

MINUTES OF THE BOARD OF SELECTMEN

June 8, 2020

Recorded from Town Hall, 139 Main Street, Rowley, MA

1:00 p.m.

MEMBERS PRESENT: Chairman Cliff Pierce; Vice Chairman Joseph Perry – ABSENT until 1:07 p.m.; Clerk Robert Snow; David Petersen; Deana M.P. Ziev (Town Administrator Deborah Eagan, Assistant Town Administrator Amy Lydon)

CALL MEETING TO ORDER

Chairman Pierce called the meeting to order at 1:05 p.m. He read the following:

Consistent with the Governor's orders suspending certain provisions of the Open Meeting Law and banning gatherings of more than 10 people, this meeting will be conducted by remote participation to the greatest extent possible. The public may not physically attend this meeting, but every effort will be made to allow the public to view and listen to the meeting in real time. Persons who wish to do so are invited to watch the meeting on Rowley Community Media TV / listen live on the RCM page on the Town's website at www.townofrowley.net or join the meeting from your computer, tablet or smartphone by using the link: <https://global.gotomeeting.com/join/172445869> can also dial in using your phone by calling [+1 \(646\) 749-3122](tel:+16467493122) and using access code 172-445-869. In the event that live transmission proves infeasible, an audio or video recording, transcript or other comprehensive record of the meeting will be made available on the Town's website as soon as possible.

GENERAL BUSINESS

1. Letter of resignation from Call Firefighter Joshua Simpson

Bob Snow made a motion to accept this resignation, Deana Ziev second, all in favor – aye - roll call vote: Bob Snow – aye; Cliff Pierce – aye; Dave Petersen – aye; Deana Ziev – aye. Joe Perry – ABSENT

2. Letter of resignation from Call Firefighter Christopher Cassidy

Bob Snow made a motion to accept this resignation, Deana Ziev second, all in favor – aye - roll call vote: Bob Snow – aye; Cliff Pierce – aye; Dave Petersen – aye; Deana Ziev – aye. Joe Perry – ABSENT

NEW BUSINESS

1. Discussion on Rowley Police Department procedures on use of force

Chairman Pierce read the following:

The Board has received a letter from Bernard Cullen regarding the existing Police Department's procedures on use of force.

Police Chief Scott Dumas is calling into the meeting to discuss the Police Department's use of force procedures.

Pierce read the letter from Bernard Cullen regarding the existing Police Department's procedures on use of force. He said Chief Dumas has been outspoken condemning the officer's actions in the George Floyd case.

Joe Perry joined the meeting at 1:07 p.m.

Chief Dumas thanked the Board for the opportunity to speak and said Cullen's letter framed the issue appropriately. He said the actions in Minneapolis are despicable and sickening and has been criticized across the country by Police Chiefs, Police trainers and residents. He said the Rowley Police Department has been accredited since 2002 and was re-accredited in 2019. He said to be accredited, they have to meet 342 standards. He said they have to meet the policies and they have to go through a re-assessment process every three years. He said one of these standards is the use of force, and their policy is universal and in line with the State and law enforcement policies in general. He said officers are only to use the amount of force necessary to bring a lawful objective and bring an incident under control, and after that, the force is supposed to end. He said there are three points to consider when using force: What is the threat; what is the perception of how the suspect is responding and what is a reasonable officer supposed to do for a level of force to gain compliance. He said their most common use of force is using their head for de-escalation techniques, but sometimes the use of force is required. He said when force is used, a full police report is completed, and an additional report is included about the use of force that includes more details such as race, ethnicity, who the supervising officer was, if the officer was in full uniform, the serial number of the taser, and if medical attention was sought. He said that report is sent to an executive officer, and assigned to a use of force instructor who was not involved in the incident to make sure that it was done in compliance with their policies, training and laws. He said additional training could result from this review. He said annually they do a use of force cumulative analysis that goes to an executive officer to review for patterns. He said in the last 10 years, there have been on average 3.3 incidents out of 18,700 calls per year. He said there have not been any complaints about excessive use of force in the past ten years. He said their use of force policy is 40 pages long. He said the citizen's academy is the best avenue to get insight on how the Rowley Police Department works, and he encouraged people to come and fill out an application for this.

Snow thanked Dumas for his leadership. He said it is a difficult time for Police Officers. He said he grew up at a blue table and the officers in Minnesota have stained the reputation of officers throughout the country. He said the officer involved has 17 incidents and only 1 reprimand, and it is reprehensible what he did. Dumas said he hasn't met an officer who isn't sickened by the video and all agree that the other officers

were complicit. Pierce thanked Dumas for his leadership and said the Police Department is in good hands. He said he has personally observed the Rowley Police Department responding to a complaint, and was impressed by their de-escalation techniques so that they didn't have to use force.

2. Discuss and approve procedures for allowing restaurants to have temporary outdoor seating and alcohol service under the Governor's Order for Phase II re-opening

Chairman Pierce read the following:

On June 1, 2020, Governor Baker issued an Executive Order on the Phase 2 Re-Opening, clarifying the workplace plan. In Section 4 of this Order (copy is attached) the Governor authorizes Boards of Selectmen in towns to approve requests for expansion of outdoor table service of restaurants, but that before doing so, the Board of Selectmen must establish the process for approving such requests. Town Counsel Tom Mullen has confirmed with us the Board of Selectmen must establish a process for allowing restaurants to have outdoor seating for food and alcohol. This is a temporary action by Governor Baker that applies to the COVID Emergency and expires on November 1, 2020.

Just last week we have started receiving inquiries from restaurants on the process to set up outdoor seating for customers. Because the Selectmen are responsible for setting up the process, Amy has prepared the attached draft Restaurant Temporary Outdoor Seating and Liquor License Expansion process and application form. It has been reviewed and edited by Tom Mullen. On Friday, Amy asked Building Inspector Ken Ward, Health Director Frank Marchegiani, Fire Chief James Broderick, and Police Chief Scott Dumas to review the draft application. We haven't received their feedback yet on the attached draft.

Does the Board have any questions on the forms? We are not recommending an application fee. Restaurants wishing to put a tent up will need to get a permit from the Building Inspector (depending on the size). The Inspection Department does charge a fee for a tent application. (Does the Board want to temporarily waive the tent fee for restaurants during the COVID emergency?) Pending any major suggested changes from the department heads would the Board consider voting to approve the process and the application form? ROLL CALL vote is necessary. The restaurants are anxious to start the Phase 2 Re-opening with outdoor seating, that is why we are requesting you to vote on the draft now and to allow us to make modifications to it, based on the department heads' requests. Does the Board wish to discuss a fee for this application or for the tent permit?

Lydon reviewed the comments submitted by the various department heads. Ziev said the fee should be waived. Pierce and Perry agreed.

Joe Perry made a motion to not charge an application fee and to waive the tent permit fee, Deana Ziev second, all in favor – aye - roll call vote: Bob Snow – aye; Cliff Pierce – aye; Dave Petersen – aye; Deana Ziev – aye; Joe Perry – aye.

Pierce said he doesn't have any issue with the policy or application, but asked why the Planning Board has no roll, and said they should be included. Petersen said this is for a temporary emergency situation and the COVID crisis would be over before we finished having Planning Board meetings and hearings. He said he thinks we should streamline the process as much as possible, let's go with this, and we can amend it later. Ziev said she agrees with Petersen and the Selectmen should do their part to make sure this moves forward. Pierce said he agrees that we should start this right away and not make it burdensome, and he is fine with it as is if the Board is satisfied with it. Eagan said we will incorporate the updates into the form and we can distribute it to those that have made inquiries. She said we can ask Department Heads to promptly review the applications. Ziev said the restaurants want to be able to do this by the weekend, and the Selectmen have a meeting on Thursday. Eagan said it is a special meeting and it needs to be posted no later than 2:00 today. Petersen said he thought the Board would adopt the rules, and the Town Administrator would get feedback from the department heads and then respond to the application. Pierce said he would prefer that and asked if that is acceptable to Eagan. Eagan said that would be the decision of the Board of Selectmen, and they could authorize her to approve applications. She said otherwise the Board of Selectmen would need to vote on every application.

Dave Petersen made a motion to approve the procedures with the changes from the department heads that Lydon reviewed, make the Town Administrator responsible for approving applications after they have been approved by the Department Heads, and to provide an updated list periodically to the Board on the approvals, Bob Snow second, all in favor – aye - roll call vote: Bob Snow – aye; Cliff Pierce – aye; Dave Petersen – aye; Deana Ziev – aye; Joe Perry – aye.

3. Discuss letter from Larry Berger of Anser Advisory regarding contract amendment for owner's project manager services for the Pine Grove School construction

Chairman Pierce read the following:

Joe Perry received the attached letter from Larry Berger concerning the OPM Fee for the Pine Grove School project. Joe will discuss this agenda item.

Perry said everyone should have a copy of the letter from Anser Advisory. He said they did extend the start date from April to June, and there was an additional cost for these additional weeks. Pierce said this looks identical to a previous request from Pinck & Co. for \$80,000 to \$90,000 that Mullen reviewed and said there was no basis for an approval of. He said he would like Mullen to review this as he doesn't think there is a basis to approve this. He said Pinck and the other contractors requested to start early, and now they are requesting more money. He said he isn't sure how COVID 19 created

additional costs, he is not sure this makes sense, he is not in favor of approving this, and he wants to ask Mullen to review this.

Bob Snow made a motion to send this letter to Town Counsel Tom Mullen for review, Deana Ziev second, all in favor – aye - roll call vote: Bob Snow – aye; Cliff Pierce – aye; Dave Petersen – aye; Deana Ziev – aye; Joe Perry – aye.

4. FY 21 Selectmen Appointments

Chairman Pierce read the list of Selectmen appointments, and asked if all wish to continue in those roles. There were no objections by any Selectmen about being re-appointed to these positions.

Joe Perry made a motion to reappoint the Selectmen to the positions detailed below through June 30, 2021:

- Eastern Essex Veterans District Representative – Bob Snow
- Eastern Essex Veterans District Alternate Representative - Dave Petersen
- Personnel Advisory Committee Representative – Dave Petersen
- Cannoneer – Deana Ziev
- Massachusetts Bay Transportation Authority (MBTA) representative – Bob Snow
- Merrimack Valley Planning Commission representative – Bob Snow
- Merrimack Valley Planning Commissioner alternate representative – Joseph Perry
- Town of Rowley Veterans Committee – Bob Snow
- Zoning Review Committee Representative –Cliff Pierce

Bob Snow second, all in favor – aye - roll call vote: Bob Snow – aye; Cliff Pierce – aye; Dave Petersen – aye; Deana Ziev – aye; Joe Perry – aye.

Deana Ziev said she would be happy to learn and be appointed to the second seat of the Zoning Review Committee.

Bob Snow made a motion to appoint Deana Ziev as a Selectmen's representative to the Zoning Review Committee, Joe Perry second, all in favor – aye - roll call vote: Bob Snow – aye; Cliff Pierce – aye; Dave Petersen – aye; Joe Perry – aye. Deana Ziev – ABSTAINED.

OLD BUSINESS

1. Discuss Annual and Special Town Meeting: location; COVID-19 Plan; quorum; assign motions

Chairman Pierce read the following:

The final version of H. 4777, the bill relating to the Town Meeting issues is on the Governor's Desk.

The highlights are as follows:

- 1) There is a provision to allow towns to hold their Town Meetings out of Town. Because the warrant has been signed by the Selectmen with the Pine Grove School location on it, Town Moderator Joan Petersen can move the Town Meeting to the Triton High School Auditorium due to space issues involving social distancing.*
- 2) Boards of Selectmen, in consultation with their moderators, are allowed to lower quorum requirements for open town meetings to not less than 10 percent of the existing quorum level. The Board of Selectmen needs to hold a meeting to discuss this. This meeting must have a seven-day advance notification requirement. Under the final version of the bill, there are no restrictions on the articles that can be taken up or voted on at the reduced-quorum town meeting. The entire warrant and articles will be voted on in the same manner they are at any other Town Meeting.*

Does the Board wish to hold a meeting to discuss reducing the quorum? The meeting requires a 7-day advance notice. It is unclear what type of notice is required. Debbie suggests putting a notice in the Daily News, on the website and at Town Hall. Debbie is suggesting holding a remote meeting on Thursday, June 18 at 2:00 p.m. to discuss this. The Town Moderator Joan Petersen needs to be in attendance.

Debbie is working with Town Moderator Joan Petersen on setting up the Town Meeting. Does the Board wish to purchase cordless microphones?

Joe Perry made a motion to have a meeting to reduce the quorum, Bob Snow second. This vote was not completed.

Bob Snow made a motion to meet on Thursday June 18, 2020 at 2:00 p.m. to discuss reducing the quorum, Deana Ziev second, all in favor – aye - roll call vote: Bob Snow – aye; Cliff Pierce – aye; Dave Petersen – aye; Joe Perry – aye, Deana Ziev – aye.

Eagan said to move the Town Meeting out of Rowley, the Selectmen must take a vote in consultation and approval of the Moderator. She said the Pine Grove School auditorium cannot accommodate a 100 person quorum with social distancing, but the Triton Auditorium can. Joan Petersen said that she, Amy and several others went to Pine Grove School and it is not large enough, and there is nowhere else in Town large enough to have the meeting. She said they went to the Triton auditorium and there are 800 seats, but it can only accommodate 200 seats with social distancing. She said there will be a section for couples and a section for people not wearing masks. She said people will need to raise their hand if they need to use the bathroom in order to limit movement. She said people will be dismissed by rows. She said we are working with the Board of Health and under all State regulations. She said she hopes taxpayers who want to come will come.

Bob Snow made a motion to move Town Meeting from the Pine grove School to Triton Auditorium due to the COVID situation, Joe Perry second, all in favor – aye - roll call vote: Bob Snow – aye; Cliff Pierce – aye; Dave Petersen – aye; Joe Perry – aye, Deana Ziev – aye. Moderator Joan Petersen – aye.

Snow thanked Moderator Petersen for all of her hard work.

Pierce continued:

We need to get the word about the Town Meeting location change. We suggest a Reverse 9-1-1 call, Notice on Town Website, Rowley Community Media, and on the message sign boards.

Bob Snow made a motion to notify people of the change of location as detailed above, Deana Ziev second, all in favor – aye - roll call vote: Bob Snow – aye; Cliff Pierce – aye; Dave Petersen – aye; Joe Perry – aye, Deana Ziev – aye. Moderator Joan Petersen – aye.

Debbie is asking the Board to assign motions now for the Town Meeting. It may be easier to have all the motions made by the same two Selectmen as a way to minimize the use of the microphones. Does the Board want to do that? If so, could the Board designate who will be making motions and she will prepare the motion list with those two names.

Petersen said the Selectmen will be all spread out on the stage, and it would be easiest for the Selectmen to make all the motions, even if they are for other departments. He said this will help the meeting move along more quickly and help to maintain safe distances. He said the Department heads can speak on the motions if they wish to. Snow, Pierce, Ziev and Perry agreed that this is a good idea.

Dave Petersen made a motion to notify departments that the Board of Selectmen will be making all the motions and to let us know if there are concerns with this, Bob Snow second, all in favor – aye - roll call vote: Bob Snow – aye; Cliff Pierce – aye; Dave Petersen – aye; Joe Perry – aye, Deana Ziev – aye. Moderator Joan Petersen – aye.

Dave Petersen made a motion for the Chairman to make the motions and for the Vice Chairman to second the motions, Bob Snow second, all in favor – aye - roll call vote: Bob Snow – aye; Cliff Pierce – aye; Dave Petersen – aye; Joe Perry – aye, Deana Ziev – aye. Moderator Joan Petersen – aye.

FY 20 MGL Ch. 44 § 33B(b) Budget Transfers

1. Request from Town Administrator to transfer funds from Litigation to Town Hall for a heating pipe repair

Bob Snow made a motion to approve this budget transfer request, Deana Ziev second, all in favor – aye - roll call vote: Bob Snow – aye; Cliff Pierce – aye; Dave Petersen – aye; Joe Perry – aye, Deana Ziev – aye. Moderator Joan Petersen – aye.

2. Request from Treasurer/Collector to transfer funds from Public Safety II Principal to Pine Grove School Reno II Principal

Joe Perry made a motion to approve this budget transfer request, Bob Snow second, all in favor – aye - roll call vote: Bob Snow – aye; Cliff Pierce – aye; Dave Petersen – aye; Joe Perry – aye, Deana Ziev – aye. Moderator Joan Petersen – aye.

3. Request from Treasurer/Collector to transfer funds from Public Safety II Interest to Pine Grove School Reno II Interest

Dave Petersen made a motion to approve this budget transfer request, Bob Snow second, all in favor – aye - roll call vote: Bob Snow – aye; Cliff Pierce – aye; Dave Petersen – aye; Joe Perry – aye, Deana Ziev – aye. Moderator Joan Petersen – aye.

4. Request from Fire Chief to transfer funds from Call Firefighter Wages to Wages Firefighters

Bob Snow made a motion to approve this budget transfer request, Deana Ziev second, all in favor – aye - roll call vote: Bob Snow – aye; Cliff Pierce – aye; Dave Petersen – aye; Joe Perry – aye, Deana Ziev – aye. Moderator Joan Petersen – aye.

5. Request from Fire Chief to transfer funds from Call Firefighter Wages to Fire Chief Salary

Bob Snow made a motion to approve this budget transfer request, Joe Perry second, all in favor – aye - roll call vote: Bob Snow – aye; Cliff Pierce – aye; Dave Petersen – aye; Joe Perry – aye, Deana Ziev – aye. Moderator Joan Petersen – aye.

ADJOURN

Chairman Pierce called for a motion to adjourn. Bob Snow so moved, Deana Ziev second, all in favor – aye roll call vote – Bob Snow – aye; Joe Perry – aye; Dave Petersen – aye; Deana Ziev – aye; Cliff Pierce – aye.

Meeting adjourned at 2:01 p.m.

Respectfully submitted,
Amy Lydon
Assistant Town Administrator

ATTACHMENTS:

1. Letter of resignation from Call Firefighter Joshua Simpson
2. Letter of resignation from Call Firefighter Christopher Cassidy
3. Meeting memo regarding New Business #1: Discussion on Rowley Police Department procedures on use of force
4. Letter from Bernard Cullen regarding Police Use of Force
5. The Local News article titled, "Ipswich and Rowley police chiefs denounce killing of George Floyd."
6. Meeting memo regarding New Business #2: Discuss and approve procedures for allowing restaurants to have temporary outdoor seating and alcohol service under the Governor's Order for Phase II re-opening
7. DRAFT procedures for allowing restaurants to have temporary outdoor seating and alcohol service under the Governor's Order for Phase II re-opening
8. Excerpt from Executive Order #35
9. Email from Amy Lydon regarding Alcoholic Beverages Control Commission Advisory Regarding Local Licensing Authorities' Approval of Outdoor Seating, including two attached ABCC Advisories
10. Meeting memo regarding New Business #3: Discuss letter from Larry Berger of Anser Advisory regarding contract amendment for owner's project manager services for the Pine Grove School construction
11. Email from Debbie Eagan regarding OPM Contract Amendment, including attachment
12. Email from Larry Berger regarding OPM Contract Amendment
13. Meeting memo regarding New Business #4: FY 21 Selectmen Appointments
14. Memo from Amy Lydon regarding FY21 Selectmen Appointments
15. Meeting memo regarding Old Business #1: Discuss Annual and Special Town Meeting: location; COVID-19 Plan; quorum; assign motions
16. Annual and Special Town Meeting Warrants
17. Meeting memo regarding FY 20 MGL Ch. 44 § 33B(b) Budget Transfers
18. FY 20 MGL Ch. 44 § 33B(b) Budget Transfer Request from Town Administrator to transfer funds from Litigation to Town Hall for a heating pipe repair
19. FY 20 MGL Ch. 44 § 33B(b) Budget Transfer Request from Treasurer/Collector to transfer funds from Public Safety II Principal to Pine Grove School Reno II Principal
20. FY 20 MGL Ch. 44 § 33B(b) Budget Transfer Request from Treasurer/Collector to transfer funds from Public Safety II Interest to Pine Grove School Reno II Interest
21. FY 20 MGL Ch. 44 § 33B(b) Budget Transfer Request from Fire Chief to transfer funds from Call Firefighter Wages to Wages Firefighters
22. FY 20 MGL Ch. 44 § 33B(b) Budget Transfer Request from Fire Chief to transfer funds from Call Firefighter Wages to Fire Chief Salary