the Board of Selectmen on this application, Bob Merry second, all in favor – aye (5-0).

OLD BUSINESS

1. Discuss Town Common Restoration project

Dave Petersen said he has received a number of inquiries from residents who watched the last Water Board meeting when an irrigation system for the Town Common was discussed. He said he has reservations about installing an irrigation system, and the Water Board committed to installing it. He said the Board of Water Commissioners can't provide the labor for the installation and there is no funding source for the material and this would need to be put out for bid. He said they would have to pay for this out of their Maintenance line and this needs to be thought about and discussed. He said this seems excessive and he would like to discuss this at next week's meeting when the Town Common Restoration Committee member Dan Sczepanski is present.

The Board directed Eagan to send a memo to invite Sczepanski and one representative from the Board of Water Commissioners to next week's Selectmen's meeting and to advise the Highway Surveyor that this is being put on hold until it can be discussed further.

7:05 – 7:15 p.m. CITIZEN QUERY

Citizen's query was closed. There were no Citizen's queries.

7:15 p.m. APPOINTMENT – ZBA Chairman Don Thurston to present Robert H. Clewell to discuss ZBA Associate vacancy

Chairman Snow said, "Don Thurston has discussed the ZBA associate position with Robert Clewell." ZBA Chairman Don Thurston said he is here to present Robert Clewell who is an Attorney of general practice, who served on the ZBA and as a Selectman in the Town of Boxford. He said Clewell told him he would like to give back to the community. Thurston said Clewell has applied for the ZBA Associates seat and he would like the Board of Selectmen to appoint him.

Snow asked Clewell to tell the Board about himself. Clewell said he lives on Wethersfield Street, two houses away from Nat Dummer and he learned about the vacancy on the ZBA from Dummer. He said he has been practicing law for forty years, mostly in Boston, and has represented residents with permitting and has represented buyers/sellers, and banks in real estate transactions. He said from 1982 until 1989 he worked as an Administrative Law Judge for the State. He said from 1987 until 2000, he served on the Boxford ZBA and as a Selectman until he moved. He said his office is located in Topsfield and that he believes in community participation. He said he believes the primary obligation of the ZBA is to enforce the by-laws and he thinks they should help people use their land as they see fit if it can be done, but that there are gray areas. He said the ZBA can also discuss alternatives with applicants if the use they are requesting is not allowable.

Building Inspector Ken Ward said he strongly urges the Board to appoint Clewell as the ZBA Associate vacancy. He said Clewell was his boss in Boxford, they worked closely together and he is knowledgeable, personable and he thinks he will be a good fit.

Merry asked Clewell if he is available for the monthly ZBA meetings on Thursday evenings. Clewell said yes. Clewell agreed to take the required State Ethics test.

Dave Petersen made a motion to appoint Robert H. Clewell as the ZBA Associate until June 30, 2014 Jack Cook second, all in favor – aye (5-0).

7:25 p.m. JOINT MEETING – Board of Assessors to discuss PILOT payment proposal for solar array

Chairman Snow read the following:

We have had a few weeks to consider the proposal from Capital Energy Partners. Jim Randolph of Capital Energy Partners LLC gave a presentation on a Payment In Lieu of Taxes (PILOT) program for the solar panel field that is being installed on the Country Garden property off Central Street. Mr. Randolph provided the Board of Selectmen and Assessors with a Harvard Law School report on PILOT programs for solar arrays; a copy of an unsigned PILOT agreement in the Town of Spencer; and a newspaper article on a PILOT program in Easthampton.(These documents are included in this packet.)

Also included are the minutes of August 12, in which Mr. Randolph gave his presentation.

Chairman Snow asks the Selectmen and the Assessors for their opinions on this proposal.

If the Boards are interested in this concept, then we can negotiate the PILOT Agreement while Mr. Randolph files his application to construct this facility. We don't want to spend the time and costs associated with setting up this agreement, if it hasn't been approved by the respective Town boards and departments.

Chairman Snow called for a motion and roll call to open the joint meeting between the Board of Selectmen and the Board of Assessors. Jack Cook so moved, Joseph Perry second, all in favor – roll call vote: Robert Merry – aye, David Petersen – aye, Robert Snow – aye, Jack Cook – aye, Joseph Perry – aye, Bill DiMento - aye, Diane D'Angeli - aye, Don Thurston - aye.

Joint meeting opened at 7:27 p.m.

Bill DiMento said the Board of Assessors have discussed the Pilot payment proposal for solar array and are in favor of operating with a PILOT. Principal Assessor Sean McFadden said he believes this is the best option in this situation and at this point the approval process has to be done. McFadden said the numbers are reasonable and can be negotiated. He said if the Board is open to the PILOT, he thinks it is a good option and the fees are reasonable. Petersen asked what the process is to move forward. Merry said these boards are approving the concept, and then the Planning Board and Conservation Commission will need to approve the plan, but they don't have to go before the ZBA. He said a PILOT under the law can be put anywhere. Petersen asked who determines the final payment. McFadden said the Board of Assessors and the Board of Selectmen will negotiate. McFadden said the assessment on the lot will change once the PILOT is installed and the owner of the property will get that tax bill, and the PILOT payment is separate and on top of the taxes. Petersen asked if the Planning Board approves this. Merry said yes, but by law they do a site plan review only. Merry said he is the Chairman of the Light Board and the Light Department has signed an agreement and they are waiting for the completion of the final steps of the process.

McFadden asked if the abutters will be notified in the Planning Board review process. Merry said he isn't sure. DiMento provided the Board with a copy of a Newburyport Daily News article regarding a solar farm in Salisbury (COPY ATTACHED).

Eagan asked if it is the Board's desire to work on the agreement with Capital Energy at the same time as they go through the approval process, or if the agreement should wait until the Planning Board approves the site plan. Snow said we should work concurrently on the agreement. Merry agreed so that the project isn't delayed.

Dave Petersen made a motion to proceed with the PILOT negotiations concurrently with the approval process with the other departments, Jack Cook second, all in favor – roll call vote: Robert Merry – aye, David Petersen – aye, Robert Snow – aye, Jack Cook – aye, Joseph Perry – aye, Bill DiMento - aye, Diane D'Angeli - aye, Don Thurston - aye.

Jack Cook made a motion to adjourn the joint meeting, Joseph Perry second, all in favor – roll call vote: Robert Merry – aye, David Petersen – aye, Robert Snow – aye, Jack Cook – aye, Joseph Perry – aye, Bill DiMento - aye, Diane D'Angeli - aye, Don Thurston - aye.

Joint meeting adjourned at 7:38 p.m.

7:40 p.m. APPOINTMENT – Building Inspector Ken Ward to present Donald Galicki as alternate electrical and wiring inspector

Chairman Snow read the following:

Ken Ward is presenting Donald Galicki for appointment as the Town's alternate electrical and wiring inspector. He will replace Fred Gallagher who recently resigned to take a full-time position in the City of Gloucester.

Mr. Galicki has had a CORI check and operates his business in the Town of Ipswich.

The term of appointment will run through June 30, 2014. An Official Action Notice has been prepared by Amy and if appointed tonight, she will present it to the Town Clerk so Mr. Galicki can be sworn in.

Snow called Don Galicki forward. Galicki said he has been an electrician for thirty three years in Ipswich and has experience in all facets of the trade and has worked in industrial, residential and commercial environments. He said he was asked a few times to be the Alternate Electrical Inspector, and he would like to be appointed. Building Inspector Ken Ward said Dave Levesque, the Electrical / Wiring Inspector, recommends Galicki for this position, he has known him since 1989 and has had no problems or issues with him. Merry said he has inspected Galicki's work in the past and it is impeccable.

Joseph Perry made a motion to appoint Donald Galicki as alternate electrical and wiring inspector, Jack Cook second, all in favor – aye (5-0).

7:45 p.m. APPOINTMENT – Ann Gagnon, Dept. of Fish & Game and Conservation Agent Brent Baeslack to discuss land purchase

Chairman Snow read the following:

Anne Gagnon of the state Department of Fish and Wildlife has requested to meet with the Board of Selectmen to discuss a purchase of a tax title parcel.

Debbie has run this by Principal Assessor Sean McFadden and Treasurer Karen Summit. They have no issues with this proposal.

Conservation Agent Brent Baeslack is also present and has a letter of support for this transaction.

Debbie needs to do some legal research on the process. Normally, tax title parcels are sold via auction under Chapter 60. In this case, this would be a direct sale for a value under \$25,000. It is unclear to Debbie if an appraisal will need to be done on the property as required under Mass. General Laws Chapter 30B Section 16 subsection (i), which requires intergovernmental sales of real estate to comply with subsection (b) of

the statue – “the governmental body shall determine the value of the property through procedures customarily accepted by the appraising profession as valid.”

If the Selectmen are interested in pursuing this, Debbie will need to consult with town counsel on the process we would need to follow.

Ann Gagnon said the Massachusetts Department of Fish and Wildlife would like to buy this parcel of land and keep it as open space. She said this parcel of land was taken by the Town some time ago for non-payment of taxes and the owner of the land was previously unknown. She said the state owns the land surrounding this parcel and if they own this parcel they won't have to worry about trespassing. She said they are applying for a Federal North America Wetlands Conservation Act grant, and a requirement for this grant is to protect land geared toward wild fowl protection, and this is a perfect parcel for them to pursue since it is entirely salt marsh and it is in the middle of land they already own. She said they are offering \$24,000 for this parcel which is \$1 per acre of land, which a figure the Department of Revenue uses to value salt marsh land. She said the land is assessed at approximately \$15,000. She said normally a full blown appraisal is required when the parcel is buildable.

Eagan said Conservation Agent Brent Baeslack is here to represent the Conservation Commission. Baeslack read his letter of support for this transaction (COPY ATTACHED). Petersen asked if this transaction would take care of the metes and bounds issue presented in Baeslack's letter. Gagnon said because the state owns the land surrounding this parcel it will take care of it. Baeslack said the Conservation Commission would need to know the boundaries of the land in order to protect it, which would require money to hire a surveyor. Baeslack said the best situation is to have a contiguous management area and this will allow the state to look at the area wholistically.

Joseph Perry made a motion to authorize Eagan to consult with Town Counsel on the process to be followed for this transaction, Jack Cook second, all in favor – aye (5-0).

OLD BUSINESS

1. Discuss Town Common Restoration project (CONTINUED)

Dan Szcepanski from the Town Common Restoration Committee joined the meeting. Petersen said he spoke briefly earlier about this topic and they would like to table this topic until next week when Szcepanski and a Water Board member can be present and the Highway Surveyor can be informed. He said he doesn't want to hold up the project, but would like to discuss the best and most economical process for watering the trees. He said he would like this to be an informational meeting and he doesn't know the system that has been designed. Perry said there are questions about what the Water

Department agreed to do, and their ability to do so. Eagan suggested a 7:45 p.m. appointment on September 16, 2013 to discuss this. Highway Surveyor Ron Keefe said when he worked for another town, they used gator bags to water trees, and once filled, they last for two to three days. Szccepanski said the specs include gator bags and the contractor is responsible for watering the trees for the first year. He said their objective was to have a watering system with multiple points to access water for convenience and use with one hundred foot hoses. He said they can get by without the system, and the trees are due to be delivered this Thursday.

Snow said Szccepanski will receive a letter to invite him to discuss this further next Monday.

8:00 p.m. APPOINTMENT – Highway Surveyor Ron Keefe for department update

Chairman Snow read the letter from Highway Surveyor Ron Keefe (COPY ATTACHED). Snow said he and Keefe visited the site of the main water break on Haverhill Street that was patched by the Water Department. He said the area is questionable and in his experience there are normally straight cuts that are made and moveable flow is used for the repair work. Snow said he didn't see the cut and if the Highway Surveyor doesn't say the repair is acceptable that it needs to be repaired. Merry said in the last six months he has felt the unevenness in the road around that patch. Keefe said he has spoken to the state and asked them what their requirements are. Keefe said the State requires a start and end date and all trenches need to be filled with flowable fill. He said the Water Department used the pavement grindings to fill the trench, he is not satisfied with the repair and nobody on the Board of Water Commissioners can tell the Highway Surveyor what is suitable. Keefe said the repairs the Water Department does on their trenches are not working and several areas around Town are sinking. He said the repair job on Haverhill Street is deplorable, and at tomorrow's Water Board meeting he wants to see the quotes they obtained for the repair work and going forward they need to complete road opening permits. Eagan said there is a system in place for road openings that require department sign-offs that Scott Leavitt worked on to tighten the process. Eagan said she wasn't aware that the Water Department was exempt from the road opening permit process. Snow asked Keefe if going forward the Water Department addresses the water breaks, then the Highway Department repairs the road. Keefe said that is fine so long as the Water Department pays for the repair work.

Merry asked Eagan to provide the Water Department with the road opening permit form for future use. Eagan said she will remind them of the process and in an emergency it is acceptable to open the road for the repair before obtaining the permit, as long as they follow up with the permit.

Keefe said even though the past practice has been to plow roads that are not accepted by the Town, going forward they will no longer do so. Merry said developers often don't follow up on the requests made by the Planning Board to complete the project, they disappear and consequently the road doesn't get accepted by the Town.

NEW BUSINESS

1. Request from Planning Department to use MVPC local technical assistance hours for zoning maps

Chairman Snow said, "The Planning Board is requesting to use three hours out of the Town's allotment of the Merrimack Valley Planning Commission Local Technical Assistance hours for updating of the Town's zoning maps. Chairman Snow is the Town's representative to the MVPC. He is asking for a consensus vote from the Board of Selectmen on this request."

Merry asked how many hours are left. Snow said no hours have been used this year.

Dave Petersen made a motion to allow the Planning Board to use three hours out of the Town's allotment of the Merrimack Valley Planning Commission Local Technical Assistance hours for updating of the Town's zoning maps, Joseph Perry second, all in favor – aye (5-0).

2. Letter from Triton regarding Town representative to Triton union negotiations

Chairman Snow read the letter from Triton (COPY ATTACHED).

Merry said Triton's letter has him listed as the Chairman, but it should be Robert Snow.

Bob Merry made a motion to appoint Joseph Perry as the Town's representative to Triton's union negotiations, Jack Cook second, the rest of the board did not vote on this motion.

Snow read the response letter from Salisbury regarding Triton's request (COPY ATTACHED).

Dave Petersen said unless Eagan would like to be appointed, he made a motion to appoint Neil Harrington as the representative of all three Triton towns for Triton's union negotiations, Bob Merry second, all in favor – aye (5-0).

3. Open special town meeting warrant

Chairman Snow said, "The Board of Selectmen needs to vote to open the Special Town Meeting Warrant. Debbie suggests that the warrant be opened effective immediately and close at noontime on Monday, September 30, 2013."

Jack Cook made a motion to open the Special Town Meeting Warrant effective immediately and close it at noontime on Monday, September 30, 2013, Joseph Perry second, all in favor – aye (5-0).

MINUTES

- May 10, 2013

These minutes were not ready for approval.

- May 10, 2013 - Executive Session

These minutes were not ready for approval.

- May 13, 2013 – Executive Session

Joseph Perry made a motion to approve the minutes from May 13, 2013 – Executive Session, Jack Cook second, all in favor – aye (4-0). David Petersen – ABSTAINED

ANNOUNCEMENTS

- 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.
- The Town has the following vacant seats: Board of Library Trustees, Zoning Board of Appeals Associate 3 open seats; two fence viewer positions; and wood lumber bark inspector. Deadline for letters of interest in serving on the Board of Library Trustees is 4 p.m. on Wednesday, September 11, 2013. The Board of Selectmen and of Library Trustees will be meeting with the interested individuals on Monday, September 16th.
- Battery recycling box located at the Town Hall and Library
- A water use restriction has been issued by the Rowley Water Department. Residents should call the Water Department at 948-2640 for more information.

Chairman Robert Snow called for a motion to go into Executive Session for the purpose of discussing strategy with respect to collective bargaining and litigation because an open meeting may have a detrimental effect on the bargaining and litigating position of the Town and to not return to open session. Jack Cook so moved, Joseph Perry second, all in favor – roll call vote: Robert Merry – aye, David Petersen – aye, Robert Snow – aye, Jack Cook – aye Joseph Perry – aye.

Open meeting adjourned at 8:47 p.m.

Respectfully submitted,
Amy Lydon
Assistant Town Administrator

ATTACHMENTS:

1. Request from Ipswich YMCA to hold annual Rowley Poker Road Race and back-up information
2. ZBA Application for 111 Newburyport Turnpike and zoning bylaw excerpts
3. Letter of interest from Robert H. Clewell for ZBA Associate member seat
4. Harvard Law School report on PILOT programs for solar arrays
5. Copy of an unsigned PILOT agreement in the Town of Spencer
6. Newspaper article on a PILOT program in Easthampton
7. Board of Selectmen minutes excerpt from August 12, 2013
8. Newspaper article on a PILOT program in Salisbury
9. Don Galicki's application for employment for Alternate Wiring Inspector
10. OAN for Galicki's appointment as Alternate Wiring Inspector
11. Assessor's card, Real Estate Tax bill for parcel requested for purchase by the Massachusetts Department of Fish and Wildlife
12. Letter from Conservation Agent Brent Baeslack regarding for parcel requested for purchase by the Massachusetts Department of Fish and Wildlife
13. Email correspondence, letter and maps from Anne Gagnon regarding parcel requested for purchase by the Massachusetts Department of Fish and Wildlife
14. Letter from Highway Surveyor Ronald Keefe dated September 6, 2013
15. Email from Town Planner Katrina O'Leary requesting MVPC technical assistance hours
16. Letter from Triton regarding representative for Union negotiations
17. Letter from Salisbury in response to Triton's letter regarding representative for Union negotiations