

**Board of Selectmen
Minutes of Tuesday, April 25, 2017
Bourne Community Building
Bourne, MA 02532**

RECEIVED

2017 JUN 23 AM 9:29

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

6:30 p.m. Call to order in open session

1. **Executive Session: For the purposes of:** Strategy with respect to contract negotiations for non-union personnel: a) Town Administrator. b) Strategy with respect to contract negotiations with Firefighter Union. c) Strategy with respect to pending litigation: Gordon: Cumberland Farms. d) Discussion relating to the value of Town owned real estate interest. The Chair has declared that an open meeting may have a detrimental effect on the negotiating and litigation position of the public body. The Board will reconvene in open session following the Executive Session

Roll call Vote to convene in Executive Session for the purpose stated. The Board will reconvene in open session following the Executive Session at approximately 7:00 PM.

Roll call Vote to reconvene in open session.

Meeting Called to Order

Chm. Pickard called the meeting to order to reconvene in open session at 7:15.

Board to report on votes taken in Executive session, if any.

Don Pickard said the Board met in executive session for discussing strategy with respect to contract negotiations nonunion personnel the Town Administrator, Strategy with respect to contract negotiations with Firefighter Union and respect litigation. The Board took no votes and just had discussion with Town Counsel.

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

Public Comment – Non-Agenda Items

None requested.

5) Correspondence

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

- A. Letter from Library Director Patrick Marshall thanking the Selectmen and the entire community for their help in the annual Cradles to Crayon/Boston Bruins Pajama Drive. Bourne was once again the top collector of PJ's in Massachusetts, collecting 2,078 pajamas and collecting \$1,540.00.
- B. Tec Associates submitted Yearly Operational Plan 2017 - Massachusetts Coastal Railroad [Copy of report is on file in the Town Administrator's Office]
- C. Barnstable County HOME Consortium - Automatic Renewal of Mutual Cooperation Agreement. Renewal period will cover federal fiscal years 2018, 2019, and 2020
- D. Letter from DEP regarding Draft Small Arms Ranges, Environmental Monitoring Work Plan - RCL, Concurrence.

Voted Peter Meier moved and seconded by Michael Blanton to take item 7 Shellfish Propagation Closures - Tobey Island (North side) - Back River (Mouth) out of order to the next item on the agenda. Vote: 5-0.

7) Shellfish Propagation Closures - Tobey Island (North side) - Back River (Mouth)

Tim Mullen went over what they are proposing. Closing the following areas to shellfishing. It is time to participate in the contaminated shellfish relay with the Division of Marine Fisheries. Proposing to close the recreational area on the north side of Tobey Island and Phinney's Harbor. The other area we would like to close is in the mouth of the Back River. The cost per bushel this year is \$20 delivered. We plan on opening the areas in the fall.

Voted Stephen Mealy moved and seconded by Peter Meier the Shellfish Regulations Amendment No: 2017-1 be adopted by the Board this evening. Acting under the authority of Chapter 130, section 52 of the Massachusetts General Laws, as amended, the Board of Selectmen of the Town of Bourne hereby promulgate the following special regulation which affects the taking of shellfish within the waters of the Town of Bourne.

Tobey Island, North Side: Effective May 1, 2017, the following area will be closed to all shellfishing: The Recreational Area known as Tobey Island, North Side. All waters and flats south of a line running from the "No Shellfishing" sign located at the Monument Beach Ramp northwesterly to a shellfish marker placed on the most northerly end of the sand bar off the north shore of Tobey Island, thence by a line running in a southerly direction to the wooden pier located on the northerly shoreline point of Tobey Island. This area is being closed for the purposes of propagation and general management of the fishery.

Back River (Mouth): Effective May 1, 2017 the following area will be closed to all shellfishing: The waters of that portion of Back River, in the Town of Bourne, northeast of a line drawn from Rocky Point across to Maryland Avenue and west of the railroad bridge at Shore Road. This area is being closed for the purposes of propagation and general management of the fishery.

This Shellfish Regulation Amendment was adopted by the Board of Selectmen on April 25, 2017 and is subject to modification written notice by the Board, the Director of the Division of Marine Fisheries, or in exigent circumstances, by the Town Administrator.
Vote: 5-0

6) Board to review and vote on Town Meeting Articles

Tom Guerino went through the town meeting articles.
Special Town Meeting Article 3, total is \$7,422.07 and needs to be re-voted.

Voted Peter Meier moved and seconded by Michael Blanton to approve Article 3 of the Special Town Meeting, the total is \$7,422.07. Vote 5-0.

Article 26, which is a Community Preservation Fund Article. Change on M that figure is changing from \$567,084.00 to \$568,097.00. These were estimates and now they are actual costs. Also the Historical Reserves for \$38,965 up from \$34,415, and putting additional revenues into the reserve account total amount of \$1,103,003.

Voted Peter Meier moved and seconded by Michael Blanton to accept Article 26 figure at \$1,103,003.00. Vote 5-0.

Article 28 we were waiting for a number for the Hoxie School. That number is \$258,000. Mr. Guerino said we are rescinding \$168,000.

Michael Blanton said he and Selectmen Meier attended the Finance Committee meeting last night. Finance Committee recommended 9-1 to support this figure. Peter Meier said the CPC voted 6-1 going to town meeting with this article. Don Pickard said he is inclined not to support it based on the prior issues they have had. They should be given a couple of years to raise funds on their own. Stephen Mealy agreed with Mr. Pickard. Was disappointed that no long-term plan was presented to the Board relative to how they were going to continue, except to come back to the town year after year for additional funding. Don Pickard said this \$258,000 could go to other town related projects.

Peter Meier said one benefit of this article is to finish the fire suppression system in the building.

George Slade spoke about what they have done. Wondered if we are penalizing the ones that want to move forward.

Michael Blanton spoke favorable to the Hoxie request. They are trying to raise their own funds. The investments we put into this building will either aid in the community benefit of a successful center or if the reversion is what happens we will still have an upgraded municipal building.

Peter Meier said the Finance Committee wanted to see how much money it will take to bring this building up to code.

Mary Jane Mastrangelo spoke about the letter from Mr. Fraiser. She sent an email to the Finance Committee with the new information from Mr. Fraiser.

Jim Mulvey spoke about the CPA money that has been put into Hoxie. If Hoxie fails in its mission all the benefits and improvements that have been paid for for Hoxie, that building will revert back to the town with all those improvements.

Stephen Mealy said based on what was just presented by the Finance Committee Chair, it might do us well to take that additional information.

Voted Stephen Mealy moved and seconded by Peter Meier to postpone until all the additional information has been made available to the town.

Michael Blanton questioned are we going to take action based on one individual? We haven't had a full survey of the building done. I don't know if I want to hold up taking action on this because of one person's cursory review of an asset to the town.

Stephen Mealy said if you have not read the report put out by the CPC construction auditor is would be a good idea to do that.

Vote: 3-2

Mr. Guerino went over Article 17, Dealt with the Municipal Modernization Act as it relates to using premium on Bonds. The additional information was provided to the Board last week. Recommend the Board consider supporting this article. Don Pickard read a brief description of the Article.

Voted Peter Meier moved and seconded by Michael Blanton to approve article 17 of the Annual Town Meeting. Vote 5-0.

8) Licenses/Appointments:

a. Recreation Committee Appointment - Ms. Connie Spilhaus

b. SVZ Auto Group, Inc. d/b/a/ Cape Cod Car Care - increase in vehicles for sale from 10 - 25.

Peter Meier went over the letter from Connie Spilhaus requesting to be appointed to the Town of Bourne Recreation Committee.

Connie Spilhaus introduced herself.

Voted Peter Meier moved and seconded by Michael Blanton to approve Connie Spilhaus to the Bourne Recreation Committee term to expire June 30, 2017. Vote 5-0.

Peter Meier went over the request from SVZ Auto Group, Inc., d/b/a Cape Cod Car Care; to increase vehicles for sale from 10 to 25; located at 74 Cranberry Highway, Sagamore, MA. Went to the Planning Board and looks like site plan 492 was approved on January 24, 2017.

Voted Peter Meier moved and seconded by Michael Blanton to approve. Vote 5-0.

9) Laura Kelly (POCCA) Protect our Cape Cod Aquifer - Ms. Kelly will be present to discuss the issue of the herbicide spraying and requesting the Board's continued support to oppose utility Right of Way spraying.

Laura Kelly, North Eastham, President of POCCACapeCod.org, handed out a file of recent newspaper articles on the topic within the last ten days. Ms. Kelly spoke about Eversource using herbicide to maintain vegetation overgrowth along rights-of-way power lines. They are using five different types of herbicides on the YOP (Yearly Operational Plan). MDAR oversees the operation and approves the YOP. This year will be the fifth year Bourne will be on the YOP. Ms. Kelly said she is here with two requests. First request is, the comment period had ended and the YOP approval is in MDAR's hands; upon approval of the YOP will this Board write a letter in opposition of the approval of the YOP.

My second request is for the Town of Bourne to join other Cape towns in taking the next move. The next step is to write a letter to MDAR stating you are an aggrieved party and that you wish to be a part of the adjudicatory hearing. Last year 4 towns said yes to this. They put forth \$15,000 per town to pay for the lawyer and the ecotoxicologist who would be representing the towns. MDAR said towns were not considered an aggrieved party because we are not sick. All our efforts are to prevent us from getting sick. I am looking to get more towns involved. At this point it is \$7500.00 for a town to join and become part of this, which would pay for the lawyer and the ecotoxicologist. Brewster Town Administrator is the one receiving the funding and disbursing the funding when needed.

DALA said there are four things you need to meet the criteria. We met three of them last year. The lawyer figured out how to get the fourth and we believe we will be considered an aggrieved party just to be allowed to be a part of the adjudicatory hearing at the State House with MDAR in a room with 13 members of the Massachusetts Pesticide States Board. We believe we will fail in that hearing, which is what we wish to do. The next move is Civil Court in front of a judge and at that stage we believe we will win. What the ecotoxicologist and the lawyer have collected will work in front of a judge but not at adjudicatory hearing because Eversource is not doing anything illegal. The EPA said these chemicals are allowed. We are not saying they are doing anything illegal we are just saying we don't want you to do it on our land. We are pushing for a no chemical spray agreement with Eversource.

Today's request I am really hoping you join and we can come together as a unity above our aquifer. It is up to us to protect it. They are not breaking laws but over time it will do harm to our natural resources here.

Peter Meier questioned the Town Administrator if we approve we want to get on board how do we get the money to pay for this? Tom Guerino said if the Board recalls what we went through in the fall, Mr. Taub would have to be appointed as associate counsel. That would have to go through Mr. Troy. The Board opted in the fall not to move forward on this. A similar process would have to be followed. Mr. Taub would have to contact Mr. Troy, and Mr. Troy would make a recommendation to the Board of Selectmen.

Mr. Pickard said there are two requests. One it to write a letter of opposition, the second is joining and paying the \$7500. When do you need the letter by?

Ms. Kelly said there is a 21-day window from when MDAR approves the YOP, which hasn't happened yet. I will let you know when that occurs.

Mr. Guerino said the Board has been supportive of that piece for the past several years. I would ask if MDAR does approve, if you would send us a draft letter that we can put on our letterhead that the Selectmen can sign.

Mr. Pickard suggested to take this under two motions. One would be to send a letter supporting the efforts of POCCA in opposition to MDARS decision.

Voted Michael Blanton moved and seconded by Peter Meier to send a letter in opposition of MDAR's decision. Vote 5-0.

Don Pickard questioned the timeframe for signing on and sending the check, would it be this fiscal year, which ends June 30th or starting next fiscal year starting July 1st of this year.

Ms. Kelly said to be determined by the time that MDAR approves. We don't know.

Don Pickard said to have Attorney Taub communicate with Mr. Guerino to facilitate a meeting with Mr. Troy.

Mr. Pickard said once you notify Mr. Guerino what MDAR has done, and Mr. Troy and Mr. Taub have spoken we can schedule a meeting that is convenient for the Board for Mr. Kelly to come back.

Mr. Mealy said there is a Special Town Meeting in mid-October, so an article could be placed in that Special Town Meeting. Those funds should be available the day after the Special Town Meeting. So you could have funds mid-October timeframe.

Ms. Kelly said by that time they would be spraying, they do a September to December 31 window.

10) Selectmen's Business -

- a. Electronic Weekly Board Materials - re-establishment and protocols/web postings**
- b. Funding of Assistant Town Administrator in FY 18 Annual Budget.**

a.

Stephen Mealy spoke briefly about the electronic weekly Board packet. Peter Meier said the packet should also be available on the town website so it is available to the public on Friday afternoons in preparation for Tuesday's meeting.

Tom Guerino said there are a number of 2000 series iPads now and some aren't working well so we will have to upgrade.

Michael Blanton spoke about why he thinks it is a fantastic idea.

Voted Peter Meier moved and seconded by Michael Blanton to instruct the Town Administrator to get back to us by/or around May 15th meeting on what the next steps are to implement this request. Vote 5-0.

b.

Mr. Pickard said it is his understanding that the Finance Committee voted last night that it be removed.

Peter Meier said he thinks this position is needed, but also feel this is not the time to fill this position, and agrees with the recommendation of the Finance Committee that we should rec this out through the summer by going through a process. After we are done with the process we may say the ATA position isn't needed but we may need help in other areas. Have an article ready in August for October Special Town Meeting to implement those changes. Leaving the money in the budget at this time doesn't do anybody any good, the money should be in Free Cash

Michael Blanton said he is supportive of the creation of an Assistant Town Administrator position. It is regrettable that we haven't completely vetted the position and had all the support to go ahead and create that position and fund it at this coming Town Meeting. Because there is so much uncertainty around what the definite job description should be, what the duties might be, and where they will fall in the organizational chart. It may be prudent to withdraw the money now, during the summer vet this position then come back with a recommendation in the fall.

George Slade said the hearing process that would take place in the summer months to vet this would be good. We have to discuss the job description, and the Town Administrator will create the job description with oversight from the Board of Selectmen. Is there any violation in the sequencing an Assistant Town Administrator with the Charter the way it is written now? Do we have to make a Charter amendment? Tom Guerino said in his opinion the Town Administrator may create new positions provide that they are funded. If we do an organizational hearing I believe it is authorized within the existing Charter. There are some

who believe that it needs to be defined within the Charter as a position. That would be a question for Counsel.

Stephen Mealy said he hopes this Board actually does undertake and implement an Assistant Town Administrator by the fall; it is well overdue. There are too many things we are asking one individual to complete.

Don Pickard said he is the one that brought it up because he thought it would be easier. As Chair I should have had you get the job description completed.

Voted Peter Meier moved and seconded by George Slade to support the removal of 95,000 from the Town Administrators budget at Town Meeting.

Stephen Mealy said the removal of the funds makes it easier to let this slide. Having enough money available, even if it is for half year would make it easier for the Finance Committee and the Selectmen to get together and to get it done. I disagree with the process. Since this is so important the money needs to be in there to remind the Board and the Finance Committee that this needs to be completed. Without the money there you will need to go back to Town Meeting and ask for it.

Peter Meier said we need to specify why we need this position and come up with a job description. The residents are complaining that we keep creating new positions.

Tom Guerino said the Chairman and I have worked closely on putting together all of the necessary components. What we need to do now is bring it forward to get it vetted over the summer. Go through the public process and have this ready to go. I think we should leave the money.

Peter Meier said then come Town Meeting you will have to ask for the rest of the money. What if we aren't ready? That money will be tied up when it could have been used in other areas.

Stephen Mealy said the Board needs to come forward and say we need this position. We need to build the argument that we need to have that type of position to help the town to continue to grow and run better.

Peter Meier said I want to take the time over the next 60-90 days to go through this position, and to make sure it is the right position.

Don Pickard questioned Mary Jane Mastrangelo your Board voted to recommend the removal of the money from the budget and move it to free cash for the Assistant Town Administrator position.

Mary Jane Mastrangelo said \$120,000 was the vote to be taken out of the budget relative to this position, \$95,000 from salaries and \$25,000 from expenses.

If the Board of Selectmen votes to recommend the removal of that money from the budget, then the motion on the budget will include that change. The motion has to be changed to change the budget. Then the Finance Committee will make a positive motion. If the Board of Selectmen does not remove it from the budget it is the Board of Selectmen's budget that goes to Town Meeting. The Finance Committee voted that they would make a positive motion on the budget subject to amendment so the Finance Committee wouldn't make the motion on the budget and then would propose an amendment to the budget as a recommendation of the Finance Committee.

Stephen Mealy said we have more than \$95,000 being the change. If we are going to work with Town Meeting we need to make sure both the Finance Committee and the Board are working with the same numbers. We also have to look at what the repercussions are going to be. I would recommend the Board follow the motion that was made, but correct it so it agrees with the Finance Committee's numbers. Want to avoid confusion. Having the number in there would be a preferable way to go.

Peter Meier withdrew his motion. George Slade withdrew his second.

Voted: Peter Meier moved and seconded by George Slade to remove \$95,000 from the Town Administrators budget for the purposes of funding the ATA and \$25,000 out of benefits. **Vote:** 4-1

George Slade said Town Meeting deserves a narrative of what our intention is.

11) Town Administrator's Report

12) Selectmen's Reports

a. Goals

b. Budget

c. Economic Development

B. Budget

Don Pickard said he was informed by the Town Administrator that the Administrator had put in the budget an increase in the building inspectors hours to 40 hours a week, and it was endorsed by the Board. The Finance Committee voted to have that removed from the budget.

Mary Jane Mastrangelo said the major concern of the Finance Committee was the increase in the budget. It came to the Finance Committee on April 10th. That is a problem because all of the other positions that were proposed this year were vetted during the budget discussion. We didn't get any explanation of why this is needed, we need the justification of additional spending, and it came very late in the process. That was \$12,000 for the position and \$2,000 for associated expenses.

Don Pickard went over what the building inspector has been doing and the hours he has been working. It's a department of 1 and if he takes a day off he will get called by a

contractor and come in. The building fees for the projects exceed the amount for that department for the inspector by 1/3.

Mary Jane said one of the issues is succession planning. If there are more hours that are needed is that the way to handle the situation. Should we bring in another person to make that a two person department? Changes come in late during the budget process. We have had a history of late additions or reductions to the budget that don't get the serious consideration they need that we have given through the whole process and looking at every department. The recommendation of the Finance Committee is take it out of the budget now come back to us and give us some information then we can decide.

Mr. Guerino has suggested when the inspector is going to retire in a few years bring in an assistant then. Prior to retirement I get notice of the retirement, we advertise and have a six month transition period with two people in the department at that point so as much information and knowledge can be transferred over to the new person.

Mary Jane Mastrangelo said most departments have an assistant or clerk that deals with paperwork, so the department head, which gets paid more doesn't have to do the paperwork.

Voted Don Pickard moved and seconded by Peter Meier to support maintaining the money \$12,849.00 and \$2,000 in benefits in the budget as presented by the Administrator to bring the Building Inspector up to 40 hours from 35 hours.

Michael Blanton questioned how would this affect the individuals work week, will he be working 5 days a week, Monday - Friday?

Vote: 4-1

Stephen Mealy reported:

The Candidates Debates Schedule

- May 2nd at Keystone Place, 218 Main Street, Buzzards Bay sponsored by the Chamber of Commerce 830 AM
- May 3rd Current Affairs Meeting at Community Center, Main Street Buzzards Bay at 10 AM
- May 8 sponsored by Taylor's Point Community Assessor at Bourne Community Center, at 6:30 PM
- May 10 Bourne Methodist Church, 7 PM

Earth Day Celebration Saturday, April 22 at ISWM

The Town of Bourne celebrated Earth Day last Saturday, April 22, At Dorothy's Swap Shop, the Bourne Recycling Committee provided information tables on the single-stream recycling program and the upcoming start of the ban on the distribution of single-use plastic bags.

I'd like to thank the members of the Re-cycling Committee for all their work and support to your residential landfill operations and preparing our Earth Day celebrations.

- Heather DiPiaolo, Chairman
- Betty Steudel, Secretary
- Roseanne Bottaro
- Amy Sharpe
- James Boyle

Cape Cod Regional Chamber of Commerce Blood Drive for the Falmouth Hospital on Thursday, April 27th 12:00 to 5:00 at the Main Street office

Town Meeting is next Monday, May 1, starting at 7 PM at the Bourne High School Auditorium

Articles of the Warrant for the Bourne Annual and Special Town Meeting are available on the town's website and at the night of the meeting at the High School.

The Chairman and I attended the swearing in last Wednesday

Town Election is Wednesday, May 16

Mr. Guerino said coming before the Board will be a request to use public lands from the Chamber to utilize the back of the memorial building to hold the Thursday nights concerts this summer if the Buzzards Bay Park isn't available.

George Slade said Arbor Day is Thursday held at the Bournedale Elementary School Sponsored by the Aptuxcet Garden Club.

Peter Meier spoke about the meeting he and Mr. Guerino had with Terri Stanley and Maria Leva to speak about the Concerts in the Park on Thursday nights and where they can be held in case Buzzards Bay Park isn't available.

Michael Blanton said he is offering a special office hours, pre town meeting this coming Saturday at the Bourne Public Library from 1:30 - 3:00.

Don Pickard spoke about the swearing in of the Police Officers.

13) Adjourn

Voted Peter Meier moved and seconded by Michael Blanton to adjourn. Meeting adjourned. Vote 5-0.

Respectfully submitted - Carole Ellis, secretary.
From thumb drive