

MINUTES OF THE BOARD OF SELECTMEN

December 18, 2023

Town Hall, 139 Main Street, Rowley

6:00 p.m.

MEMBERS PRESENT: Chairman Cliff Pierce; Vice Chairman Christine Kneeland; Clerk Deana Ziev; Sheri David (Town Administrator Deborah Eagan); Bob Snow – ABSENT

PUBLIC ATTENDEES: Keri Pyke, Rowley Farms Development LLC; Robert Buckley Esquire, Rowley Farms Development, LLC; Kristine Hung Esquire, Rowley Farms Development, LLC; Charles Cuilla, 539 Haverhill St; Charles Knowlton, 29 Ocean Ave; Ted Speros, Rowley Green; Bernie Cullen, 283 Wethersfield St; Michael Sabatini, 239 Main St; David Petersen, 25 Newbury Rd; Treasurer/Collector Karen Summit; Jim Robertson, 535 Haverhill St #10; Tom Heidgerd, Zoning Board of Appeals; Matt Ziev, Rowley Police Department; Kathy Magee, 535 Haverhill St; Paula Cartolaro, 535 Haverhill St; Bryan DiPersia, 500 Wethersfield St; Jordan Helter, 33 Taylor Ln; Town Planner Kirk Baker

CALL MEETING TO ORDER

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

PLEDGE OF ALLEGIANCE

Dave Petersen led the Pledge of Allegiance.

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

Dave Petersen, 25 Newbury Rd, commended Police, Fire and Highway for their work during the recent storm. He said accolades should be given to the dispatchers for their work, as well.

GENERAL BUSINESS

5. Request from Police Chief Scott Dumas to appoint Police Officer Lucas Tubbs to the position of Police Detective

Police Chief Dumas said that they had a single candidate for this promotion. He said that often when there is one candidate for a position, it is because the other officers self-eliminated themselves from the pool knowing that there is a strong candidate for the position. He said that Tubbs has put himself through various trainings to prepare himself for this role. He said Tubbs is also an EMT, trained sexual assault investigator, has taken classes on forensic analysis, among others. Dumas said Tubbs is a highly qualified candidate for this position.

Sheri David made motion to appoint Lucas Tubbs to the position of Detective, Christine Kneeland second, all in favor - aye (4-0).

Lucas Tubbs' significant other, Katie, then pinned the detective pin to his uniform and photos were taken. Chief Dumas said that Tubbs would be sworn in by the Town Clerk at a later time.

1. Approve donations to the Council on Aging

Chairman Pierce read the following:

COA Director Ellie Davis has informed us that the COA has received a donation in the amount of \$1,500 from the Institution for Savings.

In accordance with State law, G.L. c.44 §53A, the Board needs to vote to approve this donation.

Christine Kneeland made a motion to accept the donation, Sheri David second, all in favor – aye (4-0).

2. Approve donation to the Police Department

Chairman Pierce read the following:

Police Chief Scott Dumas has informed us that the Police Department received a donation in the amount of \$1,000 from ABZ Storage, LLC.

In accordance with State law, G.L. c.44 §53A, the Board needs to vote to approve this donation.

Christine Kneeland made a motion to accept the donation, Deana Ziev second, all in favor – aye (4-0).

3. Request from Gale Penton to be appointed to the Council on Aging Board of Directors and request from the Council on Aging Board Chair Geneva Merry to appoint Gale to the position

Chairman Pierce read the following:

Council on Aging Board Chair Geneva Merry has asked the Board to appoint Gale Penton to the open seat on the Council on Aging.

The Board will need to vote to make this appointment.

Deana Ziev made a motion to appoint Gale Penton to the Council on Aging Board, Christine Kneeland second, all in favor – aye (4-0).

4. Request from Police Chief Scott Dumas to appoint Olivia St. Peter to the position of Regular Reserve Dispatcher

Chairman Pierce read the following:

Police Chief Scott Dumas has asked the Board to appoint Olivia St. Peter to the position of Regular Reserve Dispatcher. The Board will need to vote to make this appointment.

Christine Kneeland made a motion to appoint Olivia St. Peter to the position of Regular Reserve Dispatcher, Sheri David second, all in favor – aye (4-0).

6. Request from Water Superintendent Robert Gray to appoint Douglas Pelletier and Samuel Spinhirn to the position of Maintenance Laborer

Chairman Pierce read the following:

Water Superintendent Robert Gray has asked the Board to appoint Douglas Pelletier and Samuel Spinhirn to the position of Maintenance Laborer. The Board will need to vote to make these appointments.

Deana Ziev made a motion to appoint Douglas Pelletier and Samuel Spinhirn to the position of Maintenance Laborer, Sheri David second, all in favor – aye (4-0).

7. Approve donations to the Town of Rowley Veterans Committee

Chairman Pierce read the following:

Rowley Veterans Committee Chair, Bob Breaker, has informed us that the Committee received donations in the amount of \$650 from community members.

In accordance with State law, G.L. c.44 §53A, the Board needs to vote to approve these donations.

Deana Ziev made a motion to accept the donations, Christine Kneeland second, all in favor – aye (4-0).

NEW BUSINESS

1. Update on the Eastern Essex Veterans Services District

Chairman Pierce read the following:

Sheri David is the Board's representative to the Veterans District. Steve Bohn, the new Director of Veteran's Services, started working a few weeks ago. Sheri will update the Board on what has been happening in the Veterans District.

David said, this past Saturday, Wreaths Across America took place. She said, led by Tammy and Ron Garron, the volunteers placed over 700 wreaths on graves. She said the wreaths are manufactured in Maine delivered to Rowley. David said that for every wreath purchased, the Town gets 1.5 wreaths from the organization. She said it is a wonderful program.

David said that the new Veterans Services Officer has been hired along with a new assistant. She said the VSO works 24 hours a week - Monday 8:00 a.m. – 7:00 p.m., Tuesday 8:00 a.m. – 4:00 p.m., Wednesday 8:00 a.m. – 4:00 p.m., Thursday 8:00 a.m. – 4:00 p.m., and Friday 8:00 a.m. – 12:00 p.m. She said the first Monday of every month he will be at the Rowley Council on Aging. She asked anyone who knows a veteran that could use services to reach out to herself or Bob Breaker. She said appointments are preferable over walk-ins.

David told the Board that free transportation to the Bedford VA will soon be available to veterans and their families. She said the service will begin on January 3 and reservations should be made a week in advance unless there is an emergency appointment. She said the vehicles are lift equipped.

David also said that Bob Breaker and Neil Butler are trying to start a Veterans-only breakfast, the first of which will be held in February at the First Congregational Church.

6:15 p.m. APPOINTMENT* Ted Speros of Rowley Farms Development LLC to discuss proposed affordable housing development

Chairman Pierce read the following:

Ted Speros is here to discuss his Local Initiative Program (LIP) Application for a Comprehensive Permit with the State Department of Housing and Community Development.

Zoning Board of Appeals Chairman Tom Heidgerd is here tonight to discuss the Comprehensive Permit process. He will speak before the Rowley Farms Team starts their presentation.

The application requires the Selectmen (Chairman) to sign off on the application. LIPs also need a letter from Board of Selectmen, signed by the Chairman, on the history of the project, how the Town is providing support for the project and how the developer is addressing concerns.

Tom Heidgerd, Chair of the Zoning Board of Appeals (ZBA), said that he wanted to speak regarding the application because, if it moves forward, there is often a lot of confusion about the process. He said he would also like to speak to the ZBA and its role in reviewing the application. Heidgerd said that rarely does the ZBA decide a case in one meeting. He said a project like this will be before the ZBA for several meetings.

Heidgerd said the ZBA members include two attorneys (one of whom specializes in land use), business executives with experience in project management, and a law enforcement officer who deals with zoning matters. He said each of the members have an average of 5-10 years of experience on this Board and he himself has been on the Board for 19 years. He said with the resources available to the ZBA with the staff and knowledge, they are very capable of dealing with the complex matter of this application. Heidgerd said the ZBA works closely with Conservation, Planning, Building, Highway, Health, etc. He said this project will be fully vetted and the ZBA has the ability to higher engineering resources, as needed.

Heidgerd then spoke to the process. He said if this project turns into an application, it will go before the ZBA. He said the ZBA will vet the project and makes the final decision. He said it usually behooves the applicant to contact the ZBA in the beginning of the project; he said the current applicant has not yet reached out to the ZBA, though they have heard that the applicant has reached out to the Selectmen. He said the ZBA will request reviews and studies and it can take months to go through the application. He said the Board does not approach an application with a predisposed opinion, but maintains an open mind. He said that some of the timing depends on an applicant's diligence in providing the requested information.

Heidgerd said that, as with all ZBA decisions, once the decision is made, it can be appealed. He said the appeal goes to land court and often takes 6 months to 2 years to be adjudicated.

Heidgerd said that, as of right now, there is no project before the ZBA. He said the applicant will also need to go through the State approval process. He said that even if approved, the build-out timeline can be up to 20 years. He said that within the State regulations there are rules about a community's ability to deny applications based on the number of housing units. He said that because Rowley has a housing stock of less than 2500 houses, it has the ability to reject any development proposals of more than

6% the existing housing stock. He said there are 145 units proposed in this development. He said that if the applicant refuses to incorporate changes requested by the Town, the Town could consider rejecting the proposal based on the 6%. He noted that there are septic, wetland, and other variables that will come into play when reviewing the project. He said this forum, the Selectmen's meeting, is informative only. He said review of the project will start again, if the project comes before the ZBA. Pierce thanked Heidgerd and said that was very helpful. He said the level of expertise on that Board is astounding for a small town like Rowley. He said he is confident this application would be well handled by the ZBA.

Keri Pyke, Rowley Farms Development LLC; Robert Buckley Esquire, Rowley Farms Development, LLC; Kristine Hung Esquire, Rowley Farms Development, LLC

Robert Buckley Esquire introduced the project team. He said that they cannot introduce the project to the ZBA until the project has been given a project eligibility letter from the State. He said this is the purpose of them meeting with the Board of Selectmen tonight. Buckley said the State review is very thorough and includes checks on the project feasibility and that the project team is experienced.

Buckley said Rowley is currently under the 10% threshold of affordable housing units and proposed a number of units would get the Town to 10%. He said the broader project will also connect the housing to commercial and recreational uses.

Buckley then walked the Board through the Powerpoint Presentation slides. He said the 40B development will be off of Route 133. He said this property was previously developed and disturbed. He said the team tried to integrate the development site with other community needs such as affordable housing, senior targeted housing, and to also be complementary to the Town's tax base.

Katie Enright, the engineer on the project, said the project has evolved from when it was first presented to the Town. She said it will be a mix of garden style and townhomes. She said Silva Lane would be expanded. She said the entire project area is 360 acres total. Enright said that all 60 townhomes would be rentals, so they would all count towards the Town's 10% even though only 20 are affordable. She said the garden style apartment building will be 4 stories high, with the 4th story built into the roof line. She said the buildings closest to Daniels Rd are 3 stories. She said they reduced the parking to 1.86 parking spaces per unit to keep impervious surface down and that there is significant amounts of stormwater management incorporated. She also said the site would be 100% electric.

Buckley said age restrictions are no longer allowed on 40B projects, but the development is age “targeted.” He said they moved the septic system outside the water resource protection district.

Keri Pyke, the traffic engineer for the project, said that they conducted a traffic study for the area. She said they found that 40% of traffic comes from the west, 10% from the north, 20% the east, and 30% the south. She said this project will add 1,962 vehicle trips to the current 14,126 trips. She said they are proposing that the turning lane along Route 133 at Route 1 be lengthened to mitigate some of the traffic during more congested times of the day. She said they believe they could make this improvement within the Town's right of way.

Pierce asked for clarification on what the proposal means where it says the intersection mitigation will be implemented “if feasible.” Pyke said they need to have a survey plan complete to be sure that the change can be made within the Town's right of way.

Buckley said they would like to get an approval from the Board to submit for a project eligibility letter. He said that in the spring, they would find out if the letter was issued and if it is, they would then submit an application to the ZBA. He said by year end 2024, they would like to have all their approvals and start the construction the following construction period.

Pierce asked for clarification on the road that accesses Daniels Rd. Pyke said that would be an easement for emergency vehicles only out to Daniels Rd. She said the main vehicular access to the property would be Silva Lane.

Ziev asked for the total number of units proposed for the project. Enright said it is 392 units, 60 townhomes, and 15 affordable.

David asked if the next release of crash data would be incorporated into this project. She said it currently uses 2016-2020 data. Pyke said it will depend; they often find the State is a few years behind on releasing data but if the data is available, they will update it. She said they could request reports from Rowley Police Department, but that can be labor intensive for the Department to redact.

Kathy Magee, 535 Haverhill St, said the townhouses surround the Pinehill condos. She asked if any thought has been given to a buffer for the condos. She said they talked about a buffer for the single family homes. Enright said they haven't looked into it in a lot of detail, but they can look at fencing and evergreen. She said she will add the condos to the plans.

Town Planner Kirk Baker said that there is a general misunderstanding about the proportion of the project that is affordable; it is not the entire development. Speros said yes, 33% of the units are affordable - 98 units. Baker said 2/3 of the project are market rate. Speros clarified that the units are affordable, which is for households at or below the 80% household median income; they are not low-income housing. Baker said he also wants to challenge the fear of a hostile 40B coming to Town. He said there is new zoning in Town and housing goals being set in the Housing Production Plan. He said these measures strengthen the Town's position were it to challenge a proposed 40B project.

Mike Sabatini, 239 Main St, said he supports the applicant being here. He said the term affordable is a misnomer. He said the Town can create a bylaw or rule where some of the housing can go to the workforce for Rowley - nurses, doctors, police, fire, etc. He said the Selectmen can create a workforce with this project. Speros said the regulations allow the lottery to have a local preference for up to 70% of the units. He said other communities have set priorities for their lotteries. Sabatini asked for the anticipated price point for the market rate and affordable units. Enright said the market rate rentals would be \$2300 - \$3900 and the affordable units \$1900 - \$2664.

Christine Kneeland made a motion to support the LIP application, Sheri David second, all in favor – aye (4-0).

OLD BUSINESS

1. Discuss Whittier Regional Vocational Technical High School Building Project

Chairman Pierce read the following:

The MSBA approved the Whittier project on December 13. The Whittier School Committee held a meeting later that day and voted to hold a districtwide vote on January 23, 2023 from 11:00 a.m. to 7:00 p.m. Chairman Cliff Pierce and Selectman Sheri David attended the meeting and reported that the Rowley Whittier School Committee member David Irving voted for the districtwide vote. Town Clerk Catie McClenaghan attended a meeting at Whittier on December 15th and was given the Election Warrant. (See attached.)

Passage of this vote will cause serious financial implications to the operation of this Town. The attached letter was sent to the MSBA in response to Superintendent Lynch's response to the Town's letter to the MSBA.

Ideas for the Board to think about:

- 1) Reach out to all Town boards chairs and let them know what is at stake with the Whittier project if it is approved on January 23. Give them a copy of the October*

30, 2023 Whittier presentation, which has Rowley's estimated capital assessments.

- 2) Reach out to residents to let them know that there is no Town funding associated with the approval of this project and that the payments will come from the Town's operational budget, which will certainly result in town-wide budget cuts. A "No Vote" saves the operation of the Town.*
- 3) Reach out to leaders of the other communities in the District to discuss how a "No Vote" message can be made districtwide.*
- 4) Send one Board letter (jointly signed by all five selectmen) to the local newspapers informing the public about the implications of a yes vote on January 23. Followed by individual board members sending letters to the newspaper and other concerned members of the public.*
- 5) Request Rep. Kassner and Sen. Tarr to support a "No Vote" by sending letters to the newspapers explaining that the January 23rd election is not being done in accordance with Proposition 2 ½. Ask them to file a bill to eliminate districtwide votes for projects that don't require Prop 2 ½ overrides. This process predates Prop 2 ½ and the law permitting this should have been changed when Prop 2 ½ went into effect in 1980.*
- 6) Send a letter to the MSBA requesting that their vote to approve the project be reconsidered due to the lack of communication to the member communities about the project.*

Pierce said their concerns have been falling on deaf ears at the Whittier School Committee. He said they seem unconcerned with the Town's financial concerns saying that the Towns will have a year to get its financing in place. Pierce said voters need to come out to vote. Ziev asked what Rowley's payments will be for the project. Eagan said Rowley's payment will be just over \$600,000 per year, but they do not have a final number. Pierce said the Town will have to find the money to pay because the districtwide vote does not include a vote for a debt exclusion whereas a town-by-town vote would have included a vote for a debt exclusion. Eagan said that the ballot is not a typical ballot question; there is a lot of language without a clear explanation of what the voters are voting for. Ziev said it is very confusing.

Bernie Cullen, 283 Wethersfield St, said the motion is very complicated. He also said, if approved, the school will borrow the full project amount, and if the school construction costs come in lower the Towns will still need to pay the full amount. He said they have factored a large number of contingencies into the project. He said the architects and

engineers will decide which of the contingencies are incorporated into the project. He said there are no mail in ballots, but there are absentee ballots. He said the Town Clerk said mail in ballots are supposed to be available 30 days before the vote; it is already past 30 days before the vote. He said the cost of the project outpaces growth for the Town, and that doesn't take into account increased costs that will be likely coming from Triton. Pierce said that he is concerned that if the project passes and the Town needs to request an override at Town Meeting, Superintendent Maureen Lynch will not come to Town Meeting to help because her project will already have been approved. He said the last time Lynch was at the Board of Selectmen's meeting is likely the last time they will see her. David said that this Board is not anti-education or anti-Whittier, it is the process that is the issue. She said that Donna Holiday was at the Whittier School Committee meeting pleading for the Committee to put off the vote until April, but they were having no part of it. She said it will never happen again that the Town's representative on the School Committee doesn't report to and update the Board of Selectmen. Ziev said that she feels people will feel bad that a vote against the school is a vote against Whittier, however that is not the case. She said Whittier is greatly in need of repairs, as is Triton. She said she thinks a lot of the population is not aware of this election and the impact on the Town.

Ziev asked what will happen if there is a snow storm on the day of the election. Eagan said it is not a Town run election; her understanding is that the election will happen no matter what. She said it is up to the Whittier School Committee how they conduct the election.

David said that at the Whittier meeting the other night, Whittier kept talking about how they have been funding repairs on the school without coming to the Towns. She said but now the school is in such disrepair that they are saying there are safety issues and they need a new \$435 million school. She said she is very upset that they knew the school needed a fire suppression system 7 years ago and never did anything about it. She said that, if the school building project passes, all services in the Town are at risk of being cut.

LIQUOR LICENSE RENEWALS

- Rowley Veterans Association, Inc. 19 Bradford Street
- Nipon Tepatiganon, T.J. Thai, Inc., d/b/a Royal Orchid 303B Haverhill Street
- Piemar, Inc. d/b/a Off the Vine 150 Newburyport Turnpike
- Cabales, Inc. d/b/a El Tapatio 300 Newburyport Turnpike
- Galbro, Inc. d/b/a Route 1 Liquors 174 Newburyport Turnpike
- Rowley Liquors Inc., d/b/a Rowley Liquors 144 Newburyport Turnpike
- Grape Island Inc., d/b/a Mill River Winery 498 Newburyport Turnpike
- Andy Sunny Inc. d/b/a Rowley Convenience Smoke Shop 21 Main Street

- Briar Barn Inn, LLC, d/b/a Briar Barn Inn 101 Main Street
- BNR Rowley, LLC d/b/a Bradford Tavern 87 Haverhill Street
- New England Asian Restaurant Group d/b/a Mandarin 255 Newburyport Turnpike
- Anonymous Brewing, LLC d/b/a Anonymous Brewing 60 Main Street
- Rowley Enterprises, Inc. d/b/a Skip's Country Store 801 Haverhill Street
- North Shore Cantina, Inc. d/b/a The American Barbeque 185 Main Street

Chairman Pierce read the following:

The following establishments have submitted their 2024 liquor license renewal applications. The premises have been inspected, if applicable, and all Town taxes, Water Department bills and Light Department bills have been paid. These renewal applications are ready to be voted on tonight and can be voted on in one (1) motion:

- *Rowley Veterans Association, Inc. 19 Bradford Street*
- *Nipon Tepatiganon, T.J. Thai, Inc., d/b/a Royal Orchid 303B Haverhill Street*
- *Piemar, Inc. d/b/a Off the Vine 150 Newburyport Turnpike*
- *Cabales, Inc. d/b/a El Tapatio 300 Newburyport Turnpike*
- *Galbro, Inc. d/b/a Route 1 Liquors 174 Newburyport Turnpike*
- *Rowley Liquors Inc., d/b/a Rowley Liquors 144 Newburyport Turnpike*
- *Grape Island Inc., d/b/a Mill River Winery 498 Newburyport Turnpike*
- *Andy Sunny Inc. d/b/a Rowley Convenience Smoke Shop 21 Main Street*
- *Briar Barn Inn, LLC, d/b/a Briar Barn Inn 101 Main Street*
- *BNR Rowley, LLC d/b/a Bradford Tavern 87 Haverhill Street*
- *Rowley Enterprises, Inc. d/b/a Skip's Country Store 801 Haverhill Street*
- *Anonymous Brewing, LLC d/b/a Anonymous Brewing 60 Main Street*
- *North Shore Cantina, Inc. d/b/a The American Barbeque 185 Main Street:*

Deana Ziev made a motion to approve the liquor license renewals, Christine Kneeland second, all in favor – aye (4-0)

Deana Ziev made a motion to approve the liquor license renewal for New England Asian Restaurant Group d/b/a Mandarin and to hold the license until the required documentation is submitted, Christine Kneeland second, all in favor – aye (4-0)

MINUTES

- November 13, 2023

Deana Ziev made a motion to approve the open session minutes of November 13, 2023, Sheri David second, all in favor – aye (4-0)

- November 13, 2023 – Executive Session

Christine Kneeland made a motion to approve the Executive Session minutes of November 13, 2023, Sheri David second, all in favor – aye (3-0). Deana Ziev - ABSTAIN

- November 20, 2023

Deana Ziev made a motion to approve the minutes of November 20, 2023, Sheri David second, all in favor – (3-0). Christine Kneeland - ABSTAIN

ANNOUNCEMENTS

1. The Town has the following board vacancies:

- **Conservation Commission**
- **Housing Partnership Committee – Five members**
- **Open Space Committee**
- **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, Christine Kneeland second, all in favor – aye (4-0).

The meeting adjourned at 7:53 p.m.

Respectfully submitted,

Natalie Lovett
Assistant Town Administrator

ATTACHMENTS:

1. Meeting memo General Business #1: Approve Council on Aging donations
2. Request from COA Director Ellie Davis with attachments
3. Meeting memo General Business #2: Approve donation to the Police Department
4. Request from Police Chief Scott Dumas

5. Meeting memo General Business #3: Request from Gale Penton to be appointed to the Council on Aging Board of Directors and request from the Council on Aging Board Chair Geneva Merry to appoint Gale to the position
6. Letter from Geneva Merry requesting to appoint Gale Penton to the Council on Aging Board
7. Email from Gale Penton
8. Meeting memo General Business #4: Request from Police Chief Scott Dumas to appoint Olivia St. Peter to the position of Regular Reserve Dispatcher
9. Letter from Police Chief Scott Dumas requesting that Olivia St. Peter be appointed to the position of Regular Reserve Dispatcher
10. Meeting memo General Business #5: Request from Police Chief Scott Dumas to appoint Police Officer Lucas Tubbs to the position of Police Detective
11. Letter from Police Chief Scott Dumas requesting to appoint Police Officer Lucas Tubbs to the position of Police Detective
12. Meeting memo General Business #6: Request from Water Superintendent Robert Gray to appoint Douglas Pelletier and Samuel Spinhirn to the position of Maintenance Laborer
13. Meeting memo General Business #7: Approve donations to the Town of Rowley Veterans Committee
14. Meeting memo New Business #1: Update on the Eastern Essex Veterans Services District
15. Meeting memo Old Business #1: Discuss Whittier Regional Vocational Technical High School Building Project
16. Whittier Regional Vocational Technical School District Election Warrant
17. Letter from Chair Cliff Pierce to State Treasurer Deborah Goldberg and MSBA CEO James MacDonald dated December 11, 2023 with enclosures
18. Meeting memo 2024 Annual Liquor License Renewals
19. Draft meeting minutes November 13, 2023
20. Draft meeting minutes November 20, 2023