

**BOARD OF SELECTMEN
REGULAR MEETING MINUTES
TUESDAY
APRIL 17, 2018**

Members Present: Steven J. Ouellette, Chairman
Shana M. Shufelt, Vice Chair
Brian T. Valcourt, Clerk
Ann E. Boxler
Richard T. Brewer
Also Present: Timothy King, Town Administrator

Chairman Ouellette called the Board of Selectmen meeting to order at 6:04 P.M. in the Westport Town Hall, 2nd floor meeting room, 816 Main Road, Westport, MA.

Pledge of Allegiance

Chairman's Announcement - Under MGL Chapter 30A, section 20(f) - Meeting is being recorded.

Acknowledgments & Recognitions

1. Mr. Ouellette offered condolences by stating that the Town of Westport stands with the Town of Yarmouth for the fall of Officer Sean Gannon.
2. Mr. Ouellette noted the passing of Charlene Wood on Sunday. He read a summary of her career mostly with the Town over 57 years. Past and current Selectmen offer condolences to her family. A moment of silence was observed.

Reorganization of the Board

Motion by Mr. Valcourt to name Ms. Shufelt as the Chair, Mr. Ouellette as Vice-Chair and Ms. Boxler as the Clerk. Second by Mr. Brewer. The Board voted 5 in favor. At this time the members were asked by the local press to stand for a photo. Chairwoman Shufelt acknowledged the two new members following last week's election.

Members reviewed vacated appointments to other boards of former Selectboard members.

Motion by Mr. Ouellette to appoint Mr. Brewer to the Bristol County Advisory Board. Second by Mr. Valcourt. The Board voted 5 in favor.

Motion by Mr. Ouellette to appoint Mr. Valcourt to the Buzzards Bay Action Committee. Second by Mr. Brewer. The Board voted 5 in favor.

Motion by Mr. Ouellette to appoint Ms. Shufelt to the Town School Building Committee. Second by Mr. Valcourt. The Board voted 5 in favor.

Motion by Mr. Ouellette to appoint Mr. Brewer to the Capital Improvement Planning Committee. Second by Mr. Valcourt. The Board voted 5 in favor.

Motion by Mr. Ouellette to appoint Ms. Boxler to the Council on Aging. Second by Mr. Valcourt. The Board voted 5 in favor.

Motion by Mr. Ouellette to appoint Mr. Brewer to the Energy Committee. Second by Mr. Valcourt. The Board voted 5 in favor.

Motion by Mr. Ouellette to appoint Ms. Boxler to the Housing Rehab Advisory Committee. Second by Mr. Valcourt. The Board voted 5 in favor.

Former Selectman Craig Dutra has offered to remain on the Westport Affordable Housing Trust. Members were agreeable to that based on his long time experience in the housing field.

Members agreed to hold off assignments on these inactive committees:

Guild Property Advisory Committee

Middle School Transition Committee

Members agreed that Ms. Shufelt, Mr. Ouellette and Mr. Valcourt would all remain on the other committees they are currently assigned to.

Mr. King advised the members that there would be a meeting tomorrow at 6:30 to review the warrant articles with the Town Moderator and Town Counsel. Mr. Valcourt and Mr. Brewer stated that they could make it.

Discussion Items

1. Discussion Town Nurse Position with the Board of Health.

Bill Harkins Chair of the Board of Health and Phil Weinberg Clerk of the Board of Health (BOH) were present for discussion. Ms. Shufelt stated that the letter before the Selectmen is requesting to fill the vacancy of the Town Nurse. Mr. Harkins stated that they have hired a nurse and they need BOS approval for the rest of this fiscal year and hopefully going into next fiscal year.

Ms. Shufelt stated that there are two issues for discussion surrounding this request. The first issue is the procedures for hiring and the process used for posting and selecting potential candidates and the role of the Board of Selectmen (BOS) in that process. The second issue is the budget. Ms. Shufelt asked Mr. King for an overview of the role of the BOS and why the BOH would need to come to the Selectboard asking for appointment. Mr. King stated that the BOS makes all the appointments and have the authority to appoint all union and non-union employees of committees; the Selectmen approve all contracts with the Town, including employment agreements. Since 2008, during the fiscal crisis, the Selectmen placed a freeze on all hires. If there were any filling of positions, it would require prior approval of the Board of Selectmen. This is the practice followed since then. The BOS have a fiduciary responsibility to the finances of the town including payroll and for that reason, no one is put on the payroll until approved.

Ms. Shufelt asked when the position was posted. Mr. Harkins stated the position was advertised several months ago in the papers but not posted in-house. He also disagreed in-part with Mr. King on the roles. He said, in the past, the BOH has hired their own people and came to the BOS for final approval to place them on the payroll in an administrative capacity. Earlier in January, Mr. Harkins said that both boards had a discussion, where all agreed that the BOH would do the hiring and the BOS would give the final approval of the process and those that were hired were under the direction of the BOH since they are an elected Board as is the Select board. Ms. Shufelt recalled the conversation they had about the Director of Public Health and the BOS approved and agreed on funding, rewording and posting that position. She said that

she did not recall agreeing to post for the nurse's position. Mr. Valcourt added, nor was funding discussed. Ms. Shufelt stated that funding is the second issue. The BOH posted anyway and they are now coming before the Selectboard because the person can't be paid or get on the payroll until the BOS approve it. She stated that the BOS did not remove the funding from the budget. Mr. Harkins disagreed with her statement on the funding. He said the position was funded for decades. This year, the Administrator remove the funding in one of the budget drafts without the permission or agreement from the BOH. He said this position has been open for a year and they have been working with the BOS in filling it. Since then and the BOH was asked to wait, and in the process of waiting, the funds were removed from their budget and he does not agree with these tactics. He noted that it was a unanimous vote by the BOH to keep the budget as it was for this fiscal year, to retain the nurse position and to hire a new nurse. The BOH agreed this needed to be done right away and they also agreed to hire and fill the position for the remainder of this fiscal year as it is in their scope of responsibility to do it and so they did. Ms. Shufelt agreed that FY18 budget did include funding for that position. The FY19 budget that the Board of Health proposed was cut for that position as recommended by the Town Administrator. She noted that the Selectboard did agree to include funding in the FY19 budget and this was sent to the Finance Committee (FinCom). Ms. Shufelt stated that FinCom is doing exactly what the BOS is doing by looking at how to balance the budget. They are looking at the nurse position as well as the police officer and firefighter positions being proposed. However, she stated the BOS would not be responsible to appoint a position when a definitive funding recommendation is expected to be made at Annual Town Meeting. Mr. Harkins stated he does not agree totally with what she said. He said the FinCom maintains that since the position was brought to 0 funding for however a short period of time, they now want proof from the BOH of where that funding is going to come from. He said that they are falling farther behind for being without a town nurse as responsibilities to the State are not being met. Mr. Ouellette stated the BOH wanted to get rid of the position to fund the Director position at one time. Mr. Harkins did not agree. Mr. Ouellette said they need work with the Administrator to be sure State employment laws are followed and that a personnel package is provided accordingly. Mr. Ouellette said they did push for the position. He also agreed to wait for Town meeting in 2-weeks for FY19 funding approval.

Mr. Harkins stated that no member of the BOH was in support of eliminating that position. Mr. Valcourt stated that no one came to the Selectboard to ask for positing the position and this has been standard policy since 2008. This is one of the duties of the Selectboard - the BOS must agree to post the position and then agree to hire the person for the position that the BOH interviews and moves forward with a recommendation. Ms. Shufelt asked if the BOH has worked with the Town Administrator to draft an employment contract. Mr. Harkins stated that he has not. Selectboard members were willing to overlook the position being posted without authorization. The next step, Ms. Shufelt stated was that she would want to see the funding at Annual Town Meeting approved first before appointment. Following this, the next requirement would be to draft an employment agreement. Ms. Shufelt asked there be an agreement drafted in preparation of appointment after funding at Town Meeting is approved. Mr. Ouellette suggested BOS approval be posted for Town meeting so that the Selectboard can take action on it instead of waiting for the next meeting. They would like to see the contract agreement by 4/30 in order to revisit the hiring on 5/1 if the Board of Health is ready to appoint immediately following Town meeting, if funded. Mr. Harkins, if this position is not funded, the Town would be in a serious legal problems; there would be dire issues especially if there

is a communicable disease outbreak. He also stated that revenue is up by \$20K due to a change in fee structure and felt that this portion going into the general fund could be used to help fund the position. Mr. Weinberg offered an apology being new to the BOH and the hiring process and as such that is why this issue was not clarified and moved forward sooner and understands now the range of services that are provided by the nurse. BOH had looked at other services outside of the town for filling the gap, but it was difficult to find what could meet the needs of the town and perhaps that is why they did not try to fill this position sooner. The BOH was engaged in looking for sources outside the Town but were unsuccessful. Mr. Brewer asked what the result was of the FinCom meeting last week. Mr. Harkins stated they had not made any determination but from his understanding, they are looking at it tonight. Mr. Wayne Sunderland, from the audience, asked why the Board could not vote to hire now conditional on funding at ATM. This is a highly needed position for the senior citizens and Council On Aging. It may be simpler to vote now subject to the FinCom findings. Mr. Ouellette stated that there is no contract before the Board to look over, and that needs to be reviewed.

Jon Alden asked if the hiring freeze effects all the positions at town. Ms. Shufelt stated yes and Mr. Valcourt affirmed there hasn't been an exception. Mr. Harkins asked if this procedure has been enforced for all the positions. Ms. Shufelt stated yes it has and there is no opposition to fill the nurse position but no one is willing to appoint until after Town Meeting assuring funding is in place. With the Fire Department, that procedure is different. Discussion ensued over FinCom and the submitted budget. Mr. Harkins stated that he was not pleased that the position was a dropped from their budget and that since the position dropped to 0 funding it was up to the BOH to prove to FinCom where funding will be coming from.

2. Discussion with WUYS regarding electricity to soccer fields relative to Article 15 on the warrant.

Fernando Larguinha from Westport United Youth Soccer (WYUS) was present. He stated that WUYS will be asking for \$40K through CPC funding to run the underground electrical lines to the back field. He is before the Selectmen to ask approve of running the line as it is town owned land they are leasing. **Motion** by Mr. Ouellette to approve. Seconded by Valcourt. The Board voted 5 in favor. Mr. Larguinha asked about notifying the abutters and Mr. Ouellette stated that he should notify the abutters with a something in writing.

Appointments and/or Resignations

1. Appointment of Republican Registrar of Voters. Names of suggested appointees:

- a. Richard Spirlet - could not make it at the funeral on the cape
- b. Bianca Carreiro - treasurer of the Republican Committee. Has over 20 years of
- c. Wilma Woodruff

Michelle Orlando Chair of the WRP stated that when the committee sent the request, the preference was as listed above. Mr. Valcourt asked why Mrs. Woodruff is not being re-appointed. Ms. Orlando stated that she can only repeat was said to her. Mr. Valcourt was concerned that someone was being taken out of a position because of an injury. Ms. Orlando was told she was not fulfilling her duties for a long period of time. Their committee voted at their last meeting to submit the names in the order as listed. Mr. Ouellette stated he has spoken with her and knows that she is in re-hab and healing properly and she is still interested.

Motion by Mr. Ouellette to reappoint Wilma Woodruff as the Republican Registrar of Voters. Seconded by Valcourt. Ms. Shufelt stated she is concerned about removing an incumbent. Mr. Brewer asked why they received three candidates' names and why not one. Ms. Orlando stated that they were asked to do so. Mr. Harkins suggested checking with the Town Clerk as he understands there may be a state requirement that there are 3 names submitted and the order of them is up to the committee. The Board voted 3 in favor and 2 opposed by Mr. Brewer and Ms. Shufelt.

2. Appointment of Democratic Registrar of Voters. Names of suggested appointees:
 - a. Elizabeth Collins
 - b. Barbara Lambert

Ms. Shufelt asked each candidate to approach the table and to give a statement. Ms. Lambert likes working for the town, it is an interesting job and has been the registrar for the last 6 years and would like to be reappointed to the position. Elizabeth Collins - stated she applied and was registrar for one year and enjoyed the work. She had worked with Jean Clapin, the Republican Registrar well and thought after her first term she would be reappointed for 3 more years but that did not happen. She enjoys doing community work and would like to be considered for this position again. She is also the chair of the Democratic Committee in town. Their committee did not put in a preference or order of candidates. She stated that she has never heard of a state requirement to submit three names as was suggested before and for years the Democratic Committee (DC) has always put in one name because no one else was interested. In addition, the letter from the Selectboard does not specify nor does the DC have a preference in name order. Ms. Shufelt stated that BOS is in the difficult position of voting on an appointment for which the DC has no preference.

Motion by Mr. Ouellette to appoint Ms. Collins because she works on the DC and works with many other committees and likes to get things done. Second by Mr. Valcourt. The Board voted 5 in favor.

3. Letter from Henry M. Swan requesting appointment as a regular member of the Historical Commission. (Mr. Swan is currently an alternate member). Mr. Swan was not present. **Motion** by Mr. Valcourt to appoint Mr. Swan to the Historical Commission. Second by Dick Brewer. The Board voted 5 in favor. Mr. Valcourt requested the vacancy for an alternate member be posted.

Action Items

1. **Motion** made by Mr. Valcourt to approve a Road Race request received from Cystic Fibrosis Foundation MA-RI Chapter for their "Bicycle Ride to Support Cystic Fibrosis Foundation" September 15, 2018 per Police recommendation received. Seconded by Mr. Ouellette. The Board voted 5 in favor.
2. **Motion** made by Mr. Valcourt to approve a Road Race request from the Horseneck Half for their "Half-Marathon" on May 20, 2018. Police recommendation received. Second by Mr. Brewer. The Board voted 5 in favor.

3. **Motion** made by Mr. Ouellette to approve a request to place “May is Lyme Disease Prevention Month” banners on fence at the Macomber and Annex playgrounds. Second by Mr. Valcourt. The Board voted 5 in favor.
4. **Motion** made by Mr. Ouellette to refer issue of the discontinuance of Adamsville Road to the Planning Board for a non-binding recommendation for the 4/30 meeting. Second by Mr. Valcourt. The Board voted 5 in favor.
5. BOS recommendations on Town Meeting Warrant Articles.
Motion by Mr. Ouellette to vote in favor of Articles 1, 2, 3, 6, 7, 8, 9, 10, 13, 15 & 19-21. Second by Mr. Brewer. The Board voted 5 in favor.

Article 4 - The Board deferred their vote at this time as they did not enough information.

Article 5 - The Board deferred their vote at this time as they did not enough information.

Article 11 - **Motion** by Mr. Valcourt to vote in favor. Second by Mr. Brewer. The Board voted 5 in favor.

Article 12 - **Motion** by Mr. Brewer to vote in favor. Second by Mr. Valcourt. The Board voted 4 in favor, 1 against by Mr. Ouellette.

Article 14 - **Motion** by Mr. Valcourt to vote in favor. Second by Mr. Ouellette. The Board voted 5 in favor.

Article 16 - **Motion** by Mr. Valcourt to vote in favor. Second by Mr. Ouellette. The Board voted 5 in favor.

Article 17 - **Motion** by Mr. Valcourt to vote in favor. Second by Mr. Ouellette. The Board voted 5 in favor.

Article 18 - **Motion** by Mr. Valcourt to vote in favor. Second by Mr. Ouellette. The Board voted 5 in favor.

Article 29 - **Motion** by Mr. Valcourt to vote in favor. Second by Mr. Ouellette. The Board voted 5 in favor.

Article 31 & 32 - The Board deferred a recommendation to 4/30.

Article 33 - **Motion** by Mr. Ouellette recommend **a no vote**. Second by Mr. Valcourt. The Board voted 4 in favor, 1 opposed by Ms. Shufelt.

Article 35 - The Board deferred a recommendation to 4/30.

Non-medical Marijuana Articles 22-28 & 30

Members discussed the ballot vote which was to not vote in favor Article 22. Articles 22 for a Town By-law and Article 23 for a Zoning By-Law prohibit non-medical marijuana. If Articles 22 & 23 pass, Articles 24-28 & 30 will die, unless it is allowed in 22 & 23.

Article 22 puts it in the Town By-law needing majority vote.

Article 23 is a Zoning By-law and zoning requires a 2/3 vote.

Ms. Shufelt said that she would vote yes along with the voters who want to prohibit marijuana in town. Mr. Ouellette also agreed. Mr. Valcourt said that the ballot vote was by no-means a majority of the town and did not feel the same, in his opinion.

Articles 22 & 23 **Motion** by Mr. Ouellette to vote yes to prohibit marijuana establishments.

Seconded by Shufelt. The Board voted 4 in favor, 1 opposed by Mr. Valcourt.

Articles 24-28 allow for recreational marijuana in the business district.

Motion by Mr. Valcourt to vote in favor so these are in place for the future.

Second by Mr. Ouellette. The Board voted 5 in favor.

Article 30 - **Motion** by Mr. Ouellette to vote in favor. Second by Mr. Valcourt. The Board voted 5 in favor.

6. BOS approval of final Town Meeting Warrant.

Motion by Mr. Valcourt to approve the warrant as printed in “clean copy”. Second by Ouellette. The Board voted 5 in favor.

Licenses

1. **Motion** made by Mr. Valcourt to approve a One-Day Wine & Malt Liquor License for the Horseneck Half Marathon scheduled for Sunday, May 20, 2018 from 9:00 am to 1:00 pm. with police detail on site. Second by Ms. Boxler. The Board voted 5 in favor.
2. Approval of the following One-Day Wine & Malt Liquor Licenses for Weatherlow Farms:
 - a. Thursday Suppers – Thursday, July 5th & 26th, August 23rd & September 27th from 5:00 to 8:00 pm.
 - b. Field to Barn Dinners – Sunday, July 15th, August 12th & September 16th from 4:30 to 7:30 pm.
 - c. Floral Workshops – Thursday, May 10th & June 14th from 6:00 to 8:00 pm, Saturday, December 1st and Sunday December 2nd from 2:00 to 5:00 pm.

At the request of the applicant, these events have been rescheduled to the 4/30/18 meeting because the owner was out of town this week. Reports were received by Police, Fire and Building Inspector. Mr. Valcourt stated that he has never seen one applicant requesting so many one-day licenses at one time, he would agree to approve 1-2 and see how things go but does not feel the balance of liquor licenses should be given. This has been contentious to begin with. Ms. Shufelt stated there is no discussion at this time and will be taken up at the next meeting.

Town Administrator Report

Mr. King offered his congratulations to Anne Boxler and Dick Brewer the newest members of the Selectboard.

1. Hix Bridge Road Bridge Repair. Mr. King reviews the status report and indicated that there are a few more months of work remaining.
2. Fire OPS 101. The Westport Permanent Firefighters Association invited town officials to a demonstration of firefighter duties. The demonstration is scheduled for Saturday, May 12, 2018 8am-12pm.
3. MDAR Local Farm Animal/Animal Inspector Policy. Mr. King noted some interesting guidance for local animal inspectors is being provided.

4. New School Bond Anticipation Note. Mr. King noted that the Town will need to borrow money on a short-term (approximately 1 year) basis to cover costs associated with the design of the new and demolition of the old schools. Based on the cash flow statement, approximately \$9 million will need to be borrowed for the BAN. A calendar schedule related to this borrowing was provided to the Board. The Rating Conference Call is scheduled for Wednesday, April 25, 2018 at 1 PM. The borrowing should be undertaken the first part of May borrowing \$9 million. As the project is built, the invoices are sent to MSBA and the Town would only pay the Town's share not the 97 million. The amount borrowed by the Town would be 58 million dollars. Mr. Ouellette asked Mr. King to provide projections of what citizens would be looking at. Mr. Valcourt would like the projection through year 30 for the citizens.
5. Local Option retail sales Marijuana Sales. The DLS bulletin provides an explanation article on this item is on the Annual Town Meeting Warrant.
6. Disabled American Veterans - Westport Chapter. This chapter is now closed.
7. DLS FY 2019 Budget Issues. Noted.
8. Community TV Report. Noted.
9. Animal Control Monthly Report. The log does not address the other staff. Ms. Shufelt requested the number of the nights animals are sheltered. Invoices were at one time provided and recently have not been. Mr. King would look into it.

Minutes. None.

Selectmen Liaison Committee Reports

1. Mr. Brewer stated that FinCom would like to have an info session for the public and there is something planned before ATM on capital improvements. He will let office know when and where the forum will be.
2. Mr. Ouellette stated that at the SRPEDD meeting there was discussion with the anticipated arrival of the rail and with Amazon already in our area, there is a focus in this area in and around Battleship Cove for additional build out which will affect Westport's buildout. He suggested staying on top of zoning. There are currently about 6 companies that want to build on Route 6.
3. Ms. Shufelt reported that the School Building Committee is now looking at different designs.
4. Mr. Valcourt - nothing to report on Water Resources at this time and he requested this be placed on the next agenda for discussion on 4/30/18

Question and Answer Period

Nothing was posted.

Boards/Committees/Commissions Vacancy List

Ms. Boxler read aloud the current vacancies.

Board of Appeals – 2 vacancies (1 Regular & 1 Associate)

Capital Improvements Planning Committee – 2 vacancies (Business & Construction Reps)

Council on Aging Board – 1 vacancy

Educational Fund Committee – 1 vacancy

Historical Commission Alternate – 1 vacancy

Open Space Committee – 1 vacancy (At-Large)

Personnel Board – 2 vacancies

Recreation Commission – 1 vacancy

Westport Economic Development Task Force – 1 vacancy

Westport Water Resources Management Committee – 2 vacancies (Precinct C & D Reps)

Board Members Suggestions for Future Agenda Discussion / Action

Mr. Valcourt asked that:

1. Water Resources be placed on the 4/30 agenda for discussion.

Mr. Ouellette requested that:

1. Summer help will be needed and to advertise for life-guards.
2. Road work policy be placed on the agenda for the next meeting to discuss preventing disrepair to the town's roadways in particular by utility companies.
3. Naming the meeting room after Charlene Wood was requested by family and asked the Board to consider and discuss at the next meeting.

Topics not reasonably anticipated forty-eight (48) hours in advance of the meeting

1. Mr. Ouellette noted that the family of Charlene Wood requested to have gathering in from of Town Hall on 4/26/18 or 4/27/18 to honor Ms. Wood. **Motion** by Mr. Valcourt to allow the gathering to honor Ms. Wood at a date and time to be determined. Second by Mr. Ouellette. The Board voted 5 in favor. Further details will follow.

Other Business

Mr. Valcourt welcomed the two new members.

Ms. Shufelt noted that will be out of town but is available by e-mail.

Ms. Shufelt reminded the listening audience that on Monday, April 23 Town Hall and Annex will close from 2-4 pm. for an employee safety drill.

Ms. Shufelt reminded the listening audience that on Tuesday, May 1, 2018 the Town needs its citizens to vote at Town Meeting.

Ms. Shufelt noted that there are two events for Memorial Day on two separate days: Saturday 5/26/18 salute services will be at two locations. Monday Memorial Day 5/28/18 will be the parade and reception.

Executive Session – pursuant to the provisions of MGL c 30A section 21(a) to 1. to discuss legal matters (Town V. Richard Medeiros, et al.) Chair declares that an open meeting may have detrimental effect on the litigating position of the public body and 2. to discuss legal matters (Howe V. Town, et al.) Chair declares that an open meeting may have detrimental effect on the litigating position of the public body.

These issues were not taken up and deferred to the next meeting as there is no legal urgency to discuss.


Adjournment.

Respectfully submitted,



Lucy Tabit
Administrative Assistant/
Confidential Clerk

APPROVED:


Ann E. Boxler, Clerk, Select Board Member

Attachments to Agenda of 4/17/18:

- Town Administrator recommendations to the Agenda items
 - Letter from the BOH re: Town Nurse position
 - Westport United Youth Soccer request to discuss Article 15
 - Westport Town Republican committee request for appointments and letters of interest
 - Westport Town Democratic committee request for appointment and letters of interest
 - Request from Henry Swan to be appointed as full member of Hist. Commission
 - Police Department recommendations for Cystic Fibrosis bike ride and application & related materials
 - Police Department recommendations for Horseneck Half Marathon and application & related materials
 - Request from Barbara Smith re Lyme Banners
 - MapGeo imagery of Adamsville Road portion for discontinuance
 - License request & application for Horseneck Half Marathon
 - License requests & applications for Weatherlow Farm
 - Annual Town Meeting Warrant with Town Counsel comments
 - Annual Town Meeting Warrant "Clean Copy"
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