

MINUTES OF THE BOARD OF SELECTMEN MEETING

March 26, 2018

Meeting held at Town Hall, 139 Main Street, Rowley, MA

6:30 p.m.

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

PUBLIC ATTENDEES: Bernard Cullen – 283 Wethersfield Street; Ron Kneeland – 61 Wethersfield Street; Kevin McCormick – 68 Wethersfield Street; Bryan DiPersia – 514 Wethersfield Street; Daniel LaRoche - RVA

CALL MEETING TO ORDER

Chairman Perry called the meeting to order at 6:34 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.

6:30 p.m. APPOINTMENT Town Counsel Tom Mullen to discuss draft Agreement with Dore & Whittier Concerning FF&E (furniture fixtures and equipment) and Technology Procurement

Town Counsel Tom Mullen said there is a dispute with Dore & Whittier, the architect of the school renovation project, about Furniture, Fixtures & Equipment (FF&E), and technology such as laptops. He said design services are needed to help procure FF&E and technology, and Dore & Whittier provided a proposal with a cost of \$140,000. He said this was a shock as we thought this was included in the base contract. He said the RFP stated this was to be included, and there was no objection to this in Dore & Whittier's proposal. He said the contract is silent regarding exceptions. He said Dore & Whittier pointed out that certain contract areas go into great detail, but is silent regarding procurement for FF&E and technology. He said they have gone back and forth, and Brad Dore has presented a compromise as follows which is okay, but not great. He said Advance is the subcontractor doing the technology procurement, and Dore & Whittier will pay them the \$40,000 up front. He said the FF&E work is being done in house by Dore & Whittier at a charge of \$93,000, which the Town wouldn't have to pay until the end of the project out of any contingency that may remain. He said he recommended and drafted a simple amendment which Brad Dore wouldn't sign, and he created his own version. He said Dore doesn't want to acknowledge the dispute, and there is no substantial difference between what he drafted and what Dore drafted, other than Dore's version doesn't acknowledge the dispute. He said he doesn't want to get in

the way or slow down the project and he doesn't have a problem with the Board accepting the compromise paper from Dore.

Pierce said he is not concerned about the form of the agreement but is concerned with the basis compromise. He said he doesn't think it is much of a compromise and thinks most of the amount will be paid. He said FF&E and technology is included in basic services in the contract, Advance was named in the contract, and the contract said the Town will not be billed for this. He said when you look at the billing documentation, the procurement costs are a minor part of the total amount they are seeking. He said the billing is broken into categories such as procurement documentation, bidding/post bidding service, schematic design and other categories not related to procurement. He said the categories not related to procurement make up more than half of the money at issue. He said Advance's bill makes a distinction between fixed technology, such as wiring, which is included in basic services, and loose technology for \$40,000 which is not included in basic services. He said this distinction between fixed and loose is not made in the contract, and he has a hard time accepting this compromise. He said we need a better compromise for the Town.

Snow said he agrees with Pierce, but thinks it is important to move on with the project. Perry said he is in favor of the compromise. Pierce said if we accept their compromise, it renders the contract terms meaningless. Mullen said if we are unable to reach an agreement, we can insist that Dore & Whittier perform the services, and he can sue at a later date. He said if Dore refuses to do the work, then the Town can sue Dore. He said he thinks the Town has a better argument, but this wouldn't be a slam dunk case.

Cliff Pierce made a motion to reject the compromise agreement. This motion was not seconded.

Snow said he is up in the air on this as he doesn't want to delay the project or get involved in litigation. Pierce said neither does he, but we are being billed for something that we are not responsible for paying.

Cliff Pierce made a motion to reject the compromise agreement, Bob Snow second, all in favor - aye (4-0). Joe Perry – OPPOSED

Mullen said he will inform Brad Dore of this decision tomorrow, that we believe all this work is included under basic services and it is expected to be performed at no additional cost. Pierce said we can have further settlement discussions.

Bernie Cullen asked what the disputed amount is and if they are generating a profit off of this contract. Mullen said the disputed amount is \$140,000 and he doesn't know what their profit is, but the gross amount of the contract is \$3,600,000. Cullen said the amount is 3% of the contract and there seems to be room for Dore to compromise and not leave the Town with the entire \$140,000.

6:50 p.m. APPOINTMENT Shellfish Commissioner Ron Kneeland to discuss the following:

- Authorize the sale of the Shellfish Department outboard motor
- Request from Kevin McCormick to conduct an Oyster Rearing Program
- Approval to continue the existing aquaculture sites Club Head Sands and Hog Island Point
- Renewal of Aquaculture Licenses

Authorize the sale of the Shellfish Department outboard motor

Ron Kneeland said they got the motor in the early 2000s, and it was not new, it was used. He said there have been many problems with it and will take an unknown amount of money to fix it. He said they have bought a new motor, and they would like to sell the old motor.

Cliff Pierce made a motion to authorize the sale of the Shellfish Department outboard motor, Bob Snow second, all in favor - aye (5-0).

Approval to continue the existing aquaculture sites Club Head Sands and Hog Island Point

Kneeland said this needs to be tabled because he is waiting for information from the State.

Renewal of Aquaculture Licenses

Eagan said we were notified today by the Conservation Commission about the permitting issues with these sites, and the permitting process may take a while. Kneeland said he will talk to the Conservation Agent, then talk to the Selectmen and Eagan about the next steps. Snow volunteered to be the Selectmen representative to the group to discuss the permitting process.

Request from Kevin McCormick to conduct an Oyster Rearing Program

Kevin McCormick said there is a small oyster resource in Town, but not a commercial resource. He said he is donating time as a marine scientist to work on a project to capture spat oysters from a muddy creek area, rear them to commercial status in cages, and move them to cleaner water. He said the knowledge and resulting oysters would be for everyone, and this has been approved by the Shellfish Commissioners. He said if they wanted to start oyster farming, the findings would be presented, the bylaws would be changed and then aquaculture licenses would be issued. He said he wants to use a hollowed-out boat to keep the oysters in cleaner water.

Perry asked if they checked with the Conservation Commission about this. McCormick said that is their next step. Snow asked if they need anything from the State. Kneeland said not yet since this is a non-profit project. He said after a year, they would check the

growth rates and salinity. He said before the point of putting them in the hollowed out boat, they need a license since these are juvenile oysters.

Bob Snow made a motion to approve the Oyster Rearing Program, provided that they check with the Conservation Commission to see if there is any required permitting, Cliff Pierce second, all in favor - aye (5-0).

GENERAL BUSINESS

1. Request from Rowley Veterans Association to hold annual Memorial Day Parade and Ceremony on May 28, 2018

Chairman Perry read the following:

The Rowley Veterans Association has sent a letter about the Annual Memorial Day Parade and Ceremony to be held on Monday, May 28 at 1:30 p.m. The Board needs to vote to authorize the parade.

Perry read the letter from Steve Morris. He said Dan LaRochelle from the RVA is here if there are any questions. LaRochelle said this is usually a good time and all are invited to the RVA for a cookout afterwards. He said the RVA is under new management and they have a new Board of Directors.

Bob Snow made a motion to approve the Memorial Day Parade, Cliff Pierce second, all in favor - aye (5-0).

7:10 – 7:15 p.m. PUBLIC COMMENT

There were no public comments.

GENERAL BUSINESS

2. Letter from the United States Department of the Interior regarding Coastal Barrier Resources System boundary project

Chairman Perry read the following:

The Department of the Interior is requesting written comments on their draft revised boundaries for the Coastal Barrier Resources System (CBRS). The comment period will close on July 10, 2018.

This letter also has been copied to the Harbormaster and the Conservation Commission Agent.

Perry read the letter. Eagan said this has been sent to the Harbormaster and the Conservation Agent and they will look at the maps and report back on this.

7:15 p.m. APPOINTMENT Finance Committee Chairman Larry White to discuss FY 19 Triton Assessment

Chairman Perry read the following:

The Finance Committee voted to recommend funding the FY19 Triton budget by adding \$200,000 to the FY18 assessment for a total of \$9,822,873. The Town's commitment of \$200,000 is approximately half of the estimated Proposition 2 ½ levy and new growth. There also will be an article on the Annual Town Meeting warrant, right after the FY19 budget article, appropriating the balance of the Triton assessment through an override.

Chairman Larry White is here to discuss this item in more detail.

White said the Finance Committee unanimously voted to approve a FY 19 budget amount for Triton equal to the FY 18 Triton budget plus \$200,000, with an override of \$532,000. He said this is basically what Triton requested. He said if the FINCOM recommended budget and the override pass, Triton gets the full assessment. He said if the budget passes but the override doesn't, Triton has to come up with a new budget if 2 out of the 3 towns don't approve it.

Pierce asked if the FinCom is in support of a yes vote for the override. White said they are not making a determination on that, but there is now a format that is understandable, rather than having two versions of a budget. Perry said the School Committee scheduled a meeting on May 16th to vote a new budget if necessary. He said at a budget hearing at Triton he spoke as an individual that an override would be on the ballot. White said it is up to the voters to support this additional tax increase on top of the Police and Fire Station and Pine Grove School projects. Perry said the tax bills do not reflect the increases for these projects yet. White said at Town Meeting, the vote will be on the FinCom recommended budget, and the following article accounts for the difference between the amount Triton requested and Fincom recommended budget. Eagan said Article 4 appropriates the money from the override if passed the following week. She said if Article 4 doesn't pass, and the override passes, another Town Meeting will be needed to appropriate the override money.

Ben Day of 34 Pleasant Street asked is the Town could reject the FinCom recommended budget and give more money to Triton. Perry said someone could make a motion for a different number. Eagan said the budget would not be balanced if that happened, and cuts would need to be made from other areas of the Town's budget. Day said he is considering the optics of how a \$532,000 override would be versus an

override for \$300,000. White said that possibility could be proposed. He said in December/January, the Selectmen sent a letter to the School Committee with the amount of money that Rowley could afford for Triton. He said 55% to 60% of the Town's budget goes to Triton. He said \$200,000 of increased tax revenue was slotted for Triton, and the other \$200,000 of increased revenue would be used for Town needs, such as two additional firemen. He said Triton's B proposal takes all of Rowley's proposition 2.5% increase and new growth.

Snow said the Town's budget is about \$17,000,000, and about \$2,000,000 is used to run the Town. He said you can see the impact that the \$200,000 has on the Town, the Town is growing and has other needs. Eagan said there are increases required for the operation of the Town. She said the Town has seen population growth, and the baby boomers are now starting services at the COA at age 60. She said the Outreach Coordinator is funded for only seven hours per week, which needs to change, but every year departments are asked to level fund budgets. She said the Fire Chief has been asking for ten years for new firemen to properly staff upcoming retirements. She said the Town Planner is funded at only 22 hours per week, and it is impossible for him to work on all of the projects coming before the Planning Board. She said the Police Sergeant position is important for the municipal side, and she is advocating for all of these items. She said the proposed budget is a fair compromise. Day said he respects the Town's managers, but there is only one chance to put your kids through school, and asked the Board to reduce the override amount to a more manageable number. Perry said Triton has been taking 100% of the Town's new growth and new tax revenue and this cannot be sustained.

Bernie Cullen said this is his third year paying strict attention to the budget and each time, Triton begins way beyond the proposition 2 ½% amount, even though the School Committee knows about these parameters. He said Triton's contract negotiations are breaking the budget. He said Town employees are getting a 2.5% increase, but over 7% is being given to teachers for steps and COLAs. Snow said when the Town negotiates pay increases, it looks at how much money there is available, but nobody from Triton asks the Town how much money is available when doing their negotiations. Perry said the Town only pays 52.5% for health insurance, and it is difficult to find qualified individuals for positions. Day said he hopes the Board supports the override. Pierce said it is important for the taxpayers to know if the Selectmen support the override, and we will have the same problem the following year.

Bryan DiPersia said if the Town knows there are increases each year that are an issue, what can the Town do to increase revenue for the Town? Pierce said the Planning Board handles growth and is amenable to it. He said the Town is adding hotel and

meals taxes, along with the marijuana tax, and is also considering zoning changes to increase commercial development.

Nerissa Wallen said the \$1,000,000 in personnel increases this year will decrease next year, since column changes were 4-5% more than usual. She said Triton should get Special Education funding increases next year. She said we need to continue going after the State, and she would appreciate support on this. Cullen said the COLA increase for Triton this year is 2.75% and will decrease to 2.5% next year, versus the 1% COLA given to Town employees. He said this is a dramatic difference between Triton and Town employees.

OLD BUSINESS

1. Update on Fire Station and Police Station Addition Project

Chairman Perry read the following:

National Grid moved the gas line so now the contractor can start working on the excavation of the foundations.

The contractor has started working on the roadway, which will provide access to the ballfields. If the good weather continues, they are expecting to finish it during the first week in April.

The contractor is also working on the stormwater infiltration basin. That work should be completed by next week.

2. Update on the Pine Grove School Project

Perry said the renovation will begin three weeks from today on Monday April 16th. He said the architect has done a great job, and we are getting a lot for \$39,000,000. He said the target completion date in September 2019.

FY 19 BUDGETS

- Finance Committee

Bob Snow made a motion to approve the FY 19 Finance Committee budget, Cliff Pierce second, all in favor - aye (5-0).

- Whittier Vocational Technical School

Bob Snow made a motion to approve the FY 19 Whittier budget, Cliff Pierce second, all in favor - aye (5-0).

NEW BUSINESS

1. Seasonal Liquor License Renewal Application submitted by Rowley Golf Course LLC

Chairman Perry read the following:

It is the time of year for seasonal liquor license renewals. There is only one seasonal license holder in Town, and that is the Rowley Golf Course. The renewal application is in order and requires the approval of the Board of Selectmen.

The applicant is current on all taxes, water and light bills.

If approved, there is nothing that the Board needs to sign tonight. The liquor license will be prepared and available in the Selectmen's Office tomorrow for the Selectmen to sign.

Bob Snow made a motion to approve the seasonal liquor license renewal for Rowley Golf Course LLC, Bob Merry second, all in favor - aye (5-0).

Pierce asked if there have been any complaints about noise at this location. Eagan and Lydon said they haven't heard of any complaints.

2. Review Special Town Meeting and Annual Town Meeting Warrant and ballot question

Eagan said this is a very rough draft, and it still needs legal review.

Bob Snow made a motion to open the Annual Town Meeting warrant, Cliff Pierce second, all in favor - aye (5-0).

Bob Snow made a motion to insert Article 5 regarding the override for the appropriation of \$532,640, Cliff Pierce second, all in favor - aye (5-0).

Bob Snow made a motion to close the Annual Town Meeting warrant, Cliff Pierce second, all in favor - aye (5-0).

Eagan reviewed the Annual Town Meeting warrant articles. Ben Day asked if the money for the Water Department dehumidification project can be reallocated. Cullen said those funds belong to the Water Department and can be given back to the rate payers, or back into the reserve fund to be used to fund other capital projects. He said the rates are triple the average rate in the state, and there will be a hearing held on the water rates in the next few months.

Eagan said article 23 regarding the Shellfish bylaw needs to be removed because the proposed fees of \$800 and \$500 exceed the State law cap of \$300.

Bob Snow made a motion to open the Annual Town Meeting warrant, Cliff Pierce second, all in favor - aye (5-0).

Bob Snow made a motion to withdraw Article 23, Cliff Pierce second, all in favor - aye (5-0).

Bob Snow made a motion to close the Annual Town Meeting warrant, Cliff Pierce second, all in favor - aye (5-0).

Eagan reviewed the Special Town Meeting warrant articles. She said Article 31 restricts where marijuana facilities can go in Town, and if this article doesn't pass by 2/3rds vote, they can go anywhere in Town. She said Article 32 is for the sales tax on marijuana. Pierce asked if cultivators can be taxed. Eagan said she will go back to Town Counsel to find out about this.

Bob Snow made a motion to open the Special Town Meeting warrant, Cliff Pierce second, all in favor - aye (5-0).

Bob Snow made a motion to place the article for the marijuana sales tax on the warrant, Cliff Pierce second, all in favor - aye (5-0).

Bob Snow made a motion to close the Annual Town Meeting warrant, Cliff Pierce second, all in favor - aye (5-0).

ANNOUNCEMENTS

- The Friends of the Council on Aging is sponsoring a Shoe Drive during the month of April at the Town Hall Annex, 39 Central Street. Paired footwear, such as the following may be deposited in the container at the Annex Parking lot: shoes, boots, work boots, sandals, slippers, flip flops, heels, sneakers, pocket books, purses, backpacks and belts.
- Information on the Pine Grove School project is available on the Town's website at www.townofrowley.net.
- Town Meeting is scheduled for Monday, April 30, 2018 at 7:00 p.m. in the Pine Grove School Gymnasium.
- The Town has the following vacancies:
 - a. **Fence Viewer** – three positions;
 - b. **Wood, Lumber & Bark Inspector**;
 - c. **Zoning Board of Appeals Associate** – three seats;
 - d. **Parks and Recreation Committee** – one seat; and
 - e. **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.

ADJOURN

There being no further business before the Board, Chairman Perry called for a motion to adjourn. Bob Snow so moved, Cliff Pierce second, all in favor - (5-0).

Open meeting adjourned at 9:09 p.m.

Respectfully submitted,

Amy Lydon

Assistant Town Administrator

ATTACHMENTS

1. Meeting memo regarding 6:30 p.m. appointment: Town Counsel Tom Mullen to discuss draft Agreement with Dore & Whittier Concerning FF&E (furniture fixtures and equipment) and Technology Procurement
2. March 19 Board of Selectmen meeting - Old Business #2 agenda item summary
3. Draft Agreement between Dore & Whittier and Town of Rowley, drafted by Town Counsel Tom Mullen
4. Additional Service Request #11R for Loose Technology Procurement, from Dore & Whittier to Pinck & Co. dated February 26, 2018
5. Additional Service Request #13 for Loose FF&E Procurement from Dore & Whittier to Pinck & Co. dated February 26, 2018
6. Letter from Town Counsel Tom Mullen to Dore & Whittier re: Additional Service Request to Town of Rowley, dated December 18, 2017
7. Letter from Debbie Eagan to Board of Selectmen dated December 15, 2017, with attachments
8. Meeting memo regarding 6:50 p.m. appointment: Shellfish Commissioner Ron Kneeland to discuss the following: Authorize the sale of the Shellfish Department outboard motor; Request from Kevin McCormick to conduct an Oyster Rearing Program; Approval to continue the existing aquaculture sites Club Head Sands and Hog Island Point; Renewal of Aquaculture Licenses
9. Request from Ron Kneeland to authorize the sale of the Shellfish Department outboard motor
10. Letter from Ron Kneeland supporting Kevin McCormick's Oyster Rearing Program
11. Request from Kevin McCormick to conduct an Oyster Rearing Program
12. Request from Ron Kneeland to continue the existing aquaculture sites Club Head Sands and Hog Island Point

13. Email from Brent Baeslack regarding Aquaculture Sites at Club Head Sands and Hog Island Point
14. Email from Christopher Schillsci regarding information on Aquaculture licenses in Rowley
15. Meeting memo regarding General Business #1: Request from Rowley Veterans Association to hold annual Memorial Day Parade and Ceremony on May 28, 2018
16. Request from Rowley Veterans Association to hold annual Memorial Day Parade and Ceremony on May 28, 2018
17. Board of Selectmen Public Comment Policy
18. Meeting memo regarding General Business #2: Letter from the United States Department of the Interior regarding Coastal Barrier Resources System boundary project
19. Letter from the United States Department of the Interior regarding Coastal Barrier Resources System boundary project
20. Meeting memo regarding 7:15 p.m. appointment: Finance Committee Chairman Larry White to discuss FY 19 Triton Assessment
21. Meeting memo regarding Old Business #1: Update on Fire Station and Police Station Addition Project
22. Meeting memo regarding Old Business #2: Update on the Pine Grove School Project
23. FY 19 BUDGET: Finance Committee
24. FY 19 BUDGET: Whittier Vocational Technical School
25. Meeting memo regarding New Business #1: Seasonal Liquor License Renewal Application submitted by Rowley Golf Course LLC
26. Seasonal Liquor License Renewal Application submitted by Rowley Golf Course LLC
27. Draft Annual Town Meeting Warrant and ballot question
28. Draft Special Town Meeting Warrant
29. Draft FY 19 Omnibus Budget