

## **MINUTES OF THE BOARD OF SELECTMEN MEETING**

December 11, 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:** Lawrence White – FINCOM; Henry F. Rolfe; Bernard Cullen; Elizabeth McCarthy - IPA; Joseph McCarthy - IPA

### **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. Letter from Massachusetts Department of Transportation regarding salting at commuter rail crossings

Chairman Perry read the letter.

### **OLD BUSINESS**

1. Update on Rowley Veterans Association liquor license application

Chairman Perry read the following:

*We sent the updated Articles of Incorporation submitted by The Rowley Veterans Association's to the ABCC last week. We have not yet heard back from the ABCC on this application for a Change of Manager and Change of Beneficial Ownership.*

### **7:05 – 7:10 p.m. PUBLIC COMMENT**

Public Comment was opened at 7:05 p.m. Bernie Cullen said regarding changing the label for this agenda item, he endorsed this when the Board voted on it because the previous label was semantically confusing. He said he would like to reinforce that

people are still welcome to make a brief comment or ask a question, but not to expect an answer. Public Comment closed at 7:10 p.m.

## **OLD BUSINESS**

### 2. Update on the Pine Grove School project

Chairman Perry read the following:

*The Conservation Commission voted and approved the following permits last week:*

- *Stormwater Water Permit Application*
- *Notice of Intent application*

*This is a big milestone in the project.*

*Also, we sought Town Counsel Tom Mullen's advice on the liquidated damages amount for the subcontractors. The OPM recommends setting the amount at \$2,000. Tom Mullen informed Debbie that he doesn't have any problem with that amount, but advised that someone from the project team should prepare a memo to the file establishing that this is a reasonable estimate of the damages the Town would likely suffer if a subcontractor delayed work on the project. The Board of Selectmen needs to vote to set the amount for the liquidated damages for subcontractors at \$2,000.*

*The next meeting of the Building Committee is set for Thursday, December 14 at 6:30 p.m.*

Dave Petersen made a motion to set the amount for liquidated damages for subcontractors at \$2,000, Bob Snow second, all in favor - aye (5-0).

Henry Rolfe asked how the cost will be covered for fixtures and equipment at the Pine Grove School that are old and contaminated with E-coli, such as chairs and tables. Larry White said this is included in the construction budget. Perry said this is part of the project cost.

### 3. Fire Station and Police Station Addition project

- Discuss Builder's Risk Insurance
- Discuss Castagna Construction contract
- Anticipated start date

Chairman Perry read the following:

## ***Discuss Builder's Risk Insurance***

*Debbie has been working with the Town's insurance company, MIIA, for the past several weeks in obtaining a builder's risk insurance policy for the police and fire station. Debbie's recommendation is attached. The police station premium is \$15,434 and the fire station premium is \$16,785 for a total of \$32,219. Debbie is seeking authorization from the Board to purchase this insurance.*

***Discuss Castagna Construction contract***

*Castagna Construction has submitted an Acknowledgement of Receipt of Notice of Award to Debbie. We are now working on the following: having the construction contract signed by all listed signatories; obtaining the requisite payment and performance bonds from the contractor; and obtaining the certificate of insurance from the contractor. Debbie is planning to have the contract signed by the Board of Selectmen on December 18, 2017.*

***Anticipated start date***

*The proposed date for the groundbreaking ceremony is Tuesday, December 19 at 11:00 a.m. Construction will be fully underway on January 2, 2018.*

Dave Petersen made a motion to purchase the builder's risk insurance policy for this project, Bob Snow second, all in favor - aye (5-0).

Dave Petersen made a motion to send an invitation letter to former Police Chief Barry, former Police Chief Barker, Senator Tarr, and Representative Hill regarding the groundbreaking ceremony, Bob Snow second, all in favor - aye (5-0).

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

Chairman Perry read the following:

*Town Counsel Tom Mullen has reviewed the draft landlord-tenant language and has submitted a revised version of the language.*

*Attached is the revised language submitted by Tom Mullen and a copy of the original language.*

Perry said he previously provided the draft from Brian Forget, and this is Town Counsel's drafted suggestions. Henry Rolfe asked what the changes are. Pierce said the biggest change is he eliminated the distinction between the building and the contents and instead has major and minor repairs items distinguished. He said the terms are well defined and he thinks this is an improvement. Petersen said Mullen did a good job with this, and let's see if the other two towns have suggestions.

Dave Petersen made a motion to authorize Joe Perry to take Mullen's draft to the next landlord/tenant meeting, Bob Snow second, all in favor - aye (5-0).

Perry said he received an email from Superintendent Forget with a draft lease agreement for the elementary schools. Perry read this excerpt of the draft agreement:

**Elementary Schools:**

The formal ownership of elementary school buildings is not consistent for all member towns because of decisions made over the years. As a day to day matter, the district has generally operated equitably, and major costs have been born by a school's member towns, while day to day maintenance and repair costs have been paid for by the district. This agreement now confirms that all schools shall be treated equitably in regards to the costs of general repairs and maintenance.

Effective July 1, 2020, the district will enter into a lease agreement for the use of the Elementary School in each town, with the format and expectations of the lease arrangement consistent across all three towns. The lease arrangements shall be agreed by all three (3) member town Boards of Selectmen and the Triton Regional School Committee.

Perry said in 2020, Salisbury will be taking ownership of the elementary school. Petersen said he is concerned about this because we would lose total control of Pine Grove School, and asked if we would need to get Triton's permission to hold Town Meeting at PGS. Pierce said we need to see the lease agreement. Henry Rolfe said the new Fire Station could be used for public meetings. Eagan said this is the first she has heard about this, and a formal lease is a legal interest in a property that is recorded at the Registry of Deeds. She said we have been working on language to add to the Triton Regional Agreement regarding landlord / tenant responsibilities, and with a separate lease, we could have conflicting language in the documents. She said she has concerns about this. Perry said he just received this today, and he will give Eagan a copy to send to Town Counsel for review. Eagan said the School Committee cannot tell the Selectmen to have a lease or to send this to Town Counsel before the Selectmen have agreed to this in concept. Petersen said the Selectmen need to discuss this first. Pierce asked why Triton feels it is necessary to do this. Petersen said the attitude of the School Committee members at their last meeting was that they belong to Triton and not to the Towns, and now they are proposing this. He said this needs to be reviewed and discussed, and the Town may say we don't want to do this. He said this is a huge topic coming out of the blue and he doesn't like this. Eagan said the concept of a lease and a landlord / tenant agreement need to be reconciled. She said she doesn't understand why we would have two agreements with the same terms, and this is a big discussion item for the Selectmen. Perry said the Board will be provided with this information and will have time to review it before it is discussed at a meeting in January, since this wouldn't go into effect until 2020.

**7:15 p.m. APPOINTMENT** Joseph McCarthy of Ipswich Pharmaceutical Associates to discuss letter of support or non-opposition for state approval for adult use marijuana license

Chairman Perry read the following:

*Joseph McCarthy has been meeting with the Board of Selectmen over the past several months. He met with the Selectmen on October 23 and then again on November 13. During the November 13 meeting, the Board instructed Mr. McCarthy to meet with Rowley Police Chief Scott Dumas to discuss his security plan. Chief Dumas met with Mr. McCarthy and provided the attached report, which Chairman Perry will read into the record.*

*At the last meeting with Mr. McCarthy, he informed the Board that he planned to move his proposed location from Adams Mall to the Gino's Autobody site. The Board may wish to confirm the address for his proposed business.*

Perry read the letter from Chief Dumas.

Joseph McCarthy said he met with Chief Dumas on November 21, 2017 to review the security plan in full, and he reviewed the following changes that were made to the plan:

- On page one: they will hire a Director who is an employee, and not a contractor
- Entry areas: The CEO doesn't need access to the product stored in the back. They discussed who should and who should not have this access.
- On page thirteen: they will use a dual GPS tracking system, with one in sight and the other hidden, and these will be real-time devices.

McCarthy said they would like to start in the medicinal business, and then once the Cannabis Control Commission makes their rulings come back to the Board of Selectmen regarding the recreational business. He said he is looking for the Board to issue him a letter of support or non-opposition for the medical dispensary now; and to allow the Town Manager to help secure the adult use license and negotiate a contract with 2.5% for medicinal sales and 3% for adult use sales. Petersen asked where the dispensary will be located, and the hours of operation. McCarthy said they will be located at the Adams Mall, although they preferred the auto shop location, and they will have restricted hours around the ice cream shop's hours, which are 1:00 p.m. – 9:00 p.m. Petersen asked if there will be a later opening time on Sundays. McCarthy said they will operate between the hours of the ice cream shop, and they will operate their delivery service only when the ice cream shop is open. Pierce asked if they will be located in the front of the strip mall, McCarthy said yes. Petersen said within a mile or less, there will be three different dispensaries. He asked McCarthy if he is serious

about coming to Rowley, or are we a back-up location. McCarthy said if Rowley approved IPA for adult use they are committed. Petersen said you are here for medicinal use. McCarthy said medicinal too. Eagan said the Cannabis Control Commission is working on regulations, those will be done in March. She said the Planning Board is looking to implement a zoning by-law to regulate the adult use and allow it in the retail district with a Special Permit required by the Planning Board. She said if approved, the bylaw would be effective the date that the public hearing notice was published in the newspaper. She said a letter of support or non-opposition from the Selectmen at this point would be for the medical marijuana side only.

Snow said he is confused about the location change between Adams Mall and Gino's. McCarthy said Gino's was too small. He said they have a special permit from Ipswich for 31 Turnpike Road and they want a presence in that area. He said they are starting with the medicinal marijuana, and will work with the Towns that will allow adult use.

Henry Rolfe said McCarthy should be required to have an attorney present his case. He said there should be public hearings held for the prospective locations. He said this should be put off for at least six months and the State won't issue the first license until the end of July. Petersen said medicinal use has already been authorized, the Planning Board held public hearings, and all the Board of Selectmen needs to do is issue a letter supporting or not supporting this. Rolfe asked if they will have a registered pharmacist on site, and said the Town should draft its own rules and regulations on this. Petersen said this is regulated by the State. Eagan said the medical use is already on the books with zoning bylaws that make it clear that you have to go to the Planning Board. Rolfe said this is muddled, and there should be push back on this.

Petersen said he is not a medical marijuana user, but he knows people who have used. He said at some point, these will be like liquor stores, and if they are properly run they will be okay. He said he doesn't know of any issues with the dispensary being run in Georgetown, and he is not opposed to IPA. Pierce said we can provide a letter of non-opposition, as he has no reason to oppose this, rather than a letter of support. Snow said we should do a letter of non-opposition. He said people use marijuana for different diseases, and he hears stories that it helps. He said this is coming, and it is a revenue source for the Town. Merry said he has nothing against this, but it needs to meet the requirements of the State. McCarthy said a letter of support or a letter of non-opposition makes no difference to the application process.

Dave Petersen made a motion to write a letter of non-opposition for Ipswich Pharmaceutical Associates for a medical dispensary, Cliff Pierce second, all in favor - aye (5-0).

## **OLD BUSINESS**

5. Discuss Verizon New England, Inc.'s Cable Television Renewal License extension

Chairman Perry read the following:

*The Verizon Cable Renewal License extension is being worked on by Town Counsel Tom Mullen. He is asking the Board of Selectmen to vote to extend the current license pending the execution of the successor license.*

*Could the Board please vote to extend the current license as requested?*

Petersen asked if the extension is until a certain date. Eagan said it is an extension pending negotiations since the license is expiring at the end of the week.

Cliff Pierce made a motion to extend the current cable license with Verizon New England, Inc. pending the execution of a successor license, Dave Petersen second, all in favor - aye (5-0).

## **NEW BUSINESS**

1. Discuss Open Meeting Law Complaint filed by Timothy Toomey on December 4, 2017

Chairman Perry read the following:

*The Board of Selectmen received the attached Open Meeting Law Complaint from Timothy Toomey on December 4, 2017.*

*Labor Counsel Joe Fair and his associate, Attorney Brian Riley, reviewed Mr. Toomey's Open Meeting Law Complaint. Attorney Riley has draft a response on behalf of the Board of Selectmen. If the Board is satisfied with the response, the Board needs to vote to authorize Attorney Riley to submit the draft.*

Perry read the draft response.

Dave Petersen made a motion to approve the draft response to this complaint, Cliff Pierce second, all in favor - aye (5-0).

## **LICENSE RENEWALS**

### **Liquor License**

- Rowley Veterans Association, Inc. 19 Bradford Street

Chairman Perry read the following:

*The renewal for the Rowley Veterans Association has been submitted, but is not ready to be approved tonight.*

### **Class III**

Michael Bontos d/b/a Rowley Auto Parts 164 Boxford Road

Donald Savory and Mark Savory d/b/a Rowley Auto Salvage Inc. 588 Main Street

Chairman Perry read the following:

*All renewal applications received are in order with all taxes, water and light bills paid.*

*Please make a motion to approve and sign the licenses.*

- Michael Bontos d/b/a Rowley Auto Parts 164 Boxford Road
- Donald Savory & Mark Savory d/b/a Rowley Auto Salvage Inc. 588 Main Street

*The licenses will be available in the Selectmen's Office by Wednesday afternoon for the Selectmen to sign.*

Dave Petersen made a motion to approve and sign both Class III License renewals, Bob Snow second, all in favor - aye (4-0). Bob Merry - RECUSED

### **Auto Auction**

Michael Bontos d/b/a Rowley Auto Parts 164 Boxford Road

Chairman Perry read the following:

*The one renewal application has been received and is in order with all taxes, water and light bills paid. Please make a motion to approve and sign the license.*

- Michael Bontos d/b/a Rowley Auto Parts 164 Boxford Road

*The licenses will be available in the Selectmen's Office by Wednesday afternoon for the Selectmen to sign.*



Dave Petersen made a motion to approve and sign the Auto Auction License renewal, Bob Snow second, all in favor - aye (5-0).

### **Flea Market**

Starr P. Todd d/b/a Todd Farm LLC 283 Main Street

Sandra A. Hamel d/b/a Sandy's Flea 31 Main Street

Frank and/or Shirley Todd d/b/a Todd's River Farm, LLC 275 Main Street

Chairman Perry read the following:

*The following renewal applications have been received and are in order with all taxes, water and light bills paid. Please make a motion to approve and sign the licenses. The licenses will be available in the Selectmen's Office by Wednesday afternoon for the Selectmen to sign.*

- *Starr P. Todd d/b/a Todd Farm LLC 283 Main Street*
- *Sandra A. Hamel d/b/a Sandy's Flea 31 Main Street*
- *Frank and/or Shirley Todd d/b/a Todd's River Farm, LLC 275 Main Street*

Dave Petersen made a motion to approve and sign the Flea Market License renewal for Sandra A. Hamel d/b/a Sandy's Flea, Cliff Pierce second, all in favor - aye (5-0).

Bob Snow made a motion to approve and sign the Flea Market License renewals for Starr P. Todd d/b/a Todd Farm LLC and Frank and/or Shirley Todd d/b/a Todd's River Farm, Cliff Pierce second, all in favor - aye (4-0). Bob Merry - RECUSED

### **Class II**

Tim Watkins d/b/a Precision Auto d/b/a Precision Volvo 60 Main Street

Donald Savory & Mark Savory d/b/a Bay Road Auto Sales - 56 Newburyport Turnpike

Thomas Boucher d/b/a Boucher's Automotive Machine Shop, Inc 239 Haverhill Street

Salvatore A. LaFauci d/b/a AutoPro Collision Center, LLC 266 Haverhill Street

Rafael Reyes d/b/a J R Reyes Transportation & Truck Center, Inc. 264 Newburyport Turnpike

Mark Ouellette d/b/a M & J Foreign Cars, Inc. 415 Newburyport Turnpike

Dale and Roy Ducrow d/b/a Rowley Auto Brokers 27 Cross Street

Donald Savory & Mark Savory d/b/a Bay Road Auto Sales - 588 Main Street

Frank Iovanella and James Price d/b/a Car Lines 185 Newburyport Turnpike

Darya Litvinava d/b/a Auto Imports Unlimited, Inc 357 Main Street

Josephine Bornstein d/b/a D&D Auto Sales 274 Newburyport Turnpike

Chairman Perry read the following:

*The following renewal applications are in order with all taxes, water and light bills paid.*

*Please make a motion to approve and sign the licenses. The licenses will be available in the Selectmen's Office by Wednesday afternoon for the Selectmen to sign.*

*Tim Watkins d/b/a Precision Auto d/b/a Precision Volvo 60 Main Street  
Donald Savory & Mark Savory d/b/a Bay Road Auto Sales - 56 Newburyport Turnpike  
Thomas Boucher d/b/a Boucher's Automotive Machine Shop, Inc 239 Haverhill Street  
Salvatore A. LaFauci d/b/a AutoPro Collision Center, LLC 266 Haverhill Street  
Rafael Reyes d/b/a J R Reyes Transportation & Truck Center, Inc. 264 Newburyport Turnpike  
Mark Ouellette d/b/a M & J Foreign Cars, Inc. 415 Newburyport Turnpike  
Dale and Roy Ducrow d/b/a Rowley Auto Brokers 27 Cross Street  
Donald Savory & Mark Savory d/b/a Bay Road Auto Sales - 588 Main Street  
Frank Iovanello and James Price d/b/a Car Lines 185 Newburyport Turnpike  
Darya Litvinava d/b/a Auto Imports Unlimited, Inc 357 Main Street  
Josephine Bornstein d/b/a D&D Auto Sales 274 Newburyport Turnpike*

*Frank Marchegiani noted during his site visits that Allstate Auto Sales, 264 Newburyport Turnpike is no longer in business, therefore this license will not be renewed.*

Bob Snow made a motion to approve and sign all of the Class II License renewals detailed above, Dave Petersen second, all in favor - aye (4-0). Bob Merry – RECUSED on both licenses for Donald and Mark Savory

## **ANNOUNCEMENTS**

- Information on the Pine Grove School project is available on the Town's website at [www.townofrowley.net](http://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.

## **ADJOURN**

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

Open meeting adjourned at 7:58 p.m.

Respectfully submitted,  
Amy Lydon  
Assistant Town Administrator

**ATTACHMENTS:**

1. Letter from Massachusetts Department of Transportation regarding salting at commuter rail crossings
2. Meeting memo regarding Old Business #1: Update on Rowley Veterans Association liquor license application
3. Board of Selectmen Public Comment Policy for Public Meetings
4. Meeting memo regarding Old Business #2: Update on the Pine Grove School project
5. Meeting memo regarding Old Business #3: Fire Station and Police Station Addition project: Discuss Builder's Risk Insurance; Discuss Castagna Construction contract;
6. Anticipated start date
7. Builder's Risk Policy – Option 3
8. Builder's Risk Policy – Option 4
9. Meeting memo regarding Old Business #4: Discuss proposed landlord-tenant language for the Triton Regional Agreement
10. Tom Mullen's revised proposed landlord-tenant language for the Triton Regional Agreement
11. Original draft proposed landlord-tenant language for the Triton Regional Agreement
12. Materials that Joe Perry presented regarding email received from Brian Forget regarding lease agreement and draft language for Landlord/Tenant Responsibilities
13. Meeting memo regarding 7:15 p.m. Appointment: Joseph McCarthy of Ipswich Pharmaceutical Associates to discuss letter of support or non-opposition for state approval for adult use marijuana license
14. Letter from Police Chief Dumas regarding Meeting with Ipswich Pharmaceuticals
15. Meeting memo regarding 7:45 p.m. Appointment on November 13, 2017 with Joseph McCarthy to discuss letter of support or non-opposition for state approval for adult use marijuana license
16. Email from Joseph McCarthy regarding Letter of Support dated October 13, 2017
17. Information packet from Ipswich Pharmaceutical Associates, Inc. received November 13, 2017
18. Meeting memo regarding Old Business #5: Discuss Verizon New England, Inc.'s Cable Television Renewal License extension
19. Meeting memo regarding New Business #1: Discuss Open Meeting Law Complaint filed by Timothy Toomey on December 4, 2017

20. Draft response to Open Meeting Law Complaint filed by Timothy Toomey on December 4, 2017 from Brian W. Riley
21. Open Meeting Law Complaint filed by Timothy Toomey on December 4, 2017
22. Letter to Timothy Toomey from Susan G. Hazen, Records Access Officer regarding Public Records Request #2007-61
23. Letter to Timothy Toomey from Susan G. Hazen, Records Access Officer regarding Public Records Request #2007-62
24. Meeting memo regarding Liquor License Renewals
25. Meeting memo regarding Class III License Renewals
26. Meeting memo regarding Auto Auction License Renewals
27. Meeting memo regarding Flea Market License Renewals
28. Meeting memo regarding Class II License Renewals