

**Board of Selectmen  
Minutes of Tuesday, September 11, 2018  
Bourne Community Building  
Bourne, MA 02532**

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**TA** Tom Guerino  
**ATA** Glenn Cannon

**Selectmen**

Peter Meier, Chairman  
Judy Froman, Vice Chair  
James Potter, Clerk  
George Slade  
Jared MacDonald

RECEIVED  
2018 OCT 17 PM 12:21  
TOWN CLERK BOURNE

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**

**Executive Session:** Strategy sessions in preparation for contract negotiations related to a Host Community Agreement with the Haven Center inasmuch as the Chair has declared that an open meeting will have a detrimental effect on the negotiation position of the Town; Strategy session with respect to litigation regarding Appeal of Public Records Request; inasmuch as the Chair has declared that an Open Meeting will have a detrimental effect on the litigation position of the Town.

**7:00 p.m. Chairman call public session to order in open session**

**Meeting Called to Order**

Chm. Meier called the meeting to order at 7:15 pm.

Peter Meier gave a brief tribute to those who died or were injured on 9/11/01.

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

**Public Comment – Non-Agenda Items**

Requested items will be discussed under their agenda items.

**3) Approval of Minutes: 7/24/18; 8/21/18**

**Voted** James Potter moved and seconded by Jared MacDonald to approve the minutes from July 24, 2018.

George Slade said the stipulation about police cruises should state 5 cruisers. Also on item 11 the rest of his statement should be added.

**Vote:** 4-0-1. Judy Froman Abstained

**Voted** Judy Froman moved and seconded by Jared MacDonald to approve minutes from August 21, 2018. Vote 5-0.

#### **4) Correspondence**

James Potter brought the Board and the public up to date on the correspondence

- A. Note from Beverly Travis and her son thanking Mr. Guerino for his intervention and successful outcome with their builder.
- B. Letter from Richard Conron requesting that the Board adopt the town meeting format recommended by the Finance Committee.
- C. Letter from Governor Baker and Lt. Governor Polito congratulating the Town of Bourne for being awarded the Recycling Dividends Program grant of \$10,400 through the Sustainable Materials Recovery Program.
- D. Letter from Department of Environmental Protection awarding the Town of Bourne Recycling Dividends Program funds under the Sustainable Materials Recovery Program and will receive \$10,400.
- E. Notice from Department of Environmental Protection on an appeal filed against the Harbormaster denial of mooring/outhaul permits by Gerald Mahoney, Mooring #10-GM, Mooring #20-G.
- F. Correspondence submitted by Mr. Horne and Mr. Coombs regarding intersection of Barlow's Landing and Shore Road Pocasset.
- G. Letter from Upper Cape Cod Regional Technical School regarding 2018 Regional School Committee Nomination Papers - State Election Ballot, Tuesday, November 6, 2018.
- H. Bourne Historical Commission Public Hearing Notice for 51 Gilder Road, Bourne
- I. Selectmen's Task Force on Local Pollution Meeting notice for Monday, September 10, 2018.
- J. Board of Appeals meeting notice for Wednesday, September 5, 2018
- K. Letter from CarriageHouse Consulting, Inc. regarding Newspaper Tear sheet - Pairpoint Glassworks Facility, 851 Sandwich Road, Sagamore.
- L. Letter from Cape Cod Commission regarding Bourne Mitigation Funds
- M. Letter from EnviroTrac, LTD regarding availability of Permanent Solution Statement - Speedway Store #2447, 343 Scenic Highway, Buzzards Bay [Copy of report on file in the Town Administrator's Office]
- N. Letter from David Gardner regarding his property at lot 10 Carleton Road, Monument Beach
- O. Division of Marine Fisheries: Status Closed to Shellfishing - Cape Cod Canal
- P. Official Ground Breaking Ceremony for the New Bourne Police Facility to be held Wednesday, September 19, 2018 at 9:00 a.m.

Tom Guerino said regarding letter N, the question was asked if it was the full document that we received. We have a follow up on that correspondence, it was sent to the Conservation Agent, he has responded back to me, will forward that to the Selectmen and submit it for the record.

#### **5) Town Administrator Report**

- a. Finance Director Search**
- b. Treasurer Search**
- c. Special Town Meeting - Outreach**
- d. Community Building update**
- e. FY 20 Budget**
- f. Upcoming Bargaining**
- g. Hoxie School- RFP and establish time for tour**
- h. South Side Fire Department Owners Project Manager process to date**
- i. Building inspector - Board of Survey**

Tom Guerino updated the Board on the Finance Director search and the Treasure search. Have entered into agreement with Paradigm Associates, Bernard Lynch. They will help conduct the search for a Finance Director. Bernard will be meeting with myself as we scope this out. The Treasures position we will re-advertise now. Judy Froman questioned will the search committee for the Finance Director be meeting with the Paradigm Associates. Tom Guerino said he as asked if the Chair of the Finance Committee will meet, will ask the Chair of the Board of Selectmen to join the meeting/interview. Yes will ask them to sit during the interviews.

Special Town Meeting Outreach - Tom Guerino said I have emails from the director of cable. We are trying to coordinate to have 3-4 segments done, relative to the Town Meeting, the business portion, the Zoning Bylaw, the Rules of Gain portion, Working on getting that together for early next week.

Community Building Update - Tom Guerino said the Licensed Contractors is coming in to install the bleachers in the gym. The rest of the programs are up and running except the programs in the gym.

Peter Meier questioned updating the cordless mics, update the recording equipment. Spoke about the water in the ground floor plugs that do our AD services. We need equipment that is going to work.

FY20 Budget - Department heads and I met last Wednesday. We are trying to pull the budget together. Budget from the town's department will be due in my office the week before Thanksgiving. The Budget presentation is tentatively scheduled for January 15<sup>th</sup>.

Tom Guerino wanted to give the Board a heads up; we are going to be entering into negotiation with all but one of our bargaining units for the next FY. We need to sit down with the Board in a work session, as to what is in the current contract and what I anticipate coming up for the next contracts; and where the Board of Selectmen believe we can go set

parameters so we have some idea as to where the Board would like to see this go for the next three years. We have the Police, Superior and Patrol, the 4 LIUNA contracts and the Bourne Employee Association. The School is in negotiation now.

Hoxie School - Tom Guerino said we want to set up a time for a tour, during the day. Probably set up a time the week of the 24<sup>th</sup> to do a walk through. Start thinking about putting the RFP out, if the Board does not want to do an RFP what are their priorities for this piece property.

South Side Fire Department - Tom Guerino said the Town Administrators committee has RFQ the OPM services. The committee interview 3 last week; they will make a recommendation to me, and I will report to the Board. We will hire an OPM from this process to help us find a site. The next phase has to come before the Board of Selectmen and they have to concur with our findings or not, or ask us to do more, then it will go to Capital, then to a Town Meeting.

Tom Guerino said that Mr. Cannon has started the Mass Municipal Association Managers Program through Suffolk University and the MMA on Fridays in Foxborough. He will be at those courses between now and April on Fridays. He will also be attending the International City and County Managers Association Meeting (ICMA) in Baltimore the week after next. The Mass Municipal Personnel Association is also the week of the 24<sup>th</sup>.

Peter Meier spoke about the Board of Survey. A while ago the Board of Survey was asked to look at address 30 Center Street, 95 & 97 Main Street, 328 Main Street, 1 & 3 Bourne Bridge Approach, 228 Main Street, and 226 Cranberry Highway.

Roger Laport, Building Inspector, gave a brief synopsis of how we got here. Last year the Board of Selectmen instructed us to look at and assess derelict commercial building along Buzzards Bay. The policy for all the enforcement departments is if we do hotels we do all the hotels so no one is singled out, so we did a town wide assessment of commercial buildings. I'm here tonight with those building asking for your help. The properties are:

**30 Center Avenue** - had a fire in it years ago. It is beyond salvation. The Fire Department has red X'd a lot of the buildings, which are unsafe. We don't want to send one of our people into that building if there is a fire, because it puts them at risk. That taxes the Fire Department because now they have to surround the building and protect the other properties. It also puts our guys at risk because if there is a homeless person in that building. We have tried to contact the owners, and they have done nothing. Mr. Laporte's recommendation is he would like the Board of Selectmen to set up a hearing and order it demolished. When we do that the Town steps in and we demolish it at our cost. We also put a lean on the property, so we can recoup the money.

James Potter questioned if any of these properties are in Tax title. Mr. Laporte said there is one building in Tax Title.

Mr. Laporte said he notified all the owners about the meeting tonight.

**95 & 97 Main Street** - This is a commercial building, there is a residents on the second floor that is still permitted to operate. We are no longer giving occupancy permits on that building until it is brought up to code. There was a business and there was a residence, we said we are going to allow those to go as long as the Fire Department does not have a problem with the alarm systems. There is an alarm system. Don't believe this is a building that we are very concerned with. It is an unused building. The owner has indicated that he has some plans for the building.

Ryan Correia, owner 95 & 97, said we would renovate the building tomorrow if we could get a permit issued with the flood zone. We are working with our Attorney to figure out a process to do that.

Tom Guerino spoke about bringing the building up to the new Flood Zone Code for building requirements. Roger Laporte spoke about the town of Bourne being audited by FEMA. We jeopardize our own disaster money if we don't follow their regulations.

Jared MacDonald questioned the new standard they will have to meet as far as being in the flood zone height wise in that area. Mr. Laporte said for commercial buildings you can either elevate the building to the flood zone elevation or you can flood proof it to 2ft. above the flood zone elevation. To flood proof it some of the building you would have to go up 6 or 7ft., or you can do parking under it. In the flood zone all the plans have to be stamped by an architect or an engineer to show that they will withstand the flood.

Tom Guerino said the town has very good regulatory processes in place. FEMA was very impressed with those, they were impressed with our building code, we are at or exceeding the current requirements in a number of areas.

Judy Froman questioned Mr. Correia how long have you been talking with your attorney about plans on how to move forward. Ryan Correia said for the last 6 months. We did a study on knocking the building down. It is very costly and the bank wouldn't give us a loan. The bank has offered to give us a loan to renovate the building now; we have a third party appraisal. Roger Laporte said we use the assessed values at the basis. Whenever someone is in disagreement with our assessing department they are entitled to get their own assessments. Ryan Correia said he would be willing to pay for the assessment to see if the value would go up. Mr. Correia went over how he would renovate the building. The appraisal would take 4-6 weeks. Roger Laporte said we could allow Mr. Correia two months then readdress this issue. Peter Meier said he will put it on the agenda again for November 13, which would be 60 days

**1 & 3 Bourne Bridge Approach** - this building is not a building that is ready to collapse it has some structural problems. The owner had a plan that he would demolish these two buildings that are on this property. He is interested in building a state of the art self-storage building that would be climate friendly. In the event that this does not happen he has indicated that he is willing do repairs to make the building safe. I have given him two months. Peter Meier said he will put it on the agenda for November 13<sup>th</sup>.

**228 Main Street** - the roof is partially collapse, it is unsafe to walk into the building. There is no way this building can be salvages.

Ryan Correia, authorized to speak on behalf of the Sweeney family, said his company has that building under contract. The lawyers are working on the title. Our plan is to knock the building down, go come to the Board to build another building; we know it is in the flood zone we will lift it up. Peter Meier said he will put this on the agenda for November 13<sup>th</sup>

**226 Cranberry** - this one is under tax title, 21E. We could go after it because it is delinquent in taxes. The problem is that it is next to the gas station and there has been pollution that has been certified in that area. The liability would be to great if we take it without knowing if it is clean. The Town Administrator has hired someone to do a 21E. The first phase of a 21E, they go in and do a general assessment. This has come up positive that it could be dirty because of the surrounding area. Now we have to go into phase two. Phase two is deciding if we want to take the building or not. This is an unsafe building. There appears to be someone living on the second floor, there are no occupancy permits. It is not in the flood zone. If the town took it for taxes we would knock it down. Now it is up to the Board of Selectmen to decide what you want to do with it, if you want to have a hearing on it, if you want to see what we can do with the 21E.

Tom Guerino spoke about the second phase of a 21E. We have an LSP we have used in the past, we can contact her to see if she wants to do this. There is another property in town that we know is a 21E issue and we are not going to take that property. If we don't have any luck with the owners my recommendation is to go forward with the second phase to see what is there. Peter Meier said we can order it torn down. Roger Laporte said if we order it knocked down, we would have to knock it down and then we would have to put a lien on it. If the 21E comes back dirty we would not be able to get our money back, we would not be able to sell it. My recommendation is to go as fast as we can and get the second phase of the 21E done so we will know if it is dirty. Peter Meier said we could put it on the November 13<sup>th</sup> agenda and hope we have more information by then. Tom Guerino said he will contact the LSP and get a time frame.

**328 Main Street, Janet & Michael Maxim** - Roger Laporte said this building has been unused. We made them board it up. There was a sink hole in the front of the building. The owner has filled it in with sand. This building is in the flood zone, so to renovate it would be costly.

Jared MacDonald questioned the structure on the building. Roger Laporte said we didn't see any evidence that the roof l leaking. There were places where someone could enter the building but we ordered it to be boarded up. Mr. Maxim boarded it up. It has been red X'd because we cannot send a fireman in there. It is a building of no use except to tear it down and rebuild.

Jared MacDonald said Mr. Maxim was here earlier; a hearing would be the way to go. Peter Meier questioned when do you want to do a hearing. Tom Guerino suggested to not do any scheduling because we are going to be busy with Town Meeting. Maybe set up the

scheduling for this after Town Meeting and do it sometime in mid October. Peter Meier suggested October 16<sup>th</sup>.

For 328 Main Street hearing

**Voted** Judy Froman moved and seconded by Jared MacDonald to hold a hearing regarding 328 Main Street on October 16<sup>th</sup>. Vote: 5-0.

For 226 Cranberry Highway

**Voted** Judy Froman moved and seconded by Jared MacDonald to extend to November 13<sup>th</sup> for a follow-up for 226 Cranberry Highway. Vote: 5-0.

For 228 Main Street

**Voted** Judy Froman moved and seconded by Jared MacDonald to continue 228 Main Street to November 13<sup>th</sup> for a status update. Vote: 5-0.

For 1 & 3 Bourne Bridge Approach

**Voted** Judy Froman moved and seconded by Jared MacDonald for 1&3 Bourne Bridge Approach for November 13<sup>th</sup> status update. Vote: 5-0.

For 95 & 97 Main Street

**Voted** Judy Froman moved and seconded by Jared MacDonald to have a status update for 95 & 97 Main Street on November 13<sup>th</sup>. Vote: 5-0.

For 30 Center Street

**Voted** Judy Froman moved and seconded by Jared MacDonald for a hearing for 30 Center Avenue on October 16<sup>th</sup>. Vote: 5-0.

Peter Meier suggested to send appropriate thank you letters.

#### **6) License/Appointments**

- a. Appointment - Bourne Cultural - Pat Cook**
- b. Appointment - Bourne Human Services - Elizabeth Barlow**
- c. Watershed Ride - Town Roads/Placement of Signs**
- d. Road Name Request - High Meadow Circle**
- e. Psychic Fair/Craft Fair - Waiver of fees to use Community Center [discuss and possible vote]**

**6.a.** Peter Meier spoke about Pat Cook, PO Box 291, 105 Scraggy Neck Road Cataumet, MA looking to come back on the Bourne Cultural Council.

Pat Cook briefly introduced herself.

**Voted** Judy Froman moved and seconded by Jared MacDonald to appoint Pat Cook to the Bourne Counsel with expiration June 30, 2021. Vote: 5-0.

James Potter stated there are two additional vacancies on the Cultural Counsel.

**6.b.** Peter Meier spoke about Bourne Human Services Committee. Elizabeth Barlow has expressed interest. There are presently two vacancies, this would take up one of the vacancies.

**Voted** Judy Froman moved and seconded by Jared MacDonald to appoint Elizabeth Barlow to the Bourne Human Services term to expire June 30 2021. Vote: 5-0.

Peter Meier spoke about the 12<sup>th</sup> Annual Coalition for Buzzards Bay Watershed Ride, Buzzards Bay Coalition, 114 Front Street, New Bedford, MA. 12<sup>th</sup> Annual Coalition for Buzzards Bay Watershed Ride, Cycling event from Little Compton, RI to Woods Hole, September 30, 2018, Pass through Bourne between 12:00 noon - 2:00 p.m. Approximately 275 riders, Also requesting permission to post 4-6 18" x 24" sign around town promoting the Ride for the Month of September only. Will be removed within 48 hours of the event. There are comments from Department Heads on the route slip, Town Planner: Temporary signs may be permitted with Board of Selectmen approval. Signs may remain in place for no more than three (3) weeks prior to the event per zoning bylaw section 2866. Department of Public Works: Remove all signage. Police Department: Signs must be removed.

Section from Wareham into Bourne:

MA 28 S/US-6-E/Cranberry Hwy;

92. Proceed straight through the traffic circle

93. Exit the traffic circle onto Main Street

94. R onto Canal St - *Volunteer*

95. Continue onto Canal Bike Path - *Volunteer*

96. L to go through Campground - *Volunteer*

97. R onto Canal Cross Street - *Volunteer*

98. L onto Andy Olivia - *Volunteer*

99. Bear R to stay on Andy Olivia Drive

100. L onto Main Street - *Volunteer*

101. Take R up ramp to Starbucks Parking lot

102. Stay L as you proceed through parking lot cut through

103. L to exit parking lot

104. R onto Bourne Bridge Approach/Old Bourne Bridge Approach

105. SLOW DOWN Tracking Station ahead, call out bib number. Dismount to cross bridge on foot.

106. Water/Rest Stop



107. Keep R to enter Bridge Sidewalk. Dismount to cross bridge on foot
108. R at end of the sidewalk through parking lot
109. R onto Trowbridge Road
110. Continue onto Shore Rd
111. R to stay on Shore Road
112. Metal Drawbridge ahead, proceed with caution. Dismount bike to cross if raining, (Singing Bridge)
113. Railroad tracks, proceed with caution
114. R onto Red Brook Harbor Road - *Volunteer*
115. R to stay on Squeteague Harbor Road
- 116 R onto Megansett Rd/Garnet

Judy Froman questioned if there is any awareness of the impact to crossing scenic highway. George Slade said there are volunteers at that crossing (96-98, 101). Jared MacDonald said it doesn't say Police Officer. Peter Meier said we could request a police detail as part of the motion.

**Voted** Judy Froman moved and seconded by Jared MacDonald to accept the Watershed Ride of September 30<sup>th</sup> with condition about the signs and having a police officer detail at scenic highway crossing.

Tom Guerino requested two separate votes. Judy Froman withdrew her motion and Jared withdrew his 2<sup>nd</sup>

**Voted** Jared MacDonald moved and seconded by Judy Froman to approve the rout slip as written including the conditions and a Police detail will be required at set locations as directed by the Chief of Police (at number 97, crossing scenic highway).

James Potter said we should let the Police Chief know where we were thinking we should have a police detail. Jared MacDonald said they cross scenic highway at number 97 (R onto Canal Cross Street).

Vote 5-0.

Tom Guerino said the Board could allow them no more than 6 signs.

**Voted** Jared MacDonald moved and seconded by Judy Froman they are allowed up to 6 signs in the area no more than 3 week prior to the event and removed no later than 48 hours after the event per Zoning Bylaw 2866. Vote 5-0.

### **Road Name Request for High Meadow Circle**

Location off of 28 between Clay Pond Road and Otis Park Drive, connecting to Harmony Hill Road. Comments from DPW: Sign(s) to be paid for by the Preservation of Affordable Housing. Sign(s) must confirm to DPW regulation. Fire Department: 12" numbers on building, 4" numbers or letters on front door, IE Building A Unit 2 (A=12" 2=4")

**Voted** Judy Froman moved and seconded by Jared Macdonald to approve High Meadow Circle street name subject to the conditions in the routing slip. Vote 5-0.

Peter Meier spoke about the request for the craft fair. The Friends of Bourne COA/Friends Food Pantry are requesting waiver of fees to occupy the Veterans Memorial Community Building on October 6, 2018 from 8:00 a.m. - 5:00 p.m. to raise money for the food pantry and people in need throughout the year.

Tom Guerino read the policy the Board of Selectmen adopted:

Per the Board of Selectmen two event waivers per non-profit may be requested in a calendar year. Any waiver would not include the custodial fee of \$150 up to (4) four hours or \$300 up to (8) eight hours.

There will be set up time Friday night which is generally an overtime situation, the custodial staff also needs to be there usually around 7:30 a.m. the morning of the event. The Board of Selectmen can't waive that per your policy but you could limit it to one (4) four-hour set of overtime.

James Potter said in this case it is a community function so he would be in favor of keeping the expenses down.

**Voted** Jared MacDonald moved and seconded by Judy Froman to approve that this is limited to a one-time overtime call in fee for this event. Vote: 5-0.

## **7) Selectmen's Business**

- a. Signing of Special Town Meeting Warrant and vote on article recommendation**
- b. Update related to Haven Center**
- c. Ratification of Rules of Procedure**

**7b.** Judy Froman briefly spoke about what was discussed regarding the Haven Center, looking at ideas for the host community agreement, next step is to reach out to the Haven Center.

**7a.** Peter Meier said we are not signing the warrant tonight because it has been postponed until two days from now. Tom Guerino explained in the final review of the warrant articles Counsel notices some minor changes that had to be corrected and some formatting issues. As opposed to rushing to get this done, we will hold a meeting on Thursday at 6:15 p.m. to sign the warrant. Mr. Guerino handed out the corrected warrant article packet. Peter Meier said we went through these with the Finance Committee.

### **Mr. Meier read Article 1**

To see if the Town will vote to appropriate sum of money for the purpose of the payment of unpaid bills from a previous fiscal year that are legally unenforceable due to the insufficiency of appropriation or take any action in relation thereto.

**Voted** Judy Froman moved and seconded by James Potter to support Article 1 regarding unpaid bills of \$6,832.15. Vote: 5-0.

**Peter Meier read Article 2**

To see if the Town will vote to appropriate, borrow or transfer from available funds the sum of \$100,162.00 for the purpose of supplementing and/or reducing the FY2019 Regular Annual Expenses of the departmental expenses as voted under Article 3 (Annual Budget) of the 2018 Annual Town Meeting, or take any other action in relation thereto.

**Voted** Judy Froman moved and seconded by George Slade to support Article 2 in the amount of \$100,162.00. Vote: 5-0.

**Peter Meier read Article 3**

To see if the Town will vote to amend the vote taken under Article 4 (sewer budget) of the 2018 Annual Town Meeting or take any action in relation thereto.

**Voted** Judy Froman moved and seconded by James Potter to support Article 3. Vote 5-0.

**Peter Meier read Article 4**

To see if the Town will vote to amend action taken under Article 7 (ISWM budget) in the 2018 Annual Town Meeting and vote to appropriate, borrow or transfer from available funds of sum of \$900,000.00 for the purpose of supplementing the funds to operate the Integrated Solid Waste Management Program, or take any other action in relation thereto.

**Voted** Judy Froman moved and seconded by Jared MacDonald to support Article 4.

Tom Guerino asked the Board to vote specifically for the \$900,000.00 to come from ISWM Retained Earnings.

**Vote:** 5-0.

**Peter Meier read Article 5**

To see if the Town will vote to appropriate, borrow or transfer from available funds a sum of the money to continue with the update and completion of the Local Comprehensive Plan, or take any other action in relation thereto.

**Voted** Judy Froman moved and seconded by James Potter to support the Local Comprehensive Article 5. Vote 5-0.

**Peter Meier read Article 6**

To see if the Town will vote to appropriate a sum of money for the purpose of funding the Town's Other Post-Employment Benefits liability (OPEB), or take any other action in relation thereto.

**Voted** Judy Froman moved and seconded by Jared MacDonald to support Article 6. Vote 5-0.

**Peter Meier read article 7**

Article 7 is for the A, B, and C wing roofs at Bourne High School.

To see if the Town will vote to appropriate, borrower transferred from available funds, an amount of money to be expended under the direction of the Bourne Public Schools for a Feasibility Study and Schematic Designs for the replacement of roofs located at Bourne High School, 75 Waterhouse Rd., Bourne MA 02532, for which feasibility study and schematic design the Town may be eligible for a grant from the Massachusetts School Building Authority. The MSBA's grant program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any cost the Town occurs in connection with the feasibility study and schematic design in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town.

Tom Guerino said it is for A and C wing, there will be an alternate on the bid for B wing.

**Voted** Judy Froman moved and seconded by James Potter to approve Article 7.  
Vote 5-0.

**Peter Meier read Article 8**

To see if the Town will vote to transfer from available funds, or borrow a sum of money for the purpose of funding an amendment to Article 9: Item #26, Phase VI Liner Construction & Appurtenances, voted at the May 2017 Annual Town Meeting, or take any action in relation thereto.

**Voted** Judy Froman moved and seconded by James Potter to approve Article 8 in the amount of \$479,000 from Retained Earnings. Vote 5-0.

**Peter Meier read Article 9**

To see if the Town will vote to appropriate, transfer from available funds or borrow a sum of money for the purpose of funding Capital Improvements, or take any other action in relation there to.

Holiday Lights and Fire Department Doors Main Street Station, amount \$46,000

**Voted** Judy Froman moved and seconded by James Potter to support Article 9. Vote 5-0.

**Peter Meier read Article 10**

To see if the Town will vote, upon recommendation of the Community Preservation Committee, to appropriate, borrow, or transfer from available funds, a sum of money to fund a ground survey of the property and a 10% design plan of a Bike Path (technically called a Shared-Use-Path), including costs incidental and related thereto, or take any other action in relation thereto. Sponsored by the Community Preservation Committee

**Voted** Judy Froman moved and seconded by Jared MacDonald to support article 10.

James spoke about the questions regarding the over all path and the costs.

Mr. David McFierson, representing the Advisory Committee on the Pedestrian Bicycle Pathway, spoke about the meeting that happened last night. This is an important step to help unlock the available state funds. There are statewide funds but there is a lot of competition. An example is the Governor's office announced a \$2,000,000.00 allocated for the extension of the Cape Cod Rail Trail in Wellfleet. They are looking to extend that.

Tom Guerino said Glenn Cannon drafted a letter he signed to the appropriate agencies requesting release of that money.

Judy Froman spoke about how the pedestrian/bike path connects towns and how the community is coming together to support this.

Glenn Cannon said the town of Bourne hasn't reached its full potential. The bike path will connect communities.

**Vote: 5-0.**

Peter Meier said a lot of these articles that have finances coming from free cash we are not borrowing any money. Judy Froman questioned Tom Guerino, are we still within Policy. Tom Guerino stated we are still within the Policy.

**Peter Meier read Article 11;**

It's a zoning bylaw, which will require 2/3 vote.

To see if the Town will vote to amend the Bourne Zoning Bylaw Section 2842, Performance Standards for Residential Uses, by deleting Section 2842 - Affordable housing 3) b, c & e 1-5), and substitute in its place the following language or take any other actions in relation thereto:

b. Residential or mixed-use developments (rent or ownership) with 55 or more total units are required to meet all standards set forth by the Department of Housing and Community Development to ensure all affordable units are placed on the Commonwealth Subsidized Housing Inventory. The developer is responsible for incurring all cost and is also responsible for administering the process associated with attaining the affordable units on the Commonwealth Subsidized Housing Inventory.

c. Affordable rentals are to be rented at pricing not to exceed HUD fair market rent levels including utilities. Affordable homeownership units shall be sold initially at pricing not more than the amount allowed under DHCD's Local Initiative Program Guidelines for Barnstable County and be deed restricted in perpetuity with an affordable deed restriction approved by the Bourne Housing Partnership

**Voted** Judy Froman moved and seconded by James Potter to approve article 11 as stated.

James Potter said looking at the zoning bylaws, the developer is responsible for administering the process to get it on the housing inventory, but there isn't anything in the bylaw that holds them accountable if they don't. Jared MacDonald said there is accountability through the Housing.

George Slade suggested to table this until Thursday night.

Tom Guerino said he can ask Coreen Moore, or people from the Affordable Housing Trust to come in before Town Meeting and further explain how that is monitored.

**Vote:** 5-0.

**Peter Meier read Article 12**

To see if the Town will vote to amend the Bourne Zoning Bylaw Section V, Definitions, by striking the word "that" and substitute in its place with "the" in the first paragraph and by deleting b) in the definition of "Bourne Affordable Housing Unit" as follows or take any other action in relation thereto.

Tom Guerino said Town Counsel suggested to tighten up the language.

**Voted** Judy Froman moved and seconded by James Potter to support Article 12.

**Vote:** 5-0.

**Peter Meier read Article 13**

To see if the Town will vote to amend Section 3470 of the Bourne Zoning Bylaw by revising the Ground Mounted Overlay District "B" in the Bourne Zoning Map as follows or take any of other action in relation thereto.

Tom Guerino said corresponding letters have been sent to abutting properties, notifying them of this potential change at Town Meeting.

**Voted** James Potter moved and seconded by Judy Froman to not support this article.

James Potter said going forward we should work with Planning, develop a policy, if it is going to be a town entity we should have a process. Notify everyone, have a hearing, then bring it to Town Meeting.

Tom Guerino said this was a petitioned article for the initial lots along Scenic Highway. It didn't make it on to the Town Meeting warrant in May. The Planning Board opted they would take up the charge at the next Special Town meeting. During that process they have expanded the zone.

Peter Meier said there needs to be a policy in place. If you are going to change something that will affect the area around people they need to be notified.

Jared MacDonald said that Coreen Moore said they do the minimum that is required.

Judy Froman said it is not ok to move forward with something that is a change to a neighborhood without notifying neighbors.

**Vote:** 5-0 to not support

**Peter Meier read some of Article 14**

Prohibition on Marijuana Establishments - General Bylaw.

without limitation all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers, on-site consumption of marijuana at a marijuana retail location, any other type of license marijuana-related business, and the conducting of any such activity for commercial purposes by whichever name used, shall be prohibited within the Town of Bourne. This prohibition shall not be construed to affect the medical use of marijuana as expressly authorized by provisions of Chapter 369 of the Acts of 2012 and 105 CMR 725.00, as may be amended from time to time or take any other action relative thereto.

This is a Private its petition article.

**Voted** Judy Froman moved and seconded by Peter Meier to not support Article 14.

Jared MacDonald said there were some inconsistencies; there were a number of points that were vague and not necessarily supported by definition. There is a little bit of an issue with some of the things that were brought forward with this article.

Peter Meier said maybe we should have a motion to support it then vote against it. That way we are voting it down.

Judy Froman withdrew her motion Peter Meier withdrew his second.

**Voted** Judy Froman moved and seconded by Peter Meier to support article 14.  
Vote 0-5.

Mr. Aaron Tobey, Gray Gables, recited from KP law regarding zoning issues  
Zoning v. General Legislation

The language in the act is ambiguous with respect to whether a bylaw or ordinance implementing a prohibition or limitations must be zoning or general in nature. We recommend that a municipality consider adopting both a general and a zoning bylaw or ordinance to prohibit or limit recreational marijuana establishments. A general bylaw or ordinance may serve to protect the town from zoning issues such as zoning freezes and "grandfathering" of existing uses. The Attorney General has already approved zoning bylaw imposing prohibitions and limitations on recreational marijuana establishments. The Attorney General has also proved a similar general bylaw, but recommended that the town adopt a zoning bylaw as well. This is an evolving issue that will also involve different policy considerations.

## KP LAW

- limit the number of marijuana retailers to fewer than 20 per cent of the number of retail off-premises alcoholic beverage licenses issued under G.L. c.138 by the municipality; or
- limit the number of any type of marijuana establishment to fewer than the number of medical marijuana treatment centers registered to engage in the same type of activity in the municipality.

The procedure for adopting a bylaw or ordinance to prohibit or limit the number of recreational marijuana establishments has significantly changed.

- If a municipality voted in *favor* of Question 4 on November 8, 2016 [i.e., a majority of voters casting ballots voted "yes" on the question], then two votes must be taken before an ordinance or bylaw can be effective – (1) it must be approved by the voters by ballot at an annual or special election, and (2) the ordinance or bylaw must be approved by the local legislative body.
- If a municipality voted *against* Question 4, a ballot question is not required and the ordinance or bylaw may be adopted by the local legislative body. This special provision will expire on December 31, 2019, after which the two-step process requiring a ballot question and legislative approval will apply to all municipalities.

Chapter 94G, §3 now provides the general form for a ballot question. The question must include the entire proposed bylaw or ordinance and also directs that the City Solicitor/Town Counsel prepare a brief summary that makes clear the number and types of marijuana establishments that will be permitted to operate. As with all ballot questions, pursuant to G.L. c.54, §42C, a City or Town Clerk must receive notice of the ballot question, with the full legislation text and counsel summary, no less than 35 days prior to the date of the election. Sample ballot questions are attached.

### Additional Issues to Consider When Imposing Prohibitions or Limitations

The Act is silent on several issues concerning the adoption of local legislation. These issues include:

Zoning v. General Legislation: The language in the Act is ambiguous with respect to whether a bylaw or ordinance implementing a prohibition or limitation must be zoning or general in nature. We recommend that a municipality consider adopting both a general and a zoning bylaw or ordinance to prohibit or limit recreational marijuana establishments. A general bylaw or ordinance may serve to protect the Town from zoning issues such as zoning freezes and "grandfathering" of existing uses. A lower quantum of vote is also required to pass a general bylaw. The Attorney General has already approved zoning bylaws imposing prohibitions and limitations on recreational marijuana establishments. The Attorney General has also approved a similar general bylaw, but recommended that the town adopt a zoning bylaw as well. This is an evolving issue that will also involve different policy considerations. Samples of bylaw/ordinance language are attached.

Agreement of Bylaw or Ordinance Language with Ballot Question: For municipalities subject to the two-step approval process for implementing a prohibition or limitation, it is important that the bylaw or ordinance approved by ballot be the same or substantially similar as that approved by the local legislative body in order to avoid any challenge to its validity.

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We have two conflicting bylaws on the warrant, concerned with the litigation and the cost of litigation with that. I'm not in favor of the prohibition of recreational marijuana establishments in town. Do see recreational establishments as a legitimate regulated business with potential for profit for both the owners and the Town as well as jobs for the town. Concerned with the system itself, the General Bylaw only needs a simple majority vote to get approved. The Zoning Bylaw requires a 2/3 vote to be approved. Concerned with losing that opportunity by General Bylaw and not be able to reap any residual value from



it. Hope the Select Board would consider how we can reap residual value from the General Bylaw. Consider amending that bylaw to state something similar to negotiating with our neighboring abutters, and asking them if the town of Bourne prohibits recreational marijuana, they would benefit from it and see if they would they give us a surcharge fee. I am interested in having the establishments in town, but if we are going to ban it get something for it. There is value that we will be missing out on.

Peter Meier said it should be run by the moderator to see if that is a motion he would be willing to entertain.

Mr. Tobey said I don't see any benefits for the Town if the Town bans marijuana in town. Mr. Tobey spoke about the concern of people at the age of 18 buying medical marijuana and trying to sell it on the streets, the fine is only \$100. Would like to know if the Zoning Bylaw or the General Bylaw, whichever one is selected first, does the other one still have the opportunity to be voted on.

James Mulvey said he doesn't approve of recreational marijuana use, is concerned with the confuting of recreational marijuana use and medical marijuana use. They are two totally separate operations. Medical marijuana is regulated under the law. The quality of the product is scrutinized. It is for specific disabilities, and you have to be approved as having the disability.

Peter Meier said recreational marijuana will have a large scrutiny and accountability from the Board of Health and the Department of Public Health to make sure it is manufactured properly.

George Slade said presently cannabis is purchased and is being sold and consumed in an unregulated fashion to anyone who has the money. The sellers don't care about the age of the customers or the quality of their product. Transactions occur without the benefit of taxes or regulation presently.

James Mulvey said regulation and requirement are far more stringent on medical marijuana than for recreational marijuana.

James Potter said I don't need recreation marijuana in Bourne, we are adding another vice that we don't need in Bourne. Medical is regulated, prescribed, there is a reason for it; recreational is just for recreational. We can collect taxes on it, but you are bringing no other benefit to the community with that type of establishment. There isn't a benefit to recreational, and it is a vice.

Vote: 5-0 - not to support Article 14.

### **Article 13**

Peter Meier said he wants to go back to reconsider Article 13.

**Voted** Judy Froman moved and seconded by Jared MacDonald to reconsider Article 13.

Vote 5-0.

**Voted** Judy Froman moved and seconded by Jared MacDonald to support Article 13.  
Vote 0-5-0. -not supporting this article.

**Peter Meier read paragraph 1 of Article 15**  
Bourne Planning Board Zoning Article.

To see if the Town will vote to amend the Bourne Zoning Bylaw by adding a new section titled 2250 "Medical Marijuana and Marijuana Establishments" after section 2240 title "Accessory Scientific Uses" and containing sections 2251, 2252, 2253, 2254, 2255, 2256, 2257, and 2258, all as printed in the warrant and further to amend section 2220 "Use Regulation Schedule" by adding a new section as printed in the Warrant and further by adding Footnote 14 as printed in the Warrant and further by inserting a new section in section 2821 Downtown District titled "Marijuana Uses" as printed in the Warrant and further by amending Section 5 titled "Definitions" by adding the definition of "Marijuana or Marihuana" and amending the definition of "Fraternal or Social Organization Lodge" as printed on the Warrant and all of which is on file at the Office of the Town Clerk, or to act on anything in relation thereto. Sponsored by the Bourne Planning Board.

Tom Guerino said Town Counsel suggested this article needed reconfiguration.

**Voted** Judy Froman moved and seconded by James Potter to support Article 15.

Jared MacDonald spoke about the difference between Article 14 and Article 15. This is not saying we are allowing it, it is strictly setting restrictions a specific locations.

Judy Froman thanked the people who worded this article, and spoke briefly about the Article and the people who worked on the Article.

George Slade thanked the people who worked on this. We are an evolving community but we are/ have conservative roots.

James Potter said one of the important pieces we can have in the community is the chart and the zoning where these functions can happen and where they can't. Without this zoning article marijuana could happen in any area. We are talking about special permit; it doesn't have to be granted. If there are areas where it isn't appropriate the special permit can be denied. This is a highlight how we move forward as a community.

Peter Meier there was a lot of time put into this. The town will be better off having this Article.

Vote 5-0. Yes to support this article at town meeting

Peter Meier said we will meet on Thursday to sign the warrant.

### **7.c. Rules of Procedure**

Judy Froman suggested to put this on for a future agenda unless the members want to wrap this up this evening. Ms. Froman went over the color-coding on the Rules of Procedure.

- Black font has been reviewed and accepted.
- Red font were changes discussed on 8/28 and ready for confirmation of language.
- Yellow highlighted with blue font comes from feedback from Board, Town Counsel, Town Clerk, Town Moderator, and public.

Peter Meier said we can put this on the next available agenda.

Tom Guerino brought up the Selectmen Goals.

### **8) Adjourn**

**Voted** Judy Froman moved and seconded by Peter Meier to adjourn. Meeting adjourned at 9:52 pm. Vote 5-0.

Respectfully submitted – Carole Ellis, secretary.