

## MINUTES OF THE BOARD OF SELECTMEN

April 10, 2023

Town Hall, 139 Main Street, Rowley, MA

6:00 p.m.

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

### **CALL MEETING TO ORDER**

Chairman Snow called the meeting to order at 6:00 p.m. He said the meeting is being audio and video recorded and broadcast live by Rowley Community Media.

### **PLEDGE OF ALLEGIANCE**

Fire Chief Emery led the Pledge of Allegiance.

**6:05 p.m. APPOINTMENT** Fire Chief Mark Emery to present Ryan LeBoeuf as a new full-time firefighter

Chairman Snow read the following:

*Fire Chief Mark Emery is here to present Ryan LeBoeuf as a new full-time firefighter.*

*This is a position that was already posted and had applicants already going through the hiring process. The Board voted on March 20, 2023 to exempt positions that were already posted and with applicants from the hiring freeze.*

*If the Board is in agreement with Chief Emery's request, please vote to appoint Ryan LeBoeuf as a full-time firefighter.*

Fire Chief Emery read his appointment request letter into the record.

Joe Perry made a motion to appoint Ryan LeBoeuf as a full-time Firefighter, Deana Ziev second, all in favor – aye (4-0). Christine Kneeland - ABSENT

Ryan LeBoeuf said he is excited for this opportunity, he has been working towards this for the past four years and he couldn't be happier.

Town Clerk Catie McClenaghan swore LeBoeuf in as a Firefighter and photos were taken.

### **6:00 p.m. TO 6:05 p.m. PUBLIC COMMENT**

Bernie Cullen of 283 Wethersfield Street said over the last few weeks the Board of Selectmen and the Finance Committee have voted against the Triton budget. He said two Towns need to vote against it, and Triton's budget has complicated the Town's budget process. He said Newbury has their Town Meeting in a couple of weeks and the

time is now for the Board to let the other two Towns know that Rowley is resisting the Triton budget. He said the Finance Committee proposed a certain amount for the Triton budget and that is in the Town Meeting warrant. He said the Board should let the other two Towns know about this and the rationale behind the suggested number.

### **GENERAL BUSINESS**

1. Request from Town Clerk Catie McClenaghan to appoint Timothy Young to the Board of Registrars

Chairman Snow read the following:

*I would like to respectfully request that you place the appointment of Timothy R. Young as a member of the Board of Registrars on the agenda for the April 10, 2023 Board of Selectmen's meeting.*

*Thank you,*

*Catie McClenaghan*

*Town Clerk*

*Public Records Access Officer*

*There is a vacancy on the Board of Registrars due to the resignation of Gordon Densmore effective March 1, 2023. If the Board is in agreement with Catie's request, please vote to appoint Timothy Young to the Board of Registrars for the unexpired term through June 30, 2023.*

Cliff Pierce made a motion to appoint Timothy Young to the Board of Registrars for the unexpired term through June 30, 2023, Joe Perry second, all in favor – aye (4-0).  
Christine Kneeland - ABSENT

2. Request from Town Clerk Catie McClenaghan to appoint Priscilla Serafin to the position of Election Teller

Chairman Snow read the following:

*I would like to respectfully request that you place the appointment of Priscilla Serafin as an Election Teller on the agenda for the April 10, 2023 Board of Selectmen's meeting.*

*Thank you,*

*Catie McClenaghan*

*Town Clerk*

*Public Records Access Officer*

*Town of Rowley  
PO Box 351  
Rowley, MA 01969  
(978) 948-2081*

*The Board voted on March 20, 2023 to exempt Election Department positions from the hiring freeze.*

*If the Board is in agreement with Catie's request, please vote to appoint Priscilla Serafin to the position of Election Teller.*

Cliff Pierce made a motion to appoint Priscilla Serafin to the position of Election Teller, Joe Perry second, all in favor – aye (4-0). Christine Kneeland - ABSENT

3. Letter of retirement from Town Accountant Susan W. Bailey

Chairman Snow read the following:

*Susan Bailey has notified the Board that she is retiring on June 30, 2023. The Board needs to vote to accept her retirement.*

Chairman Snow read the resignation letter from Susan Bailey.

Joe Perry made a motion to accept the resignation from Susan Bailey with regrets, Cliff Pierce second, all in favor – aye (4-0). Christine Kneeland - ABSENT

4. Request from Treasurer/Collector Karen Summit to appoint Betsy Wetherbee to the position of Assistant Tax Collector

Chairman Snow read the following:

*Treasurer/Collector Karen Summit has requested that the Board of Selectmen appoint Betsy Wetherbee to the position of Assistant Tax Collector, with a start date of April 24, 2023.*

*This is a position that was already posted and had an applicant. The Board voted on March 20, 2023 to exempt positions that were already posted and with applicants from the hiring freeze.*

*If the Board is in agreement with Karen's request, please vote to appoint Betsy Wetherbee to the position of Assistant Tax Collector.*

Cliff Pierce made a motion to appoint Betsy Wetherbee to the position of Assistant Tax Collector, Deana Ziev second, all in favor – aye (4-0). Christine Kneeland - ABSENT

## **NEW BUSINESS**

1. Request from JWTC Wick LLC d/b/a Joint Operations of 264 Newburyport Turnpike for a One-Day Entertainment License for a vendor showcase with a live band and food truck

Chairman Snow read the following:

*The attached 1-day Entertainment License application submitted by JWTC Wick LLC d/b/a Joint Operations of 264 Newburyport Turnpike has been circulated to relevant Town Departments for review. The Police Chief, Fire Chief and Town Planner outlined their concerns, and after further discussions with the applicant, their concerns have been addressed. The Police Chief said there is no police detail required. The ZBA and Building Inspector did not provide comments. The comments from the Health Director are below:*

**Health Director:** *"If a food truck is present as mentioned in the application it needs to be permitted by the Health Department. The "whoopie pie wagon" was mentioned but is not currently permitted in Rowley yet. The location of the food truck appears to have been addressed for public safety."*

*The applicant has confirmed that the event is only for people aged 21+ and said that "everyone needs to provide proof of ID and is checked multiple times at our store."*

*Does the Board wish to approve this 1-Day Entertainment license with the following conditions:*

1. *Crowd manager to be onsite at all times. Contact information of crowd manager to be provided to Town officials.*
2. *Event is for people aged 21+ only. Crowd manager to check identification of all attendees to ensure attendance if for those 21+ only*
3. *Health Department receives confirmation that any proposed food trucks are or will be permitted in Rowley before the event*
4. *The event manager must ensure that vehicular ingress/egress to the site is safe for both vehicles and pedestrians*
5. *Event to conform to the attached three site plan layouts*

Eagan said this is an event to have a vendor showcase with a live acoustical band and a food truck on April 20<sup>th</sup> from 3:00 p.m. until 6:00 p.m.

Cliff Pierce made a motion to approve the one-day entertainment license with the conditions noted, Joe Perry second, all in favor – aye (4-0). Christine Kneeland - ABSENT

## 2. FY 24 Employee Health Insurance Renewal

Chairman Snow read the following:

*The FY 24 Health Insurance premiums are increasing by 7.80%. In FY 23, the rates increased by 3.86%.*

*Debbie is asking the Board of Selectmen to vote to authorize her to submit the FY 24 renewal.*

Cliff Pierce made a motion to authorize Debbie to submit the FY 24 Health Insurance renewal, Joe Perry second, all in favor – aye (4-0). Christine Kneeland - ABSENT

## 3. Authorize the Town Administrator to renew the Town website hosting contract with CivicPlus

Chairman Snow read the following:

*We need to renew the contract with CivicPlus, the company hosts the Town website. Debbie is asking the Board to vote to authorize her to renew the agreement with CivicPlus.*

Deana Ziev made a motion to authorize Debbie to renew the agreement with CivicPlus, Cliff Pierce second, all in favor – aye (4-0). Christine Kneeland - ABSENT

## 4. Discuss Public Comment Policy

Chairman Snow read the following:

*The Supreme Judicial Court recently issued a decision in a case involving the Town of Southborough's Select Board's public comment policy. The Southborough's Select Board required that all remarks and dialogue in public meetings must be respectful and courteous, free of rude, personal or slanderous remarks. The SJC ruled that Southborough's policy prohibiting rude and discourteous speech and requiring polite discourse was unconstitutional and that discourteous, rude, disrespectful or personal speech about government officials and governmental actions is clearly protected by the State Constitution. Furthermore, the SJC ruled that the chair of the Southborough Select Board in this case was not entitled to qualified immunity, meaning that if a jury were to return a verdict against him, he could be held personally liable for the assessed damages.*

*State law does not require municipalities to provide public comment periods during board and committee meetings. Town Counsel Tom Mullen recommends that if the Board of Selectmen wishes to continue having "Public Comment" periods on the meeting agendas, that the Board's Public Comment Policy be amended as follows:*

- 1) Delete bullet numbered four, which reads as follows:  
*"The Public Comment period of the meeting cannot be used by members of the public to attack either professionally or personally town officials, town employees or other members of the public."*
- 2) Replace it with language that the Court plainly does approve:  
*"Persons who choose to speak during the Public Comment period must behave in a peaceable and orderly manner."*

Tom says that he feels less strongly about the third bullet, but that on the whole he would recommend that it be deleted and that he does not have any suggestion for replacing it. The third bullet reads as follows:

- *The Public Comment period of the meeting cannot be used to: endorse candidates running for office; to endorse ballot questions; to discuss topics on ballot questions.*

Tom says the following on this bullet in an email to Debbie:

*"I feel less strongly about the 3d bullet point, but on the whole I recommend that it, too, be deleted, and I do not have any suggestion for replacing it. That provision forbids the endorsement of candidates or ballot questions, and bars debate on ballot questions. I suspect that this item was inserted because the Office of Campaign and Political Finance enforces state laws against the use of municipal resources to influence elections. However, if the Select Board makes the Public Comment period available to all comers on an equal basis, and does not itself endorse any candidate or use Town funds to advance any individual or cause that appears on the ballot, I do not believe that the board could be held liable for a violation of campaign finance law. Rather than risk having to defend the Town for removing a speaker who refused to stop talking about a ballot question, I suggest simply deleting this bullet point."*

How does the Board wish to proceed?

Some options for the Board to consider:

- 1) Removing the Public Comment section from the meeting agenda. Members of the public have many ways of communicating to the Board by calling the office, emailing the Board, and sending letters to the Board
- 2) Amend the Policy by removing bullet number four and replacing it with the bullet language that Tom Mullen wrote as cited above
- 3) Amend the Policy by removing and replacing bullet number 4 with the language from Tom Mullen and deleting bullet three, as recommended by Tom Mullen

For your information attached are the following:

- 1) copy of Tom Mullen's email on this matter
- 2) copy of the Selectmen's Public Comment Policy
- 3) copy of the SJC decision *Barron v. Kolenda*

Pierce said he thinks we should maintain the policy because it is an important way for people to bring issues to the Board of Selectmen. He said if the policy is deleted it sends the wrong message that the Board isn't interested in hearing from the public. He said as far as he knows, the policy hasn't been seriously abused, but someone could abuse it in the future. Snow said his concern is that the policy could place the Board in jeopardy. Pierce said we should follow Tom Mullen's suggestions. Ziev said she is against deleting the policy and thinks we should keep it and amend it. Perry agreed. Pierce said there is still a time limit in the policy.

Deana Ziev made a motion to keep the policy and amend it according to Tom Mullen's suggestions as outlined in option #3, Joe Perry second, all in favor – aye (4-0).  
Christine Kneeland - ABSENT

### **OLD BUSINESS**

#### **1. Discuss Cricket Field at Veterans Field**

Chairman Snow read the following:

*At the March 20, 2023 meeting, the Board of Selectmen met with representatives of the Hoysala Social and Sports Club to discuss the creation of a cricket field next to Veterans Field. The Board voted to, upon recommendation from the Parks & Recreation Committee, authorize the cricket group (Hoysala Social and Sports Club) and any contractors working for them to use the field next to Veterans Field to construct a cricket field as indicated on the attached map, conditional upon them providing an insurance certificate that meets the Town's requirements, and voted to accept the donation of the finished field under G.L. c. 44, s. 53A1/2.*

*Prior to taking this vote the Board asked how the Town can compel the donor group to remove the concrete pad once they no longer wish to use the field. We sent an inquiry to Town Counsel Tom Mullen and he recommended the following:*

*I recommend that as a condition of accepting the gift of the field improvements, the Select Board require that the donor group also donate a sum of money sufficient to fund the removal of the concrete pad. Then the Board can accept that donation of funds just as they will accept the improvements to the field, and would be bound by the terms of the donation. Under G.L. c. 44, s. 53A, that money could be held by the Treasurer in a separate account for this specific purpose. The terms of the gift should specify that the funds will be kept as security for the removal of the pad, that the group agrees to supplement the amount in the future at the Board's request if the estimated cost grows, and that the group expects the unexpended funds to be returned after the removal of the pad.*

*Parks & Recreation Committee Chairman David Zizza provided the attached quote of \$2,500 to remove the concrete pad, and said the following:*

*The 2500.00 cost is sufficient for removal of the pad. The cricket group has been apprised of the requirement for the donation deposit and is amenable to it. This provision was not a prerequisite of the Committee to allow the Cricket group to play on the field. Given the previous non-use of Gwynn field and the lack of suitors for it going forward we felt that the fees juxtaposed against the cost for maintenance were well in favor of the town. Especially as this will be a multiple year use, the removal costs are fairly negligible. It seems that this deposit is more of a selectman/town counsel inclination and one that makes sense, so the cricket group is on board.*

*As of last week they were still procuring competitive insurance bids to meet the town insurance requirements. I will check in with them this week for progress. Thanks.*

*Best,*

*Dz*

*David Zizza*

*The cricket league has offered to make a \$2,500 donation for the future removal of the concrete. If the Board would like to require this \$2,500 donation, please vote the following:*

- 1. Rescind the vote of March 20, 2023: authorize the cricket group (Hoysala Social and Sports Club) and any contractors working for them to use the field next to Veterans Field to construct a cricket field as indicated on the attached map, conditional upon them providing an insurance certificate that meets the Town's requirements, and voted to accept the donation of the finished field under G.L. c. 44, s. 53A1/2.*
- 2. Take a new vote to do the following:*
  - a. Authorize the cricket group and any contractors working for them to use the field next to Veterans Field to construct the field as indicated on the attached map, after they provide an insurance certificate that meets the Town's requirements, and*
  - b. Require that the donor group also donate a sum of money sufficient to fund the removal of the concrete pad (\$2,500 per quote). The funds will be kept as security for the removal of the pad, that the Hoysala Social and Sports Club agrees to supplement the amount in the future at the Board's request if the estimated cost grows, and that the Hoysala Social and Sports Club expects the unexpended funds to be returned after the removal of the pad*
  - c. Accept the donation of the finished field under G.L. c. 44, s. 53A1/2*
  - d. Accept the donation of \$2,500 for the future removal of the concrete under G.L. c. 44, s. 53A*

Parks and Recreation Committee Chairman David Zizza said this group is ambitious to meet any requirements of the Town and has been a good partner with the other Towns they have been involved in. He said the Parks and Recreation Committee approves



moving forward with this. Ziev said she thinks it is reasonable to require the \$2,500 deposit.

Bernie Cullen of 283 Wethersfield Street said he has played cricket in the past and he recommends that the insurance policy covers all eventualities. He said there are a lot of injuries in the sport, and especially with a concrete pad. He said the insurance should be similar to insurance required for batting cages. He said this is a fast sport and isn't for beginners. Snow said he has watched cricket and they will wear helmets and adhere to safety regulations. Zizza said the insurance that the Town requires is strict and it was expensive for them to find a competitive bid.

Deana Ziev made a motion to rescind the vote of March 20, 2023: authorize the cricket group (Hoysala Social and Sports Club) and any contractors working for them to use the field next to Veterans Field to construct a cricket field as indicated on the attached map, conditional upon them providing an insurance certificate that meets the Town's requirements, and voted to accept the donation of the finished field under G.L. c. 44, s. 53A1/2, Joe Perry second, all in favor – aye (4-0). Christine Kneeland – ABSENT

Deana Ziev made a motion to upon recommendation from the Parks & Recreation Committee, authorize the cricket group and any contractors working for them to use the field next to Veterans Field to construct the field as indicated on the attached map, after they provide an insurance certificate that meets the Town's requirements; require that the donor group also donate a sum of money sufficient to fund the removal of the concrete pad (\$2,500 per quote) the funds will be kept as security for the removal of the pad; that the Hoysala Social and Sports Club agrees to supplement the amount in the future at the Board's request if the estimated cost grows, and that the Hoysala Social and Sports Club expects the unexpended funds to be returned after the removal of the pad; accept the donation of the finished field under G.L. c. 44, s. 53A1/2; and accept the donation of \$2,500 for the future removal of the concrete under G.L. c. 44, s. 53A, Joe Perry second, all in favor – aye (4-0). Christine Kneeland - ABSENT

## 2. Discuss and approve Animal Control and Animal Inspector Intermunicipal Agreement

Chairman Snow read the following:

*Debbie and her counterparts in Ipswich, Boxford, and Newbury have completed the intermunicipal agreement for animal control and animal inspector services. Town Counsel Tom Mullen has reviewed the last version of the IMA and has approved it.*

*Debbie is asking the Board to vote to approve it and to authorize the Chairman to sign it. The IMA document will be signed by all four towns.*

Perry said this seems like a lot for one person to cover four Towns. Snow said there will be two full-time employees plus a part-time employee, and we need this as the Town has 73 barns. Ziev said it looks good. Eagan said we also will have an animal shelter through this agreement.

Joe Perry made a motion to approve the Animal Control and Animal Inspector Intermunicipal Agreement and to authorize the Chairman to sign it, Cliff Pierce second, all in favor – aye (4-0). Christine Kneeland - ABSENT

### 3. Review and sign May 1, 2023 Annual Town Meeting Warrant

Chairman Snow read the following:

*The Town Meeting Warrant is complete. The Finance Committee has reviewed it and made their recommendations. Town Counsel Tom Mullen has reviewed it.*

*The Board needs to vote to sign it tonight. It will be filed with the Town Clerk tomorrow for posting by the Constable.*

Deana Ziev made a motion to sign the May 1, 2023 Annual Town Meeting Warrant, Cliff Pierce second, all in favor – aye (4-0). Christine Kneeland - ABSENT

The Selectmen signed five copies of the warrant.

## **ANNOUNCEMENTS**

1. The Town is holding a white goods/light metal household recycling event for Town residents on April 22, 2023 from 8:30 a.m. to 11:30 a.m. at the Highway Department facility at 40 Independent Street. Please check the Town's website, [www.townofrowley.net](http://www.townofrowley.net) for a list of items that will be accepted. For more information, call the Health Department at 948-2231.
2. Motorcycle Safety Awareness Period runs from March 25-April 30, 2023. This period of time is a reminder for drivers of automobiles, trucks, motorcycles, bicycles and pedestrians who use our streets and highways to be mindful of traffic rules for the safety of all. Drivers of all vehicles are asked to "Check Twice – Save a Life, Motorcycles are Everywhere."
3. The Annual Town Meeting is scheduled for 6:30 p.m. on May 1, 2023 at the Pine Grove School. The Annual Town Election will be on Tuesday, May 9, 2023 from noon to 8:00 p.m. in the rear of St. Mary's Church Hall on Main Street.
4. The Town of Rowley Veterans Committee is inviting the public to march in the Memorial Day Parade, which will be held on Monday, May 29, 2023. Parade line up will be at 10:30 a.m. at the Pine Grove School. The parade will begin at 11:00 a.m. Marchers are encouraged to wear red, white, and blue. Students are welcome to

wear their Boy Scout, Girl Scout or Sports uniforms. The “Old Nancy” Town cannon will be at the event, along with a drum and bagpipe marching band. Hot dogs and drinks will be available at the Town Common.

5. The Board of Selectmen announces that a textile recycling bin has been placed in the rear parking lot of the Town Hall Annex at 39 Central Street. Residents can drop off a variety of textiles. Please see the Town website for the listing. All items must be dry, bagged and placed in the bin. Please do not leave items on the ground.
6. The Town has the following board vacancies:
  - **Conservation Commission**
  - **Rowley Cultural Council**
  - **Zoning Board of Appeals – Alternate member**Interested residents should send a letter of interest to the Board of Selectmen. Positions are open until filled.

### **ADJOURN**

Deana Ziev made a motion to adjourn, Cliff Pierce second, all in favor – aye (4-0).  
Christine Kneeland – ABSENT

Meeting adjourned at 6:50 p.m.

### **ATTACHMENTS:**

1. Meeting memo regarding 6:05 p.m. Appointment: Fire Chief Mark Emery to present Ryan LeBoeuf as a new full-time firefighter
2. Letter from Fire Chief Mark Emery requesting the appointment of Ryan LeBoeuf as a new full-time firefighter
3. Meeting memo regarding General Business #1: Request from Town Clerk Catie McClenaghan to appoint Timothy Young to the Board of Registrars
4. Meeting memo regarding General Business #2: Request from Town Clerk Catie McClenaghan to appoint Priscilla Serafin to the position of Election Teller
5. Meeting memo regarding General Business #3: Letter of retirement from Town Accountant Susan W. Bailey
6. Letter of retirement from Town Accountant Susan W. Bailey
7. Meeting memo regarding General Business #4: Request from Treasurer/Collector Karen Summit to appoint Betsy Wetherbee to the position of Assistant Tax Collector
8. Meeting memo regarding New Business #1: Request from JWTC Wick LLC d/b/a Joint Operations of 264 Newburyport Turnpike for a One-Day Entertainment License for a vendor showcase with a live band and food truck
9. Application from JWTC Wick LLC d/b/a Joint Operations of 264 Newburyport Turnpike for a One-Day Entertainment License for a vendor showcase with a live band and food truck

10. Email from Police Chief regarding Joint Operations Entertainment License application
11. Email from Fire Chief regarding Joint Operations Entertainment License application
12. Email from Town Planner regarding Joint Operations Entertainment License application
13. Email from ZBA regarding Joint Operations Entertainment License application
14. Email from Health Director regarding Joint Operations Entertainment License application
15. Meeting memo regarding New Business #2: FY 24 Employee Health Insurance Renewal
16. FY 24 Employee Health Insurance Renewal
17. Meeting memo regarding New Business #3: Authorize the Town Administrator to renew the Town website hosting contract with CivicPlus
18. Email from Rae Ann Steffensmeir regarding Your CivicPlus Contract, including attached contract
19. Meeting memo regarding New Business #3: Discuss Public Comment Policy, including listed attachments
20. Meeting memo regarding Old Business #1: Discuss Cricket Field at Veterans Field
21. Map showing layout of cricket field pitch
22. Email from Town Counsel Tom Mullen regarding Donation Question
23. Email from David Zizza regarding Cricket Field Update
24. Estimate from JC Landscaping & Irrigation Snow Plowing Services for removal of astro turf and concrete pad
25. Email from David Zizza regarding cricket security deposit
26. Massachusetts General Law Chapter 44 Section 53A ½
27. Massachusetts General Law Chapter 44 Section 53A
28. Meeting memo regarding Old Business #2: Discuss and approve Animal Control and Animal Inspector Intermunicipal Agreement
29. Animal Control and Animal Inspector Intermunicipal Agreement
30. Meeting memo regarding Old Business #3: Review and sign May 1, 2023 Annual Town Meeting Warrant
31. May 1, 2023 Annual Town Meeting Warrant