

MINUTES OF THE BOARD OF SELECTMEN MEETING

December 4, 2017

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

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

PUBLIC ATTENDEES: Henry F. Rolfe; Steve Comley, Sr. – We the People; Bernard Cullen; John Harrington – Verizon; Janet Morrissey – Rowley Community Media; Tom Mullen – Town Counsel

CALL MEETING TO ORDER

Chairman Perry called the meeting to order at 7:00 p.m. Perry announced that the meeting is being video and audio recorded and televised live by Rowley Community Media.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

GENERAL BUSINESS

1. Review Road Opening Permit from National Grid for the following:
 - to open 139 Fenno Drive to install new gas service

Chairman Perry said, “A Road Opening Permit was signed off on by the staff for the location listed above.”

2. Letter of resignation from Patrolman Thomas Hill

Chairman Perry read the resignation letter.

Dave Petersen made a motion to accept this resignation and to send Patrolman Hills a thank-you letter, Bob Snow second, all in favor - aye (5-0).

Henry Rolfe asked if there is a difference between a resignation and a retirement. Petersen said Patrolman Hills is retiring.

3. Request from Police Chief Scott Dumas to lift the hiring freeze for the position of Patrolman

Chairman Perry read the request letter from Police Chief Scott Dumas.

Dave Petersen made a motion to lift the hiring freeze for the position of Patrolman, Bob Snow second, all in favor - aye (5-0).

4. Request to approve former pay rate for re-hired Library Technician Anna McGrath

Chairman Perry read the following:

Debbie recommends that we re-hire Ann McGrath at her former rate of pay (Step 4, Grade 3; \$15.64 per hour) from when she resigned in March of 2017.

The Library Director considers her to be a valuable asset to the Library given her knowledge from her many years of service.

Dave Petersen made a motion to re-hire Ann McGrath at her former rate of pay (Step 4, Grade 3; \$15.64 per hour) from when she resigned in March of 2017, Bob Snow second, all in favor - aye (5-0).

PUBLIC COMMENT

Steve Comley Sr. of 45 Mansion Drive in Rowley said We the People signs are being spray painted. He said he is sure the Selectmen consider this pretty serious because business is important in Town and hopefully this doesn't go further. He said We the People has been successful in convincing cities and towns within a ten mile radius of the Seabrook Nuclear Power Plant to send a letter to the NRC. He said there are only two towns left and he is pretty sure they are going to get those as well. He said he hopes one day the Board will reconsider writing a letter, but obviously that is up to the Board. He said he noticed that there is no longer a Citizen Query agenda item and asked if the policy changed. Perry said yes, it was changed by vote of the Board of Selectmen. Comley asked if the policy is available to the public. Petersen said this is in the minutes of the meeting. Pierce said it is a written policy that he can have a copy of and it was mostly a change in terminology rather than the substance of the policy. He said he is wondering why it was changed and knows other people are too. Eagan provided Mr. Comley with a copy of the policy. Comley said he will study this policy.

OLD BUSINESS

1. Update on Rowley Veterans Association liquor license application

Chairman Perry read the following:

The Rowley Veterans Association's liquor license application for a Change of Manager and Change of Beneficial Ownership was returned by the ABCC with No Action because the Articles of Organization submitted by the RVA were not current. We have been in contact with the RVA regarding the ABCC's notice. The RVA has provided us with the updated documents, which we mailed to the ABCC.

During this time, we can still process the 2018 renewal for the RVA under the sole ABCC approved Officer, Steven Morris.

2. Update on the Pine Grove School project

Chairman Perry read the following:

The project is moving forward. We're working with the Conservation Commission on the Stormwater Permit application.

RCM Director Janet Morrissey will be providing input into the renovation of the All Purpose Room, with respect to the locations for the cameras and related equipment.

The Building Committee has a meeting scheduled for Thursday, December 14.

Chairman Perry will provide further updates.

Perry said the architect is designing a couple of cameras in the All Purpose Room, so there will not be wires on the floor and tripods for future Town Meetings. He said the stage area is also being re-vamped so that it will be a little more accessible and people won't have to negotiate the stairs.

PUBLIC COMMENT

Public Comment was closed. There were no further Public Comments.

OLD BUSINESS

3. Update on the Fire Station and Police Station Addition project

Chairman Perry read the following:

The Public Safety Building Committee voted during a meeting this morning to recommend to the Board of Selectmen to award the contract to Castagna Construction Corporation of Newburyport, MA in the amount of \$8,186,000, which includes the three alternates: radiant floors in the fire station; lightning protection system; and portico at

the police station. Chairman Perry will read the letter Neil Joyce of Construction Monitoring Services into the record.

Chairman Perry read the letter from Neil Joyce of Construction Monitoring Services into the record.

Dave Petersen made a motion to award the contract to Castagna Construction Corporation of Newburyport, MA in the amount of \$8,186,000, and to direct the Town Administrator to send them a Contract Award Notice, Bob Snow second, all in favor - aye (5-0).

Perry continued:

We are anticipating having the contract returned for the Board's approval at the December 11 meeting.

Construction Monitoring Services also conducted a solicitation of construction testing services. Neil Joyce is recommending the Town contract with UTS of Massachusetts, Inc. of Stoneham, Mass., the lowest price at \$17,805. (See attached spreadsheet). The Public Safety Building Committee voted to recommend that the Board of Selectmen vote to award the construction testing services contract with UTS. If the Board is in agreement, Chairman Perry will call for a motion to award the construction testing services contract to UTS in the amount of \$17,805.

Dave Petersen made a motion to award the construction testing services contract to UTS in the amount of \$17,805, and to direct the Town Administrator to send them a Contract Award Notice, Cliff Pierce second, all in favor - aye (5-0).

Perry continued:

The Police Department personnel has moved out of the trailers and all personnel are working out of the original police station building. The trailers are due to be taken away on Wednesday.

7:15 p.m. APPOINTMENT – Public Hearing on Verizon New England, Inc.'s Cable Television Renewal License

Chairman Perry read the public hearing notice into the record. Bob Snow stated for the record that on Friday he filed a State Ethics 23B disclosure with the Town Clerk stating that he is a former Verizon employee who has been retired for nine years and he received Medicare Part D from Verizon. He said he has no other tie with Verizon and will partake in this public hearing.

Chairman Perry called for a motion and vote to open the public hearing on the Verizon New England, Inc.'s Cable Television Renewal License. Cliff Pierce so moved, Bob

Merry second, all in favor – aye, roll call – Joe Perry – aye; Bob Snow – aye; Cliff Pierce – aye; Bob Merry – aye; Dave Petersen – aye.

Public hearing opened at 7:19 p.m.

Chairman Perry read the following:

Chairman Perry will call Town Counsel Tom Mullen forward to summarize the proposed Cable Television Renewal License. Written summary from Attorney Mullen is attached. Attorney Mullen will provide a summary and go over the process. Attorney Harrington from Verizon will also be attending.

Mullen introduced John Harrington. Mullen said Verizon's initial license was for a ten year term, and it expires December 16, 2017. He said it is a different world now. He said a decade ago, cable licensees were anxious to sign up subscribers, but now they are nervous with many consumers cutting the cord. He said the future of the cable world is unknown. He said Verizon wanted the option to terminate on demand, but towns want to lock into a contract for as long as possible. He said Verizon's proposal is a compromise for a five year term. He said the Town received two types of funds from Verizon for Public Education and Governmental television referred to as "PEG". He said the first source of funds is called a franchise fee and is based on the number of subscribers. He said the second source of funds is called a grant, which is a yearly amount with a purpose of supporting the PEG equipment. He said both of these sources of funds are passed through onto the bills, so the subscribers pay for these. He said it is important for a community to support PEG broadcast, but the Board should keep in mind how these items are paid for. He said the initial contract allowed for a 5% franchise fee, with a provision that if another provider got a lower fee, that Verizon's fee would be lowered. He said Comcast's fee was 4%, so Verizon's fee was subsequently lowered to 4%. He said the grant amount was initially \$8,500 per year, so the proposal is for \$8,500 per year. Janet Morrissey said the wish list for Rowley Community Media justifies this grant amount. Mullen said Verizon is also offering a HD channel for PEG services.

Attorney Harrington said Mullen accurately described the process and said this situation is similar to the former valuable taxi medallion which is now devalued with the competition from Uber. He said there are many competitors to cable television, and his client has considerations about whether or not to continue in this business. He said the proposed contract is a compromise that shares the risk going forward. He said there are two outstanding issues: the method of payment for the PEG grant and moving the studio, which the architect may have a solution for. Perry asked if Harrington really believes things in the cable industry will change that fast. Harrington said it is hard to know with the many unknowns.

Mullen said the reason for tonight's hearing is that State law requires a hearing in advance of a license renewal for a grant. He said people can ask questions or make

comments. He said since we aren't ready to sign an agreement with Verizon, Verizon has agreed to an extension by letter until the agreement is signed. Petersen asked if they anticipate a date when Comcast and Verizon give up being in this business. Janet Morrissey said if a certain percentage of Town doesn't have cable, then we won't need an agreement. She said people are gravitating towards the internet. Harrington said Verizon has not seen a material loss of customers at this point, and this is a generational trend, like has been seen for landline phones. Snow said in the forty years he worked for Verizon things changed rapidly every 18 months. He said Verizon is looking at technology different than cable. He said we can only guess about what technology we will see in five years. Pierce asked if the HD PEG channel will have an effect on customer prices. Harrington said no. He said Comcast does not offer this, so this distinguishes Verizon. Perry asked the public if there are any comments.

Bernie Cullen of 283 Wethersfield Street said it is unclear if the real issue is people cutting the cord. He asked who controls the internet, asked what will change going forward, why they are changing from a 10 year to 5 year term, and why there are only two providers in Town. Petersen said he was on the Board when this started 10 years ago, and there were only two internet providers, but now there is wifi everywhere. Cullen asked how many other providers are there. Petersen said we don't know and it is beyond the Board's control. He said individual consumers can look around for providers. Snow said 10 years ago, Hulu and Netflix didn't exist. Perry said his understanding is that Verizon and Comcast provide people with TV shows that can be watched on TV channels. He said people need a provider to connect to the internet, and people can go where they want on the internet. Attorney Harrington said this agreement is just for cable TV. He said Verizon doesn't have a cable TV franchise in this area, but are a title two company in the public right of way, and via this authority they can provide internet access. He said Comcast is in the public right of way solely through our cable agreement and can provide internet service because they are in the public right of way. He said this emphasizes the importance of having two providers to give choices and to provide competition.

Mullen said the agreement is not a final draft, and it is important to legally give the public an opportunity to speak. Perry said the Town depends on Rowley Community Media to provide information to the public and they do a good job. Petersen said we can continue this hearing. Mullen said the discussion about this will continue with the Board, but he recommends closing the public hearing.

Dave Petersen moved to close the public hearing on the Verizon New England, Inc.'s Cable Television Renewal License, Bob Snow second, all in favor – aye, roll call – Joe Perry – aye; Bob Snow – aye; Cliff Pierce – aye; Bob Merry – aye; Dave Petersen – aye.

Public hearing closed at 7:38 p.m.

OLD BUSINESS

4. Discuss proposed landlord-tenant language for the Triton Regional Agreement

Chairman Perry read the following:

Chairman Perry has submitted the attached draft Landlord-Tenant language for insertion into the Triton Regional Agreement.

Town Counsel Tom Mullen is reviewing the draft. He will provide comments to the Board of Selectmen on this agenda item during tonight's meeting.

Perry said he has been meeting with Superintendent Forget, Salisbury Town Manager Neil Harrington, Newbury Town Administrator Tracy Blais and Larry from the Newbury Finance Committee to discuss the landlord/tenant section of the Triton Regional School District agreement. He said they have been trying to make these changes for approximately two years. Mullen said he looked at the division between the Town and the District, and he would like to do some work on this for the Board's meeting next week. He said his concern is that items are not sufficiently defined. He said for example under the Town's responsibility, the listing for the structural and building envelope defines the entire building to him. He asked if items under \$10,000 would be the Town's responsibility under the structural and building envelope category. He said this needs to be clarified, and we don't want to give the district incentive to act improperly. He said for example the district is responsible for routine maintenance, but if they are not responsible for anything that is not properly maintained, they will not have an incentive to maintain anything. He said there should be an exhibit outlining what the district's annual maintenance obligations are. He said other items, such as snow removal and pest control need to be clarified. He said this is like a commercial lease and under a commercial lease, the leasee is responsible for items such as glass, whereas the Town would be responsible if the entire window needed to be replaced. Perry said he would think that would fall into the under \$10,000 category. Perry said we are making a major investment into the school and he would like to see it last and not deteriorate like Pine Grove School (PGS) has. He said he hopes the renovation lasts for 25 or more years and he would like to see it maintained. Petersen said the PGS is in good condition, it has just been 25 years since any updates were made. He said he is not concerned that things are not being maintained. He said it is important to include in the agreement who makes the decision on if an item is repaired or replaced. He said he would like to see what Mullen comes up with.

Perry said he gave the Superintendent a heads up that he was bringing this draft to the Board tonight. He said our revisions will be voted on hopefully next Monday. Cullen

said there should be an exhibit with categories of items that the Town and the District are responsible for. He said wear and tear items should be the tenant's responsibility. Petersen said there has never been a real disagreement with the School Committee about who pays for what, so this isn't a result of any animosity. He said procedurally we want to put this in writing rather than continue with an informal agreement. Perry said the electrical system and heating system are in rough shape, and we are putting in sprinkler systems. He said the State surveyed the building, and it is well taken care of. He said the staff does a good job with the maintenance.

NEW BUSINESS

1. Review Planning Board application for a Solar Photovoltaic Facility at 623 Wethersfield Street filed by Rowley Solar, Inc.

Chairman Perry read the following:

The Planning Board is holding its first public hearing on this application on Wednesday, December 13th. Does the Board have any comments that they wish to send to the Planning Board on this application?

Perry said he understands that the solar power has been installed at Country Gardens and is up and running. Eagan said this applicant stopped into the office today and indicated that she would like to make an informal presentation to the Board on their plans. She said she reviewed the process with the applicant for a PILOT agreement. She said apparently this project is a collaboration with Rowley Municipal Light Plant. She said she suggests that the Board of Assessors sit in on this meeting. Pierce said he wonders if they will ask for a PILOT like the agreement with the other facilities. Eagan said the applicant distinguished themselves differently than the others that have been approved, as they have been collaborating with Dan Folding. She said they would like to come in next Monday.

Snow said he has no comment and he is a member of the Rowley Municipal Light Board. Pierce said the Planning Board's main concern is that the panels are adequately screened from the abutters. He said they are doing a site visit in the next week or two and he is not sure if the Selectmen would have comments about this for the Planning Board. Petersen said it looks like these would be out of sight from Wethersfield Street, but he is not sure about Brook Street. Merry said we should watch this closely, and it is a good idea to have the Board of Assessors attend the meeting. Petersen said the facility off Central Street is barely visible and it doesn't seem to be a big problem. He said solar panels are everywhere and he thinks we should move forward with this.

Bernie Cullen said he has researched alternate energy sources, and payments are often passed through and fall on rate payers. He said the Board is beholden to keep

this in mind. He said the countries that are heavily into solar and wind power pay the highest rates for energy. Petersen said the consumers pay for everything. Cullen said hydroelectric power from Quebec is much less expensive. Petersen said State law requires a percentage to be reusable energy, and these are all pass throughs.

Perry said there are no comments for the Planning Board on this application.

LIQUOR LICENSE RENEWALS

- Rowley Veterans Association, Inc. 19 Bradford Street
- Skin's Incorporated d/b/a Spud's Restaurant 255 Newburyport Turnpike
- Rowley Liquors Inc., d/b/a Rowley Liquors 144 Newburyport Turnpike
- Rowley Enterprises, Inc. d/b/a Skip's Country Store 801 Haverhill Street
- Galbro, Inc. d/b/a Route 1 Liquors 174 Newburyport Turnpike
- Nippon Tepatiganon, T.J. Thai, Inc., d/b/a Royal Orchid 303B Haverhill Street
- The Great American Barbecue d/b/a The American Barbecue 5 Railroad Avenue
- Piemar, Inc. d/b/a Off the Vine 150 Newburyport Turnpike
- Brickle LLC, d/b/a Bradford Tavern 85 Haverhill Street
- Cabales, Inc. d/b/a El Tapatio 300 Newburyport Turnpike
- Ezee LLC d/b/a Ezee Variety 300 Newburyport Turnpike Unit 5
- Grape Island Inc., d/b/a Mill River Winery 498 Newburyport Turnpike

Henry Rolfe asked if the prices for the licenses are available. Amy read the following fee schedule:

- On Premise All Alcohol Pouring: \$1,520.00
- On Premise Wine & Malt Pouring: \$850.00
- Off Premise All Alcohol Retail Package Store: \$1,000.00
- Off Premise Wine and Malt Retail Package Store: \$800.00
- Veteran's Club License, All Alcohol: \$500.00

Eagan said the Rowley Veterans Association is not ready for tonight, and Skip's is contingent upon the payment of a light bill.

Perry read the list of licenses to be renewed:

- Skin's Incorporated d/b/a Spud's Restaurant 255 Newburyport Turnpike
- Rowley Liquors Inc., d/b/a Rowley Liquors 144 Newburyport Turnpike
- Rowley Enterprises, Inc. d/b/a Skip's Country Store 801 Haverhill Street
- Galbro, Inc. d/b/a Route 1 Liquors 174 Newburyport Turnpike
- Nippon Tepatiganon, T.J. Thai, Inc., d/b/a Royal Orchid 303B Haverhill Street
- The Great American Barbecue d/b/a The American Barbecue 5 Railroad Avenue

- Piemar, Inc. d/b/a Off the Vine 150 Newburyport Turnpike
- Brickle LLC, d/b/a Bradford Tavern 85 Haverhill Street
- Cabales, Inc. d/b/a El Tapatio 300 Newburyport Turnpike
- Ezee LLC d/b/a Ezee Variety 300 Newburyport Turnpike Unit 5
- Grape Island Inc., d/b/a Mill River Winery 498 Newburyport Turnpike

Dave Petersen made a motion to renew the liquor licenses as read by Chairman Perry, with Skip's license contingent upon the payment of the light bill, Bob Snow second, all in favor - aye (5-0).

Perry said the licenses will be available in the Selectmen's Office for signature tomorrow afternoon.

MINUTES

- November 20, 2017

Dave Petersen made a motion to approve the November 20, 2017 minutes, Bob Snow second, all in favor - aye (4-0). Cliff Pierce – ABSTAIN.

- November 29, 2017

Bob Snow made a motion to approve the November 29, 2017 minutes, Cliff Pierce second, all in favor - aye (4-0). Dave Petersen – ABSTAIN. Bob Merry – ABSTAIN.

ANNOUNCEMENTS

- Friends of the Rowley Public Library 6th Annual Holiday Basket Raffle – The Friends are seeking donations of gift baskets of a retail value of at least \$50 and raffle tickets will be sold at the Library starting on November 18. The drawing will be held at 1:00 p.m. on December 16.
- Information on the Pine Grove School project is available on the Town's website at www.townofrowley.net.
- The Town has the following vacancies:
 - a. **Open Space Committee** – one seat;
 - b. **Fence Viewer** – three positions;
 - c. **Wood, Lumber & Bark Inspector**;
 - d. **Zoning Board of Appeals Associate** – three seats;
 - e. **Parks and Recreation Committee** – one seat; and
 - f. **Deputy Shellfish Constables** – two positions.

For more information on these positions, please contact the Selectmen's Office at 948-2372.

- The Rowley Food Pantry is in need of donations. Donations can be left at the Rowley Public Library. The Food Pantry is open on Tuesdays from 10:00 a.m. to 12:00 p.m. and on Thursdays from 5:30 p.m. to 7:00 p.m.

EXECUTIVE SESSION

- Review minutes from June 28, 2017 Executive Session to discuss complaints against a town employee G.L. c. 30A, §21(a)(1)
- Review minutes from September 18, 2017 Executive Session to discuss strategy with respect to negotiations with non-union personnel (Water Department Superintendent) pursuant to State Open Meeting Law G.L. c. 30A, § 21(a)(2)

Chairman Perry called for a motion to go into Executive Session for the purpose of reviewing Executive Session minutes from the June 28, 2017 Executive Session to discuss complaints against a town employee G.L. c. 30A, §21(a)(1), and, for the purpose of reviewing Executive Session minutes from the September 18, 2017 Executive Session to discuss strategy with respect to negotiations with non-union personnel (Water Department Superintendent) pursuant to State Open Meeting Law G.L. c. 30A, § 21(a)(2) and to not return to Open Session.

Dave Petersen so moved, Cliff Pierce second, all in favor – aye, roll call – Joe Perry – aye; Bob Snow – aye; Cliff Pierce – aye; Bob Merry – aye; Dave Petersen – aye.

Open meeting adjourned at 8:07 p.m.

Respectfully submitted,
Amy Lydon
Assistant Town Administrator

ATTACHMENTS:

1. Meeting memo regarding General Business #1: Review Road Opening Permit from National Grid to open 139 Fenno Drive to install new gas service
2. Road Opening Permit from National Grid to open 139 Fenno Drive to install new gas service
3. Letter of resignation from Patrolman Thomas Hill
4. Request from Police Chief Scott Dumas to lift the hiring freeze for the position of Patrolman
5. Meeting memo regarding General Business #4: Request to approve former pay rate for re-hired Library Technician Anna McGrath
6. Board of Selectmen Public Comment Policy

7. Meeting memo regarding Old Business #1: Update on Rowley Veterans Association liquor license application
8. Meeting memo regarding Old Business #2: Update on the Pine Grove School project
9. Meeting memo regarding Old Business #3: Update on the Fire Station and Police Station Addition project
10. Letter from Neil Joyce regarding Rowley Police / Fire Headquarters – Recommendation of Award
11. Proposal Summary – Construction Testing Services prepared by CMS
12. Rowley Police / Fire Headquarters General Bid Results prepared by CMS
13. Meeting memo regarding 7:15 p.m. Appointment– Public Hearing on Verizon New England, Inc.’s Cable Television Renewal License
14. Public Hearing Notice for Verizon New England, Inc.’s Cable Television Renewal License
15. Email from Tom Mullen regarding Verizon Cable Renewal License
16. Draft of Verizon New England, Inc.’s Cable Television Renewal License
17. Meeting memo regarding Old Business #4: Discuss proposed landlord-tenant language for the Triton Regional Agreement
18. Draft Landlord/Tenant Responsibilities
19. Meeting memo regarding Old Business #4: Review Planning Board application for a Solar Photovoltaic Facility at 623 Wethersfield Street filed by Rowley Solar, Inc.
20. Planning Board application for a Solar Photovoltaic Facility at 623 Wethersfield Street filed by Rowley Solar, Inc.
21. Meeting memo regarding liquor license renewals
22. Draft minutes of November 20, 2017
23. Draft minutes of November 29, 2017