

**Board of Selectmen  
Minutes of Tuesday, March 12, 2019  
Bourne Veterans' Memorial Community Center  
Buzzards Bay, MA**

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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 - Excused

RECEIVED  
2019 APR 24 AM 11:41  
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**

**5:45 PM – Call public session to order in open session**

**Executive Session:** Motion to enter into Executive Session to conduct strategy with respect to threatened litigation regarding the Buzzards Bay Park. The Chair has declared that an open meeting may have a detrimental effect on the litigation position of the public body.

The Board will reconvene in a meeting and a workshop open session following the Executive Session.

Roll Call vote to convene in Open Session.

**Meeting Called to Order**

Chm. Meier called the meeting to order at 7:16 pm.

Tom Guerino reported on what motions were made in Executive Session.

There were six motions made that were approved by the Board.

- a. Approve the revised documentation related to the Buzzards Bay Playground. The motion was unanimously voted by roll call by the members of the Board.
- b. To approve the actions of the Project Manager as reported to the Board and to authorize the Project Manager to continue to supervise the project as outlined in his report to the Board of Selectmen. That was unanimously voted by roll call vote by the members of the Board.

- c. Authorize the CPC chair to identify existing appropriations available to fund the work necessary to complete the project for the Buzzards Bay Playground Project. That was motioned and seconded and unanimously agreed to by the Board.
- d. Determine the report of the safety expert to be exempt from public disclosure and to authorize the Records Access Officer to assert the attorney client privilege and attorney work product exemptions. That was unanimously agreed to by roll call vote by the members of the Board.
- e. Authorize the Town Administrator to execute Change Order as recommended by the Project Manager and the Community Preservation Chairman as it relates to the Buzzards Bay Playground. That was unanimously by roll call vote agreed to by the members of the Board.
- f. To engage an independent certified playground safety inspection expert to review and evaluate the modifications to the Buzzards Bay Playground prior to project closeout. That was unanimously by roll call vote agreed to by the members of the Board.

## **2) Tradewinds – response to request for exception/carve out to exiting trash and recycling policy**

Tom Guerino reported this has been a long deliberation over several meeting with the Board and the folks at Tradewinds. From the last meeting Mr. Lively forwarded to Mr. Guerino the proposed wording relative to an exemption for the folks at Tradewinds that went to Town Counsel. Mr. Guerino read Counsel note that was sent to him that he emailed to the Board members. As I noted at the last meeting with representatives from the Tradewinds Condominium's establishment, I did pass the request for possible exception language by Town Counsel. Counsel advised that I (the Board) should refer to his prior opinions and that a carve-out is not a good way to move, it provides an opening for problems later with other groups. The "fairness doctrine" is still in-play and the town should take action to close this particular issue out.

If you go back two weeks to a response from Mr. Potter related to policy vs policy, Counsel responded: I reviewed the charter language relative to the DPW. It seems to me the intended charter is to impose a responsibility the DPW as to rubbish removal Section C. It happens all too often in charter language; the following section D creates some ambiguity referring to the authority of the Select Board and the Town Administrator. Looking at all the language in the Charter and the special act I would have to conclude that this is the primary responsibility of the DPW Director to issue how rubbish is collected does not rise to the level of policy responsibilities of the Select Board. Indeed, it appears to be an administrative function of the DPW as previously noted, my preference is if there is going to be a change in the promulgated policy of the town on trash to non-residential entities, Chapter 183A, Condo Associations of the distinct entity and Condo Association Control; I think it is one that Town Meeting should address. The property owners have another venue

core challenge but I think that would be unsuccessful. Let me know if you need additional response.

Mr. Guerino said it does come down to the notion that this is in the Policy, the Policy has been deemed to be appropriate. It is within consort with other communities that deal with condos and apartment associations. If the folks at Tradewinds opted to change their deed from a 183 Condominium Master deed to another type of deed, then I think the town could revisit the issue. It is George Sala's and my belief that the policy as it is written should hold.

Rick Howe questioned how many condominium complexes do you plow? George Sala said they don't plow any, years ago they did plow the outer edges of the herring run. Rick Howe said if you weren't providing those services then you didn't take those services away, like you have taken them away from Tradewinds. These are services that have been provided to tax payers, who haven't had their tax bill decrease because of this. We are the only ones that have been deprived of this service that has previously been provided since the place was build.

Gentleman from the audience agreed with Mr. Howe. Out of all the condo associations Tradewinds is the only one that has been affected in a negative way. Object to the language that they are a not residential entity. Spoke about the fact that they have less then 4 units, have proper curb side, roads are in proper condition, none of that matters. They are no different than any other subdivision in town, except for the word condominium. Disagree with Attorney Troy's assessment.

Tom Guerino read the pertinent part of the policy defines curbside collection as offered to residential properties and condominium complexes and trailer communities will not be offered curbside. This was a blanket policy for all 183A units.

Peter Meier said if you want to take no action on this, the motion would be not to take any action and move forward. If you disagree with this and want to find a way to provide services back grant it in the motion. So a motion to not take any action or motion to go to town meeting and take any remedies needed to restore services with trash, plowing, and street sweeping.

Tom Guerino suggested if it goes to Town Meeting it should be a private petition unless the Board brings it to Town Meeting. Mr. Guerino said in his opinion based on Counsels reviews on three separate occasions it is not within the purview of the Board, relative to the day to day operations of the DPW.

**Voted** James Potter moved and seconded by Judy Froman to take no action.

Judy Froman said she agrees that it is within the day-to-day operation of the DPW. Ms. Froman recommends moving forward that if something is going to affect the financial status of an association or some type of entity that more advanced timeframe needs to be put in place so budget preparations can happen for those entities.

Tom Guerino said the original policy was brought to the Board on January 5<sup>th</sup>, 2016 at a public meeting, it was noted all, commercial property.

James Potter said this seems to be another agreement from the past. The Policy was written, which was excluding condos. Bringing it to Town meeting could open up a variance for one specific group; then another condo group could come forward wanting the same services/variance from the policy. Having one association asking for a variance from the policy, the town would have to plan for that.

George Slade said we would have to figure out what the final implications would be to the town if this were to move forward.

Tom Guerino said in broad financial parameters it would be about 1 million dollars, \$350,00 vehicles, between 6 and 8 additional personal at salary and benefits at about \$65,000 a year per laborer.

Peter Meier said his opinion is once you give someone something you stick with what you stated, so I will be voting against the motion.

**Roll Call Vote:** Judy Froman – Yes; Peter Meier – No; James Potter – Yes; George Slade – Yes. Vote 3-1

### **3) Board to conduct a workshop on reviewing Board of Selectmen Policies**

The Board members discussed/reviewed the Policies and decided which ones fell under the Board of Selectmen.

James Potter spoke about licensing, it is in the charter but it is not a policy. Maybe we should create a policy about licensing or we should change the Charter. Tom Guerino said it falls under the Town Bylaw that you have general licensing authority.

#### **Workshop Outline 3/12/19**

##### **1. Why Select Board writes policies.**

###### **a. Charter, Article 3-3**

- i. ...serve as chief policy-making agency of the town keeping in mind the goals, policies and action items of the LCP and shall appoint the TA to carry out policies.**
- ii. The Board of Selectmen will act only through the adoption of written policy goals, policies and action items which will be implemented by the Town Administrator and written in a policy book that shall be available for public review.**

###### **b. LCP policies**

##### **2. Definition**

###### **a. Policy**

- i. a high-level overall plan embracing the general goals and acceptable procedures especially of a governmental body**

- ii. a plan or course of action, as of a government, political party, or business, intended to influence and determine decisions, actions, and other matters.
- 3. Review list of policies
  - a. Which policies need Board of Selectmen vote
  - b. Adopted
  - c. Signed
  - d. Drafted
  - e. To be written
- 4. Prioritize
- 5. Plan course of action
  - a. Board
  - b. Working Groups
  - c. Website
  - d. Policy Book

I sent the full edited Policy list (excel sheet) to Judy Froman on 3/12/19

The Board members agreed these were the Board of Selectmen Policies:

Beach Parking Sticker  
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Committee Appointments  
Community Building  
Community Events  
Drug & Alcohol  
Easements  
Electronic Communication  
Family Medical Leave Act  
Financial Management Policies & Guidelines  
Information Technology Resources Use  
ISWM Financial Policy  
Naming Policy  
Policy for Consultation with Town Counsel  
Remote Participation  
Social Media Use  
Special Municipal Employees  
Special Permit  
Town of Bourne Public Engagement  
Town Owned Property Naming  
Traffic Rules & Orders  
Website Posting

#### **4) Adjourn**

**Voted** Judy Froman moved and seconded by James Potter to adjourn. Meeting adjourned at 9:02 pm. Vote 4-0.

Respectfully submitted – Carole Ellis, secretary.