

MINUTES OF THE BOARD OF SELECTMEN MEETING

November 9, 2015,
Meeting held at Town Hall, 7:00 p.m.

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

PUBLIC ATTENDEES: Larry White, FINCOM/Open Space; Stephen Barry; Henry Rolfe - Independent Press; John Kotsiras; Deborah Johnson; Gregory Carell - The Carell Group; Karen Summit - Treasurer/Collector; Patrick Snow - Highway Surveyor; Bernard Cullen - 283 Wethersfield St.

CALL MEETING TO ORDER

Chairman Merry called meeting to order at 7:00 p.m. He said the meeting is being audio and video recorded digitally.

PLEDGE OF ALLEGIANCE

Highway Surveyor Patrick Snow led the Pledge of Allegiance.

7:00 p.m. APPOINTMENT* – Highway Surveyor Patrick Snow to discuss snow plowing of private roads open to the public

Chairman Merry read the letter from Highway Surveyor Patrick Snow. Patrick Snow said it has been discovered that we are allowed to plow private/unapproved roads using Town funds, but we cannot make repairs or maintain these roads.

Dave Petersen made a motion to authorize the Highway Surveyor to plow Ellsworth Road and Kathleen Circle, Bob Snow second, all in favor - aye (5-0).

GENERAL BUSINESS

1. Request from Zoning Board of Appeals to appoint Donald Thurston and Thomas Heidgerd as the ZBA representatives to the Zoning Review Committee

Chairman Merry read the request from Zoning Board of Appeals to appoint Donald Thurston and Thomas Heidgerd as the ZBA representatives to the Zoning Review Committee.

Dave Petersen made a motion to appoint Donald Thurston and Thomas Heidgerd as the ZBA representatives to the Zoning Review Committee, Cliff Pierce second, all in favor - aye (5-0).

CITIZEN QUERY 7:05 p.m. – 7:10 p.m.

Citizen Query opened at 7:05 p.m. and continued until 7:10 p.m. There were no Citizen's Queries.

GENERAL BUSINESS

2. Request from Planning Board to appoint Cliff Pierce and David Jaquith as Planning Board representatives to the Zoning Review Committee
3. Request from Planning Board to appoint Town Planner Kirk Baker as non-voting member of the Zoning Review Committee

Chairman Merry read the memo from Kirk Baker, Town Planner, regarding the Zoning Review Committee appointments.

Joseph Perry made a motion to appoint Cliff Pierce and David Jaquith as the Planning Board representatives to the Zoning Review Committee, Bob Snow second, all in favor - aye (4-0). Cliff Pierce - ABSTAINED

Joseph Perry made a motion to appoint Town Planner Kirk Baker as the Zoning Review Committee Secretary, Bob Snow second, all in favor - aye (5-0).

7:10 p.m. APPOINTMENT* - Treasurer/Collector Karen Summit to discuss new federal filing requirements under the Affordable Care Act

Treasurer/Collector Karen Summit said the Affordable Care Act added two sections to the IRS code with new reporting requirements. She said she attended a MIIA conference on October 16, 2015 on this topic and the Town has more than fifty full time employees (employees who work more than thirty hours per week) when the part time employees are aggregated into full time equivalents. She said the reporting requirements are as follows:

- A letter needs to be sent to all employees insured through the Town of Rowley informing them that the insurance meets the minimum requirements which will need to be filed with their Federal taxes. She said MIIA will take care of this letter.
- We need to report to the Federal Government the number of full time employees the Town has and if we offer insurance to them. She said Harpers is helping to fulfill this requirement and every full time employee will receive a form similar to a W-2 that says the Town of Rowley is offering them insurance in compliance with the Affordable Care Act.

She said the Federal Government then reviews the information to determine if the Individual Health Insurance Plan is affordable. She said the review is based on the employee's household income and she is not sure how the Federal Government will handle this. She said the Town can be penalized if it is not offering affordable insurance. She said in 2015 we are required to report the information, but penalties will not be assessed the first year. She said this is very gray, and MIIA will help us monitor this going forward.

Eagan said she wants the Board to be aware of this. She said all employers need to follow the Affordable Care Act and the Selectmen are the employer for the Town of Rowley. She said we will get these forms filed.

Bob Merry disclosed that he is insured with the Town of Rowley as a retired employee. Summit said this applies to active employees only. She said she doesn't know what this will cost, and may need to ask for a transfer at some point. Perry clarified that the Town employs 46 employees who work more than 30 hours per week, and when all of the part time employees are added up, we have more than 50 employees who work more than 30 hours per week.

Bernie Cullen of Wethersfield Street asked if the upper liability to the Town can be calculated. Summit said she is working with Harpers on getting the data needed for the calculation. Cullen asked if we aren't in compliance, how much will this cost the Town? Summit said she has no idea. Petersen said when Summit was discussing the cost, she was discussing the cost to gather the data needed, and not the cost of potential penalties. Summit said that is correct.

OLD BUSINESS

1. Discuss letter from Stephen B. Comley, Sr.

Petersen requested that the five page letter typed in small print not be read into the record, but that it be included with the meeting minutes. He said all the Selectmen have received copies of the letter. Merry said he read it and the issues brought up in the letter have already been addressed for the most part. He said Comley is asking the Board to redo items already addressed, and he doesn't think they should, but it is up to the Board. Pierce said two issues are brought up in the letter, the first being the signs and the second being the Seabrook nuclear power plant, which he agrees has already been gone over. Merry said REMA Director James Broderick spent over forty hours reviewing this material, and this letter includes basically the same information. He said Broderick issued a report on this and the Board sent a letter to Congressman Moulton on this topic, asking them to review it, and that should be all the action the Board takes on this. He said he has confidence in REMA Director Broderick. Pierce said the Board

has an impressive meeting on this topic. Perry said State Emergency Management members came to the meeting on this topic and he thinks this has been covered. Snow said Senator Tarr and Representative Hill came to that meeting during which MEMA members covered the safety protocols related to Seabrook Nuclear Power Plant and unfortunately, Mr. Comley did not attend the meeting. Perry said the Board sent a letter to Moulton and it is Moulton's responsibility to respond to it.

Petersen said regarding the sign issue, Comley should talk to each Town department that removed his signs to ask what happened to them, and he doesn't think that is up to the Selectmen to do. He said if the signs are gone, they are gone and we can't waste time tracking down signs put up illegally on Town property. Merry said we received complaints about these signs, and if they were put on utility poles, this is a violation of Section 164 of Massachusetts General Laws, and if finable.

Dave Petersen made a motion to send Comley a letter informing him that they have already handled his Nuclear Plant concerns and he should contact the Departments regarding his signs, Joseph Perry second, all in favor - aye (5-0).

Bernie Cullen of Wethersfield Street asked if the signs were put on Town property illegally. Petersen said the motion covers what they want to do.

NEW BUSINESS

1. Letters from residents of Kathleen Circle re: street acceptance and snow plowing

Chairman Merry read the letter from residents of Kathleen Circle re: street acceptance and snow plowing. Eagan said there was nothing attached to the letter when it came into the office. Petersen asked that this be tabled. He said this should be sent to the Planning Board and he has never heard of Kathleen Circle Extension. Merry said when this area was developed, swampy land at the end of the cul-de-sac was given to the Conservation Commission. He said there is no Kathleen Circle Extension according to the Assessor's records and the cards for the houses say Kathleen Circle. Eagan said the Planning Board needs to go back and review the records and bring this forward as an eminent domain. She said the Selectmen should defer to the Planning Board and send a letter to the residents advising them to meet with the Planning Board about this matter. Pierce said it would seem that this should start with the Planning Board. Merry said if there is a Kathleen Circle Extension, it may cause confusion when there are emergency calls from the street. Eagan said the Planning Board can make a recommendation on that. Petersen said only a few residents signed this letter, and in the past some residents didn't want the street to be accepted. Petersen said all residents need to agree to this, and the Board should send this to the Planning Board for review. Pierce said the Planning Board can look into both Kathleen Circle and Kathleen Circle Extension, and it would be nice to take care of all of these roads, the

developers are gone. Larry White asked how the plowing will be done and if the Town is liable for damages incurred from plowing. Petersen said they already agreed to plow all of Kathleen Circle. Merry said damages would be handled the same as for any accepted street.

Joseph Perry made a motion to send a letter to the Planning Board and the residents, Bob Snow second, all in favor - aye (5-0).

7:30 p.m. APPOINTMENT*– Greg Carell of The Carell Group, Police Chief Robert Barker and Fire Chief James Broderick to discuss Police and Fire Station feasibility project

Police Chief Robert Barker said The Carell Group was hired to do the feasibility study for the public safety building, Greg Carell has worked closely with both the Police and Fire Chiefs on this and he thinks Carell has done a great job.

Greg Carell presented the plan to the Board of Selectmen. The presentation slides he reviewed are attached to these minutes. He said the mission was to create a police and fire facility in the most economic way possible. He said the plan he is presenting is the most lean and mean it can be, and if it is cut further, we may cut into the meat of the project, and not the fat of the project. He reviewed the project and said the existing police station cells, dispatch area, records storage areas and evidence areas are good spaces and will be kept. He reviewed the floor plans for each of the buildings. He reviewed the project cost estimate of \$11,138,750 total and said the construction cost is the contractor's bid, and the soft costs are for items such as furniture and electronics. He said the fire station at 14,000 square feet is on the small size and fire stations are typically 18,000 - 22,000 square feet. Petersen asked if the \$11 million estimate includes architect and design fees. Carell said yes, and it also includes contingencies. Carell said \$11 million is the worst case scenario and he hopes the cost can be worked down from this estimate.

Fire Chief Broderick said this plan addresses all of the shortcomings at the current station including a lack of training space; lack of an area to clean the equipment; lack of bunker rooms; lack of showers and lockers and provides some room for expansion. Police Chief Barker said Fire Department's current site wouldn't support a building this size, or for an expansion of the Fire Department there, and there is also a lack of parking. Barker said he would like to point out that the current police station has temporary trailer space that is being used, so while on the floor plan presented, it appears that the station will be four times larger, in reality it will be larger, but not four times larger. Barker said the planned space includes locker rooms and a cubicle work spaces for non-management Police Officers, which the current station does not have.

Petersen said the current Fire Station is completely inadequate and the Police Station has four temporary trailers that were expected to be used for three to six years, but have been used for the past nine to ten years. He said the trailers being used are not insulated, and have bad roofs. He said he is impressed with the plan and that it reuses

the salvageable facilities, and the building exteriors blends into the Town and the neighborhood. He said this will be a tough sell to the public, but the Town is at the breaking point. He said \$11 million will be a huge override, but this is needed, and it will cost more the longer it is put off. He said we need to get the voters to support this project.

Perry said his only concern is reusing the cell blocks since in the past Police Chief Barker has informed the Board about problems with the cell blocks. Carell said the existing spaces being reused are being refurbished as part of the plan. Pierce asked if assumptions regarding the sizes of the forces have been factored in. Barker said he doesn't think the Police force will increase by more than three men. Broderick said even with twenty-four hour fire coverage in Town he doesn't see more than ten people working per shift, so the building is capable of handling this. Larry White asked what the time frame is from breaking ground to occupancy. Carell said about a year, and the police service would be uninterrupted, but impacted throughout the project. Bernie Cullen asked about the turning radius for the fire trucks and said it looks tight. Broderick said it is large enough to turn the apparatus. Carell said there is a 100 foot radius. Snow said in 2004, the project cost \$6,000,000 and twelve years later it costs \$11,000,000. He said interest rates are low now and they will increase and we need to think about the long term. Perry said we can't keep putting this project off. Petersen asked what the next steps are. Barker said tonight they wanted to present this to the Selectmen for their thoughts and guidance and if the Board thinks this is a viable plan, we need to get this funded in the future. Carell said they will make presentations and have informational meetings for the public. Snow said the trailers at the Police Department won't last and the Fire Station is a nice building meant for last century, not this century. Petersen said the meeting rooms can be used for dual roles such as command centers during emergencies. He said with construction costs increasing 5% annually, the project will cost more the longer it is put off, and this is an investment in our community. Snow said the Fire Department has expensive new ladder and engine trucks, which need to be put in a good facility. Perry said Carell has met the objectives and the needs of the Departments at a reasonable cost, so this looks good.

Bob Snow made a motion to allow the architect to move forward with this plan, the two Chiefs agreed to this, Joseph Perry second, all in favor - aye (5-0).

NEW BUSINESS

2. Request from Town Accountant Susan Bailey to extend the USI, Inc. Actuarial Valuation of Town's Retiree health Insurance costs –GASB #45

Chairman Merry read the email request from Susan Bailey.

Joseph Perry made a motion to to extend the USI, Inc. Actuarial Valuation of Town's Retiree health Insurance costs –GASB #45, Bob Snow second, all in favor - aye (5-0).

3. Review Open Meeting Law Complaint filed by Timothy Toomey against Board of Selectmen – John Manning, Maryann Levasseur, Robert Snow

Chairman Merry read the following:

Water Board Vice Chairman Timothy Toomey filed an Open Meeting Law Complaint against the “Board of Selectmen – investigatory agent” and specifically named John Manning, Maryann Levasseur and Robert Snow.

Mr. Toomey states in his OML Complaint:

“Members had a quorum and were all in attendance and never properly indentified in what capacity they were asking questions on November 3, 2015. Robert Snow, John Manning and Maryann Levasseur violated the Open Public Meeting Law by attending the Water Board meeting see digital recording posted on RCM November 3, 2015. + October 20, 2015.

The Open Meeting Law defines deliberation as “an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction.”

Eagan read the following:

During the October 19, 2015 Board of Selectmen’s meeting, the Board voted to form a Task Force consisting of the following members:

- *Robert Snow, selectman representative;*
- *Karen Summit, as the IT representative; and*
- *MaryAnn Levasseur, as the Personnel Board representative*

to investigate the chain of custody of the following Water Department items that went missing when Water Superintendent MaryBeth Wiser was placed on Administrative Leave:

- *Superintendent’s laptop;*
- *Superintendent’s keys;*
- *Superintendent’s cell phone; and*
- *Documents and operating manuals*

While both Mr. Snow and Mrs. Levasseur were in attendance at the October 20, 2015 Board of Water Commissioners meeting and the November 3, 2015 Board of Water Commissioners meeting, neither individual discussed the missing items:

- *Superintendent’s laptop;*

- Superintendent's keys;
- Superintendent's cell phone; and
- Documents and operating manuals.

Mr. Snow and Mrs. Levasseur did not discuss the missing items either with each other or with the Board of Water Commissioners during either meeting – October 20, 2015 and November 3, 2015

The Open Meeting Law does not prohibit members of public bodies from attending other Town board meetings. G.L. c. 30A §18 – Definitions – the following is stated for the definition of "Meeting" – Meeting, a deliberation by a public body with respect to any matter within the body's jurisdiction; provided, however, "meeting" shall not include:

c) attendance by a quorum of a public body at a meeting of another public body that has complied with the notice requirements of the open meeting law, so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate.

Mr. Toomey has named Water Board Chairman John Manning in this complaint. Mr. Manning is not a member of the Task Force to Investigate the Chain of Custody of Water Department Property that went missing when the Water Superintendent was placed on Administrative Leave.

If the Board is in agreement that there has been no violation of the Open Meeting Law, as alleged by Chairman Toomey, the Board can vote and sign the attached letter prepared by Debbie.

Eagan said MaryBeth Wiser's attorney asked when the keys and laptop would be returned, and Toomey said he didn't know where they were, and the next day Toomey asked a Rowley Police Officer to return the keys and the phone to Wiser. She said Wiser has reported that documents and operating manuals are missing from the office. Snow said he had no communication with Mo Levasseur before, during or after the meetings. He said during the November 3, 2015 Water Board meeting, Toomey confronted him, he told Toomey that a task force had been formed and asked him to state what the violation of the Open Meeting Law is, and Toomey didn't respond. Eagan said the Open Meeting Law doesn't prohibit a quorum of a public body from attending another public body's meeting. Pierce said he thinks the response should be what Eagan just stated, rather than going into other things. Perry said Manning is not part of that task force. Eagan said in anticipation of a decision by the Board to respond to this complaint, she has prepared a letter of response for the Board to sign. She said she spoke with Levasseur, who would like a statement attached to the response. Merry read the last paragraph of the drafted letter.

Dave Petersen made a motion sign the letter of response as prepared by Eagan, with the attachment from Levasseur, Cliff Pierce second, all in favor - aye (5-0).

The Selectmen signed the letter.

4. Review 4 Open Meeting Law complaints emailed by Timothy Toomey on October 30, 2015 against Board of Selectmen and letter from Deborah Eagan, Amy Lydon and Elaine Pagliarulo to Timothy Toomey re: 4 Open Meeting Law Complaints not responded to by Rowley Selectmen

Chairman Merry read the following:

The Board of Selectmen received four Open Meeting Law Complaints via an email on October 30, 2015. Debbie, Amy and Elaine have sent a letter to Mr. Toomey and copied the Attorney General's Office stating that the documents contained in the PDF file sent via the October 30, 2015 email message were not delivered to the Board of Selectmen. Debbie will read the letter into the record.

Has any member of the Board of Selectmen received these complaints?

The date of the alleged OML violations are as follows:

OML #1 – September 21, 2015

OML #2 – September 29, 2015

OML #3 – September 14, 2015

OML #4 – September 21, 2015

According to the OML Complaint process, the complaint must be filed with the public body, which in this case is the Board of Selectmen, within 30 days of the alleged violation. The four complaints filed by Mr. Toomey, which were received on October 30, 2015 via the email have alleged violation dates that exceed 30 days. The second complaint, does not contain a Town Clerk stamp. Also, the second complaint, was received on the 31st day after the date of the alleged violation.

How does the Board wish to respond?

You can respond to each complaint and state that it was received on October 30, 2015 and the date of the alleged violation exceeds the 30-day filing requirement.

Or, you can respond to each complaint if you wish.

In either case, you can authorize Debbie to respond according to the Board's voted decision on each complaint.

Petersen said the Town Administrator has spent many hours responding to various Open Meeting Law Complaints and he recommends that the Board summarily reject these complaints since they were filed after the thirty-day deadline. He said any further effort on a response would be a waste of time and paper. Pierce and Merry agreed. Pierce said he doesn't believe that these were delivered to him. Eagan said the office staff consisting of Elaine Pagliarulo, Amy Lydon and herself are the gatekeepers of mail that is delivered to the Selectmen's Office and we reviewed each page and outlined which of the pages we had seen, which were copies of complaints filed by Chairman Merry, and the pages we haven't ever seen before. She said the office staff is fully prepared to state under oath that we have not seen these complaints. She asked the Board if Toomey had sent these complaints to the Selectmen at their homes. The Board members responded no.

Dave Petersen made a motion to reject the complaints based on the thirty day deadline and attach the letter prepared by the staff, Bob Snow second, all in favor - aye (5-0).

5. Review response from Timothy Toomey to Open Meeting Law Complaint filed by Joseph Perry on October 23, 2015

Chairman Merry read the following:

Mr. Toomey has responded to the Open Meeting Law Complaint filed by Vice Chairman Joe Perry on behalf of the Board of Selectmen.

The email messages which are the subject of the complaint read as follows:

*October 14, 2014
Please respond, second request.*

From: [Timothy A Toomey](#)

Sent: Tuesday, October 13, 2015 9:33 AM

To: [Karen Summit](#) ; [Debbie Eagan](#)

Cc: [John Manning](#) ; kdalzell@comcast.net

Subject: General Fund Question regarding comp time

Ms. Summit,

The selectmen have illegally authorized comp time for the Water Department superintendent. They allowed 80 hours of unauthorized time to be transferred over to another fiscal year (2015 to 2016). It's a salaried position, and as such there is no

comp time. The Board of selectmen, not the water board, authorized the superintendent to commute and use the water department truck for own personal use. I have discovered over the last month that expense statements on personal use mileage were filled out for tax purposes.

Once again, these expenses were not authorized by the water commissioners nor approved at any town meeting. The treasurer's office continues without proper authorization to pay these benefits out of the water department's enterprise funds. The water commissioners have control of all operating expenses paid through the enterprise fund.

The selectmen have no authority to allow payments and or you to disburse money out of our enterprise fund without Water Board approval.

Are these unauthorized superintendent benefits, which are over the 2015 budget, being paid out of the General Fund?

Tim Toomey
Chair-RWB

The complaint filed by Vice Chairman Joe Perry on behalf of the Board of Selectmen states the following:

Water Board Chairman Timothy Toomey sent an email dated October 13, 2015 to Treasurer/Collector Karen Summit and Town Administrator Deborah Eagan and copied Water Board Vice Chairman John Manning and Water Board Commissioner Stuart L. Dalzell, Sr. (Exhibit #1) After receiving no response, he followed up on this email on October 14, 2015 requesting a response. (Exhibit #1). The email violates the Open Meeting Law and constitutes a deliberation. Chairman Toomey expresses his opinion on matters that should be discussed during a properly posted public meeting of the Board of Water Commissioners. Vice Chairman Manning asked Ms. Eagan and Ms. Summit to remind Mr. Toomey that he cannot use email for this purpose because it invites deliberation. (Exhibit #2). Ms. Eagan referred this email to the Board of Selectmen for discussion at their October 19, 2015 meeting and they voted to authorize Vice Chairman Joseph Perry to file an Open Meeting Law Complaint against Chairman Toomey. Exhibit #1 is just one example of many emails in which Chairman Toomey expresses his opinion and "cc" the other two commissioners. Chairman Toomey received an Open Meeting Law Complaint from Ms. Summit dated September 23, 2015 for this same action - deliberating through email. (Exhibit #3). Chairman Toomey offered no response to her complaint. His lack of a response, combined with the fact that he continues to express his opinions in emails, shows total disregard of the Open Meeting Law. The email appears to be an intentional violation of the Open Meeting Law. Ms. Summit has alerted the Board of Selectmen via a memo dated October 19, 2015 that Chairman Toomey's October 13 email message violates the Open Meeting Law (Exhibit #4). The issues Chairman Toomey raises in the email message should have been discussed at a meeting.

The first paragraph of Mr. Toomey's response letter focuses on Treasurer/Collector Karen Summit.

Mr. Toomey states the following in the second paragraph of his response:

Throughout the entire course of the correspondence referred in the OML complaint, nowhere are opinions being stated. These emails were looking for reports or documents that may be discussed at a water board meeting which would be helpful to our public body members when preparing for upcoming meetings. Thus, these types of communications do not constitute deliberation as alleged in the OML complaint.

Mr. Toomey clearly states his opinions in this email message and asks the recipient of the message a question. Where in his message does he ask for reports or documents? Furthermore, the October 14th email he asks Karen Summit to "Please, respond, second request." That certainly is an invitation for deliberation outside of a meeting.

The next paragraph of Mr. Toomey's response discusses differences between facts and opinions. In his last paragraph Mr. Toomey states:

No invitation of deliberation to other members of board were solicited by chair in emails.

According to the AGO's OML Guide on page 4,

Emails sent by a member of a public body to a quorum of that public body should only be used to distribute a meeting agenda, scheduling information, procedural information, or reports or documents that may be discussed at an upcoming meeting. The Guide states that ". . . the expression of an opinion on matters within the body's jurisdiction to a quorum of a public body is a deliberation, even if no other public body member responds. For example, if a member of a public body sends an email to a quorum of a public body expressing her opinion on a matter that could come before that body, this communication violates the law even if none of the recipients responds."

Mr. Toomey expresses his opinion in the October 13, 2015 email message to Karen Summit. Mr. Toomey asks Mrs. Summit a question. Mr. Toomey was not using email to send meeting agendas, documents or scheduling information.

If the Board is not satisfied with Mr. Toomey's response, the Board can vote to authorize Debbie to send a letter to the Attorney General's Office Division of Open Government requesting them to review this matter because Mr. Toomey's response is unsatisfactory.

Eagan said Wiser's mileage calculation is a requirement under the Town's IRS Commuting Policy. She said the Selectmen allowed an override of the personnel plan policy to allow a carryover of Wiser's compensatory time from one fiscal year to the next. She said the Selectmen were concerned about that first email since the other Water Board members were included on it, and Vice Chairman Manning expressed concern about being included on this email. She said Toomey's response is in the packet, and the in the first paragraph he makes statements about Karen Summit. Eagan read the second paragraph, and said Toomey does not request reports or documents. Pierce said Toomey's email is loaded with opinions made to the other two Commissioners.

Joseph Perry made a motion to authorize Eagan to send a letter to the Attorney General stating that the Board is unsatisfied with Toomey's response, Dave Petersen second, all in favor - aye (5-0).

6. Letter from Labor Counsel Joseph Fair re: appointment authority for Water Department employees

Chairman Merry read the letter.

Dave Petersen made a motion to send a copy of this letter to the Board of Water Commissioners, Bob Snow second, all in favor - aye (5-0).

Snow asked what the weight of Fair's opinion is. Merry said he is the Town's labor attorney and the appointing authority is a labor function, and this is a Supreme Judicial Court ruling. Pierce said this is based on Fair's interpretation of case law, which is not binding, but it has a great weight. Merry said if the Water Board disagrees with this and this went to court, the decision made would become case law. Audience member Attorney Deborah Johnson said a Superior Court case was cited which cited Massachusetts General Law, so it is an interpretation of the law, which hasn't gone up for appellate review. She said this is a pretty good analysis. Petersen said the Highway case cited is almost identical to the Town's situation. Pierce said he sees no reason to question this. Petersen said we can forward this to them and see what they want to do.

MINUTES

- November 2, 2015

Joseph Perry made a motion to approve the minutes from November 2, 2015, Cliff Pierce second, all in favor - aye (5-0).

ANNOUNCEMENTS

- Household Hazardous Waste Recycling Day – November 14 from 8:30 a.m. to 12:30 p.m. at the Highway Department facility, 40 Independent Street
- Friends of the Rowley Public Library Holiday Basket Raffle
- The Town has the following vacancies:
 - a. **Shellfish Commissioners** – two seats
 - b. **Cable Advisory Committee** – seeking five members
 - c. **Fence Viewer** – three positions;
 - d. **Wood, Lumber & Bark Inspector;**
 - e. **Zoning Board of Appeals** – one seat
 - f. **Zoning Board of Appeals Associate** - two seats
 - g. **Historical Commission-Historic District Commission** – two seats
 - h. **Parks and Recreation Committee** – two seats; and
 - i. **Open Space Committee** is seeking one memberFor more information on these positions, please contact the Selectmen's Office at 948-2372.
- Rowley Food Pantry is in need of donations. The Food Pantry is open Tuesdays from 10:00 a.m. to 12:00 p.m. and Thursdays from 5:30 p.m. to 7:00 p.m.
- Water Department will be flushing hydrants throughout Town starting on October 26 through November 12.

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

Open meeting adjourned at 8:57 p.m.

Respectfully submitted,
Amy Lydon
Assistant Town Administrator

ATTACHMENTS:

1. Letter from Highway Surveyor Patrick Snow to discuss snow plowing of private roads open to the public
2. Letter from Zoning Board of Appeals to appoint Donald Thurston and Thomas Heidgerd as the ZBA representatives to the Zoning Review Committee
3. Memo from Town Planner Kirk Baker regarding 2015 Appointments to the Zoning Review Committee
4. Memo from Treasurer/Collector Karen Summit regarding Affordable Care Act (ACA) Requirements Update
5. Letter from Stephen B. Comley, Sr., including enclosures
6. Letters from residents of Kathleen Circle re: street acceptance and snow plowing
7. Presentation made to Selectmen by Greg Carell regarding Rowley Police and Fire Headquarters Study Update

8. Email request from Town Accountant Susan Bailey to extend the USI, Inc. Actuarial Valuation of Town's Retiree health Insurance costs –GASB #45
9. Meeting Memo regarding New Business #3: Review Open Meeting Law Complaint filed by Timothy Toomey against Board of Selectmen – John Manning, Maryann Levasseur, Robert Snow
10. Letter sent by Board of Selectmen to Timothy Toomey in response to New Business #3, including attached statement from Mo Levasseur
11. Copy of Open Meeting Law Complaint filed by Timothy Toomey against Board of Selectmen – John Manning, Maryann Levasseur, Robert Snow
12. Meeting Memo regarding New Business #4: Review 4 Open Meeting Law complaints emailed by Timothy Toomey on October 30, 2015 against Board of Selectmen and letter from Deborah Eagan, Amy Lydon and Elaine Pagliarulo to Timothy Toomey re: 4 Open Meeting Law Complaints not responded to by Rowley Selectmen
13. Letter signed by Deborah Eagan, Amy Lydon and Elaine Pagliarulo sent to Timothy Toomey regarding 4 OML Complaints not responded to by Rowley Selectmen
14. Email from Timothy Toomey to openmeeting@state.ma.us regarding 4 OML complaints not responded to by Rowley Selectmen.pdf, including attachment
15. Meeting Memo regarding New Business #5: Review response from Timothy Toomey to Open Meeting Law Complaint filed by Joseph Perry on October 23, 2015
16. Response from Timothy Toomey to Open Meeting Law Complaint filed by Joseph Perry on October 23, 2015
17. Copy of Open Meeting Law Complaint filed by Joseph Perry on October 23, 2015
18. Letter from Labor Counsel Joseph Fair re: appointment authority for Water Department employees
19. Draft Minutes November 2, 2015