

**Board of Selectmen
Minutes of Tuesday, January 10, 2017
Bourne Community Building
Bourne, MA 02532**

.....

RECEIVED

2017 FEB -3 AM 9:19

TOWN CLERK BOURNE

TA Tom Guerino

Selectmen

Don Pickard, Chairman
Peter Meier, Vice-Chairman
George Slade, Clerk
Stephen Mealy
Michael Blanton

Note this meeting is being televised and recorded. If anyone in the audience is recording or videotaping, they need to acknowledge such at this time - Michael Rausch Bourne Enterprise.

All items within the meeting agenda are subject to deliberation and vote(s) by the Board of Selectmen.

Documents

Meeting Called to Order

Chm. Pickard called the meeting to order at 7:00 pm.

Moment of Silence for our Troops and our public safety personnel /Salute the Flag

Public Comment - Non-Agenda Items

None requested.

4) Minutes from Meeting(s) dates: 12-13-16

Voted Peter Meier moved and seconded by Michael Blanton to approve the minutes from 12/13/16 as presented. Vote 5-0.

5) Correspondence

George Slade brought the committee up to date on the correspondence.

- A. Attorney Shay appealing the response of the Town of Bourne - Town Administrator for request of records to the Commonwealth of MA
- B. Commonwealth of MA has considered the administrative appeal closed with the proviso that the Town provides said response without delay to Attorney Shay
- C. Bourne Housing Authority submitted a letter that Mr. Spence has expressed an interest in joining the Bourne Housing Authority to fill a vacancy.

D. Letter from Barbara Sullivan re: Public Access and Parking at Town Beaches - Summer 2017.

Peter Meier said regarding item C shouldn't we have a letter also?
Tom Guerino stated we will get a copy of the letter.

Don Pickard requested on item D for Mr. Guerino to forward a copy of the letter to Chief Woodside so he can review the letter.

Mr. Guerino said regarding A and C we had a discussion with Mr. Nathan of the agency of the Secretary of State and Public Records Division. We have responded to Mr. Shay on October 19th. He didn't think that was sufficient and he re-filed. I spoke with the Secretary of State's office provided them everything we sent to Mr. Shay and sent it to Mr. Shay again. According to the Secretary of State's office he still isn't satisfied. We will continue to work with him and the Secretary of the Commonwealth.

6) Senator Vinny deMacedo - The Senator will provide what options under newly passed marijuana ballot question on what Towns can do and not do related to retail dispensaries. He will also provide an update as to recent legislative actions on this law.

Senator deMacedo gave an update on the new law that was passed that made Marijuana legal. You can grow up to 12 marijuana plants in your home. The legislature in an informal session decided to give a 6-month window beyond what was written in the law that would require for retail sales in the first year. As of January 1, 2018 if there was no action taken you could start selling marijuana in retail shops. That has changed it is now pushed out 6 months it is now July 1st. There are a whole host of dates that are pushed out to give the legislative time to deal with this and to react to a public policy change. We are working to get clarity.

I am here for the communities that I represent to let them know what they can do. There is an area in the law that talks about local control that states you can opt out. It has to be a vote of the people to opt out of this law. Every community is in unless they opt out. We are not violating the will of the people if the Selectmen decide to put on the ballot does the Town of Bourne want to have retail establishments for marijuana in the town of Bourne. You have to do it legally when your election is coming up. It gives you time to react to this law. The legislature is going to be doing things to this law. They are going to be addressing some of the concerns about public safety, driving under the influence, intoxication while driving behind the wheel. I'm here to tell you your rights as a community to give yourself some time. If the community decides they want retail establishments then the next action is to start zoning and where you want these facilities. For every five retail liquor licenses as retail liquor store you have to have one marijuana license. My personal advice I would like to see the community at least put it on the ballot, do you want it as a retail establishment in your community. If the community wants retail establishments start thinking about zoning, how many you want to allow in the community.

Don Pickard questioned would that be a ballot question as well or would that be the vote of the Board of Selectmen on whether it be two to ten or one to five.

Senator deMacedo said that would be up to the Board of Selectmen, the planning Board, what you decide as a community on how many you want. The ballot question is simply in regards to do you want a retail establishment. At the MMA they are going to have a forum for communities that are interested how to deal with it, some of the challenges and concerns. I am thinking about how best to give the communities the most control you can as a community.

Stephen Mealy questioned is it the intention for the legislature to put that verbiage together to provide towns and cities in the commonwealth to adopt a specific and all the same verbiage?

Senator deMacedo stated there is no time for that because if you want to get it on the May ballot, by the time the legislature actually gets together and puts a piece of legalization and actually has it voted it would be somewhere in April or May. We want this resolved once and for all and we have a direction on how to move forward. I would like the MMA or the Mass Municipals Attorneys Association to give you a better sense of what that should look like.

Don Pickard questioned what if the town of Bourne puts a question on the ballot; shall the town under Mass General Law allow for dispensaries of recreational marijuana. If that passes, our election comes after our Annual Town Meeting. If we say yes do we have to have another town meeting?

Senator deMacedo said if the community decided they want retail establishments, now you have taken the vote in May. Now you have to think of the next step, zoning and how you are going to do zoning. You could bring that in at a Fall Town Meeting or a Special Town Meeting.

Michael Blanton said you are stressing for us to try to adopt a stance as a town as a community as soon as possible either as permissive or restrictive it's up to the communities to decide. Absent such action we automatically adopt a permissive stance. Senator said correct if you do nothing then you're in. Give yourself as much control as possible. This is you living within the will of the voters; the voters have spoken in this law. You are taking the next step as the law is written. The next step under local control says you can take a vote of the people to decide if you want to restrict retail establishments in your community.

Jim Mulvey said he is not concerned with growth installations or the dispensing; my concern is the provision for family members to grow 6 or 12 plants. Is that up to the Selectmen? Define the family, blood relatives, marriage, borders what constitutes the family. Where can it be grown, spare bedroom, in the cellar, where in the building, who owns the building, can it be off site? Does it have to be in a certain area of the residents, can it be a shed? Security of the area concerns me, if minors are in proximity of where it is being grown. Is this up to State Legislation or is it something that goes to Town Meeting.

Senator deMacedo said in regards to the 12 marijuana plants a 21 or older individuals can grow up to 6 plants, 2 individuals over the age of 21 can grow up to 12. Where in your home is up to the individual as long as it is in a locked or enclosed facility. If it is offsite it would have to be in an enclosed facility.

Jim Mulvey questioned the selling of grown plants or gifting of plants.
Senator deMacedo said you can gift it to relatives but you can't sell it.

Jim Mulvey questioned can a dispensary sell to an individual a fully grown or semi grown plant?

Senator deMacedo said he is not sure about that issue. Part of the reason the legislation asked for 6 months more because there are still a lot of questions. We want to do this the safest way possible. We want to make sure there is a way to make sure people are not driving while under the influence of marijuana.

Jim Mulvey questioned the six-month moratorium is the legislation looking at it in a broad concept or merely the growing and dispensaries or are they getting into the individual use? Senator deMacedo said growing is happening already, that is legal. This is just the creation of the Cannabis Control Commission that is going to create rules and regulations in regards to packaging, the retail establishments and all things that go along with agriculture, what types of pesticides and herbicides are you using to grow this product. You can't have a growth facility within 500 feet of a school; that is within the law right now.

Chief Woodside said the legislation was passed. There is an opt out in the legislation. The town of Bourne did not pass this question. There is an opt out that allows the Town of Bourne Board of Selectmen to put it on a ballot to opt out. The opt out is strictly do we want to have recreational marijuana shop selling marijuana in the town of Bourne. If the answer is no then we don't have to allow a retail recreational marijuana selling shop in the town of Bourne. The law said you have a right to opt out. I recommend the Board of Selectmen consider putting that on the ballot to opt out of retail recreational marijuana shops in the town of Bourne. It does not affect the medical marijuana. Strongly consider reading that legislation and seeing what it covers, then decide if the town wants these shops in the town of Bourne. The operating under the influence of marijuana is another issue. There is not a standard anywhere to measure this. The purpose of this is to understand the law and have a town wide vote the option to opt out of the retail marijuana sales.

Don Pickard questioned Tom Guerino if the Board were to have an agenda item for the first of February to vote to put a ballot question on the May town meeting. Do we have plenty of time?

Tom Guerino said that would be tight. I would suggest you do it at your meeting on the 17th or 24th. We have to get it drafted.

Chief Woodside said make the question easy, shall the town prohibit the sale of retail marijuana facilities in their community, yes they do or no they don't.

Tom Guerino questioned a community garden.

Chief Woodside said you can't stop that.

Tom Guerino also questioned you can grow it but you cant sell it, but you have to buy it to grow it, where do you go to buy the seedling or sprout to grow it?

Michael Blanton questioned if we were to place a ballot question on May and the question to opt out were to fail and we are in the marijuana recreational business. Then we need to create a regulatory environment around how much of that the town wants, in terms of zoning, in terms of placement, quotients.

Senator deMacedo said you now have another process to go through as a community, which would be the zoning process, allowing and deciding what the cap is going to be.

Stephen Mealy ask everyone to Recall in September 2015, two different initiative petition proposals to legalize marijuana for recreational purposes were being discussed. Many citizens requested the state legislature to draft its own bill to legalization. The concern from many was that the legalization was going to receive overwhelming approval and it should be done "correctly" by the legislature. Creating legislation by private petition inevitably leads to issues that need to be cleaned up later. And that's exactly what faces every city and town in our Commonwealth today with legalized recreational Marijuana. 63 percent of the voters supported medical marijuana ballot question in 2012. Since that time, the state has struggled with developing and implementing the Medical Marijuana laws. Now, with 53 percent of the voters approving recreational Marijuana, the state will now struggle implementing someone else's version of legalization for enabling everyone 21 and older in Massachusetts to grow, sell and use marijuana recreationally. Almost every state official and law enforcement member came out against recreational marijuana. They recognized the difficulties we have already experienced in getting medical marijuana working and now we have to implement a poorly worded version for recreational marijuana, more so than the medical marijuana version. Using the Cape Cod Times editors words the bill created a "crazy-quilt" situation that took effect last month in which it is now legal:

1. To obtain marijuana from the local drug dealer even as it remains illegal for the drug dealer to sell it.
2. It also became legal for every household in Massachusetts to grow up to 12 marijuana plants indoors, out of sight, for personal use and to give away, but not sell up to an ounce to anyone else of drinking age. That's estimated to be about \$60,000 worth of product to be given away. Think about the impact to the black market.

We have until July 2018 to unravel what the bill intended to do and do what the voters of the Commonwealth told us to do. To do so, we must put in place the rules and regs needed, including roadside testing capabilities to allow law enforcement to determine OUI, because there will be OUI. We need to develop the means a community, like Bourne,

can legally determine if we do or do not want to not allow Marijuana within its borders for recreational use and not be challenged in the court system on how we undertake the question.

In our town of Bourne, 5,178 voters supported legalizing Marijuana but the majority, 5,516 did not support legalization. A slim margin to be sure. I support asking the residents if they'd like to opt out and keep the recreational pot shops out of Bourne.

Don Pickard requested Tom Guerino to schedule an agenda item. The vote will just be to add a ballot question to opt out. Mr. Guerino said he would also request that Town Counsel assist.

Peter Meier thanked Senator deMacedo for the school mitigation funds

7) Selectmen's Business:

- a. Keeper of the records. Appointments. The Board will be updated on the new Record Access Officers appointments and an upcoming seminar of the requirements of the new Public Records Law for Boards and Committees**
- b. Selectmen to review draft and take action on a letter supporting the County Water Protection Collaborative and work undertaken by the Collaborative and to support bring the former Director back to the position.**

7a.

Tom Guerino said the December meeting with Dept. heads was deferred. We held that meeting last Thursday. We gave a brief update of the Public Records Law, which took effect on the first. The Board of Selectmen appointed the Town Clerk as the Public Records Officer/Keeper of the Records. The law requires that we have records access officers. For the time being all department heads will be appointed Record Access Officers. We have filed the form on the Records Liaison Officer that deals with how to destroy records. For the time being that will be myself. Counsel and I are working on putting a seminar together for the 25th. We will be sitting down next week with the Town Clerk to review how to put the policy together. All the departments have received a thorough of what the law is and how to comply with the law. The full documented policy, Bob Troy, the Town Clerk and I will be working on next week.

We are going to have a demonstration on the document tracking software that was been brought to my attention on the 18th. It will be a go-to-meeting. It is about a \$3800 expenditure. It is a reasonable cost with a small annual fee to keep it up and running. We are moving forward with that.

Stephen Mealy asked Tom Guerino to provide a link to a website so we can see a description of the software.

7b.

Stephen Mealy said I reintroduced this since the reorganization of the County Commissioners. Mr. Gottlieb, who has been the director since 2010 of the Cape Cod Water Protection Collaborative, resigned effective January 3rd. His reasoning is since the change of the make up of the Commissioners the Collaborative would no longer be supported by the Commissioners for the work they do. Mr. Mealy read the letter he drafted asking them to not only reconsider the support to the Collaborative for the work they do but also to Mr. Gottlieb to bring him back. This letter was sent to the three Commissioners Mr. Cakounes, Ms. Flynn, and Mr. Beaty.

Mr. Mealy read the letter.

January 10, 2017

Mr. Leo G. Cakounes, Chairman
Ms. Mary Pat Flynn, Vice Chairman
Mr. Ronald Beaty
County Commissioner's Office
Superior Courthouse
P.O. Box 427
3195 Main Street
Barnstable, MA 02630

Dear Mr. Cakounes, Ms. Flynn, Mr. Beaty:

As the Bourne Board of Selectmen we are contacting the County Commissioners to request the Collaborative continue to be supported and the Commissioners actively work unanimously to rehire Mr. Andrew Gottlieb as the Collaborative's Director.

Mr. Mealy was appointed to the Collaborative last year and has continually praised the Collaborative as one of the most supportive and knowledgeable municipal water resources management efforts on our peninsula. Each of the towns representatives share information on a wide range of topics and issues, all of which each town has been challenged in addressing.

Bourne has benefitted in both addressing wastewater capacity allocation policy development as well as receiving support in the development of a long-term planning effort to meet the of the Cape Cod 208 Plan settlement. Our plan is unique as we are surrounded by non-Cape towns who are not members of Barnstable County nor the Cape Cod Commission.

The Collaborative has provided a unique conduit back into the 208 process to both review and improve regulatory rules.

As the Collaborative Director, Mr. Gottlieb has taken the input from the many differing communities and provided a common and knowledgeable response not only for individual town leaders, but also to address issues including watershed permitting language, funding legislation, inclusion in state bonding bills including innovative wastewater projects under 208. He has worked continually to address a multitude of federal and state regulators towards reforming the permitting processes effectively lowering costs to our member towns. Mr. Gottlieb has maintained the focus of the Collaborative and worked to the member's best

interests to allow the towns to move forward and address both water and wastewater issues that individually the towns are unable to accomplish alone. His qualifications and past performance indicate he is an excellent candidate to continue the work of the Collaborative.

All the towns on Cape Cod and our County are faced with enormous challenges of water protection and wastewater management. We in Bourne have similar challenges: Leaking gas station storage tanks, failing septic systems, poor water quality in our harbors. The Collaborative is but one means allowing all the towns to equally share such issues, discuss possible solutions and discuss possible means of funding these solutions.

We ask you to collectively recognize the Collaborative as a significant means to address our water and wastewater issues. Our work as an individual town combined with our neighbors together far outweighs what had been accomplished when only addressed by the individual towns.

Sincerely,

Donald J. Pickard
Peter J. Meier
George G. Slade
Stephen F. Mealy
Michael A. Blanton

Mr. Mealy would like the Board to endorse this letter.

George Sala said Mr. Gottlieb resigned. Does he have an active interest in responding to this letter. Mr. Mealy said he spoke with Andrew and he suggested if the three commissioners were to ask him to come back Mr. Gottlieb would be happy to do so. To have the Commissioners recognize the Collaborative is much more than just 15 towns getting together once a month. I truly believe that the work the collaborative has done is some of the best work that I have participated with.

Michael Blanton said he is going to eco support for the request. The collaborative has done great work with regard to input into the 208 plan and worked hard to protect our water resources. Mr. Gottlieb is a consonant professional, extremely well educated in this area. I would like to see us encourage the commissioners to support him.

Don Pickard said I believe the board will endorse the letter; we should copy the chairman of all the Board's of Selectmen in our other communities so they will have a guideline.

Voted Stephen Mealy moved and seconded by Peter Meier to endorse this letter as drafted to the County Commissioners requesting continued support to not only the Cape Cod Water Protection Collaborative but also to Andrew Gottlieb. Vote 5-0.

8) Recurring Business:

- a. Update on budget for FY18 and board priorities**
- b. Goals Update**
- c. Economic Development Initiatives**

8a - Tom Guerino said there has been a retraction in the budget relative to personnel and financial issues. I have added \$7,000 to the Town Administrators Other Contracted Services line, as it relates to working on a policy for retirement notifications of staff, so we can better plan when folks are going to leave. I will be working on a particular policy and will bring it to the Board within the next few weeks.

Mr. Guerino said he needs to lock in this budget so we can get it printed and have it available for the Finance Committee and the Board of Selectmen on Tuesday evening of next week. I am going to make the assumption there are no more changes to date. Any changes the Board may want to make will have the opportunity to do so from the time the budget is presented to you until you turn it over to the Finance Committee.

Peter Meier questioned if this is just payroll, this doesn't include Capital.

Mr. Guerino said tomorrow we will make recommendations relative to Capital from the Capital Outlay Committee to the Town Administrator, which will be included in your budget. There may be a couple that we may need more refined figures on. It is our intent and it was the intent of the Chair of the Capital Outlay Committee to have this done at the same time the budget goes forward.

I will have a recommendation in my budget message relative to the Buzzards Bay Park relative to the wastewater, relative to the Police and fire vehicles. There will be a recommendation of the Town Administrator. I expect to have the full budget before the Selectmen.

Don Pickard said so the Board is aware the Town Administrator is going to come in with his budget message. He is going to include everything we discussed. He is going to get the input from the Capital Outlay Committee. He will present the budget message. We will get our budget books on the 17th. On the 24th we will have a workshop. That will be a workshop for the Board of Selectmen to discuss the Budget as presented and go back to the Administrator with any changes. He will take it back refine it and give it back to us on the 31st. On the 31st we will vote on the budget to present it to the Finance Committee according to the Charter. At that time everyone will be refreshed as to who their liaisons are and they will be able to reach out to those department heads to sit and discuss.

Tom Guerino said Mr. Meier and I have already had a discussion on that, Mr. Slade and I are going to have a discussion on that after this meeting. When you look at the Departmental budgets you will find the departments have done an exceptional job in keeping their expenses down. I believe the number that has been plugged in for the school department is something we will know tomorrow morning but we are going in the same direction.

Stephen Mealy updated the Committee on the Buzzards Bay Park and the Main Street Steering Committee. The change in scope is a result in several things the loss of the previous facilities manager, Jonathan. A lot of the documentation was prepared under his expertise and was subcontracted to an engineering firm. Unfortunately we lost time. We went out for request for quotes later than expected. The response to those bids was later than we had hoped to get them. The bids came back higher than we had been told they

might come back. We felt that we should give it an honest representation to the people and let them decide if they wanted to go forward with the project as originally proposed.

8B - Tom Guerino said he has nothing for this item this evening.

8C - Tom Guerino said on Thursday Lt Governor will be here around 1:45 to sign off on our community compact relative to the economic development strategic plan. I did sign the contract for the \$5,000 that comes with that, which is a funding source the Commonwealth has provided to help us with that. We have until June 30, 2018 to complete. It will be held in this building, the Bourne Veteran's Memorial Community Center, with the overflow in the outer room.

9) Town Administrator's Report

- a. FY 19 Budget**
- b. Personnel changes or other Human Resource Information**
- c. Any ongoing project updates (if required)**

9a. Tom Guerino said we are done with that item.

9b. Tom Guerino said the new Administrative Assistant to the Board of Health and the Inspectional Department will be starting on Tuesday January 17th. With the movement of Mr. Lydon over to Mr. Lietzel prior position and with moving the administrative support staff for the Counsel on Aging to the upstairs office; we will be moving forward with the Assistant Planner's position.

Peter Meier sent Mr. Guerino an email about the complaints about the heat.

Tom Guerino said that problem has been fixed.

Peter Meier questioned the Cape Light Compact to help us replace the control system.

Tom Guerino said we are working on that.

10) Selectmen's Reports

Peter Meier said in speaking with Chief Woodside he will not be ready before February 1st to give his recommendation on the increasing fines and the parking bylaw. The earliest we can report on this is the first meeting in February. We still have two vacancies on the School Building Committee. On Feb 7th we will be recognizing Mary Murphy for her service to the community.

George Slade wanted to commend Mr. Blanton on his work on getting four communities to look at economic development. That would be something good to spend some time with; it is a good launching mechanism for our economic development. We had a judgment for the demolition of 129-137. It called for a progress report every two weeks.

Tom Guerino said I haven't received anything but the Building Inspector has received a number of items from the building owner. The building owner is moving to comply with the court order.

Stephen Mealy would like to get a little more detail on where we are on the demolition. Tom Guerino said he asked the Building Inspector to let him know the progress of that. Mr. Guerino wanted to mention the work the DPW did during the last storm. They were out 29 hours straight. They did a tremendous job.

Peter Meier wanted to state a Public Service announcement. After any storm please clear out the fire hydrants.

Michael Blanton spoke about the sidewalk request over the bridges. Wanted to continue to share that request with the Army Cor. and Mass Highway. Tom Guerino said I will make a request to the Army Cor.

Don Pickard wanted to remind the members of the Board the Town Clerk sent out info on the ethics law, we all have to take a quiz and pass it. If you have any questions please check with the office of the Town Clerk.

The next Bourne Selectmen meeting will be on Tuesday, January 17th at 7:00 P.M.

11) Adjourn

Voted Peter Meier moved and seconded by Stephen Mealy to adjourn. Meeting adjourned at 8:23 pm. Vote 5-0.

Respectfully submitted - Carole Ellis, secretary.