



BOARD OF SELECTMEN REGULAR MEETING MINUTES

Monday, September 12, 2022

Members Present: Richard W. Brewer, Vice Chair
Steven J. Ouellette
Ann E. Boxler, Clerk
Brian Valcourt

Member Absent: Shana Shufelt

Also Present: James Hartnett, Town Administrator

School Committee Members Present. Nancy Stanton Cross
Tony Viveiros
Gloria Cabral
Melissa Pacheco

6:02p.m Call To order & Pledge of Allegiance

Acknowledgments & Recognitions - none

1. School Committee Joint Meeting

a. To fill the vacant School Committee Position, applicants

- Cynthia Kozakiewicz

Ms. Kozakiewicz addressed the Boards first stating that she does not plan to run in the April Election, and that she just wanted to offer an outside perspective to the School Committee as she is a bit dismayed at enrollment and where the students are headed after graduation, the children deserve better.

- Michelle Orlando

Ms. Orlando addressed the Boards, she recently served on the Committee, however was not re-elected in the last election, being on the committee was an eye opening experience for her, she served on the Audit Committee, took part in Labor Negotiations, she feels that 3 years was not long enough, and is eager to serve on the Committee.

Mr. Brewer called for any public comments, seeing none he explained the process, the candidates will be labeled A and B, with a raise of hands vote your choice, School Committee was in agreement with the process.

A – Ms. Kozakiewicz - 0

B – Ms. Orlando - 3 Board of Selectmen, with Mr. Ouellette abstaining.

4 School Committee Members voted to appoint Ms. Orlando to fill the vacant School Committee Position.

2. Public Hearings

- a. 6:20PM - Chapter 61A Release, 559 Main Road, parcel B on Plan of Land dividing Map 69 Lot 12 as recorded at the Bristol County Registry of Deeds Book 9420, Page 183 (Parcel B) Request to assign the option to purchase, to the Buzzards Bay Coalition.

Alan Decker Director of Land Protection for Buzzards Bay Coalition addressed the Board, two meetings ago this item was tabled, requesting the town assign First Right of Refusal to the Buzzards Bay Coalition, in order to achieve conservation outcome for this property. Maps showing natural resource values were handed out to the Board, showing Priority Habitat and Core Habitat, resources important for protection purposes, with Snell Creek running through the property. The BBC would like to acquire the property and make it publically accessible, assume long term ownership of the property and are brainstorming ideas about what to do with the house on the property. Mr. Decker is asking the board to effectuate the transaction and to preserve the property for conservation.

Mr. Brewer questioned the transaction. Mr. Hartnett answered that the town could assign the rights to BBC; they would work with the owner to secure funding. Mr. Decker stated the BBC would step into the shoes of the current buyer.

Mr. Hartnett noted that the Westport Land Conservation Trust did submit an email in favor, however they are not part of the transaction.

Betty Slade questioned who would hold the conservation restriction, Mr. Decker answered it would be part of the transaction to work with the Conservation Commission to hold conservation restriction.

Mr. Hartnett stated that the Board could assign with restrictions, but would devalue the property and limit their fundraising. BBC will come back to town at some point looking for approximately \$100,000 for a conservation restriction.

Jim Whitin spoke in favor stating that the Planning Board voted unanimously to have the town exercise Right of First Refusal to assign to WLCT or BBC.

Makenzie Long, ParaLegal, stated that after speaking to the Assessors back in May, there is only a small portion of land that qualified as 61A, in the sub division the owners are holding on to the original lot. The Purchase and Sales agreement on this property was signed back in May only to find out within weeks of closing BBC had intentions to purchase the property. The buyer has dreamed of owning a horse farm, she has no intention to develop, the wetlands would be covered by the Wetlands Protection Act. She is prepared to close within one week of the release. There is a common goal, to protect the land, she intends to have a horse farm as well as an agricultural farm, and is willing to put the land back into 61A. She would be willing to grant an easement to the BBC to develop paths, etc.

Mr. Brewer questioned the purpose of Mr. Long's discussion with the Assessors back in May. Mr. Long answered the Property can't remain in 61A with the subdivision, as 5 acres or more has to be used for farming. Mr. Valcourt added 61A is intended for farmland and forestry, this is a wooded area, so still falls into 61A even though it is not farmed. Mr. Hartnett noted a Forestry Management Plan would have to be filed and accepted by the assessors.

Stephanie Cormier addressed the Board, as a Dartmouth Resident, hoping to become a Westport Resident, a Physical Therapist and the parent of a horse crazy little girl, she has dreamed of having a farm her whole life, and has made a lot of sacrifices to be here to purchase this piece of property. She looks forward to restoring and developing the property into a small horse farm, organic farming and bees also interest her. She made an offer on April 1st and spent thousands of dollars. She has no interest in chopping up this land, and was thrilled to hear the property had wetlands. Being involved in protecting land in the past, she fully supports the BBC, she promises the land will be in good hands, she wants more than anything to be a valuable and productive member of this community.

Davd Cole, Vice Chair Ag Open Space, addressed the Board stating the committee voted unanimously, that the land not be released and to exercise the right of first refusal, supportive of BBC, \$83,000 remaining borrowing authority, waiting to see what the BOS decision is. 61A can be switched to 61, mostly forest land, a more appropriate classification. The thought of turning it into a Horse Farm, entails clearing of woodland, presents issues of drainage into Snell Creek, and Angeline Brook, and other pollution issues.

Stephanie Cormier recognizes the concerns about the land being cleared for a horse farm, only a few acres are required. There would be no horses near the wetlands, as conservation wouldn't allow it.

Mitch Pettey, Owner, stated his family has been paying taxes for over 100 years, and now 13 acres have miraculously disappeared. He grew up on the farm, it was all open fields. He sought legal advice, was told not to take a side on this, as it is the Boards decision.

Mr. Valcourt noted that unfortunately things slip through the cracks, when Mr. Pettey went to the various nonprofit entities, there was no interest at the time, since then many people have realized how important it was to actually save and preserve, not just Snell Creek, there are 9 different tributaries running down to the river on or near this property. This is a difficult decision this board has to make, and it does not take this lightly. It is important to save this property and guarantee it can't be developed. The Horse Farm may not work out, and once released from 61A, it's permanent. Horses are also not without detriment to the environment.

Mr. Ouellette noted this is a tough decision, wish we could work with her to fulfill her dream.

Makenzie Long stated as you can see Stephanie is very passionate about this, she is open to a Deed Restriction, and keeping within the 61 program. Common goal to protect the land, she is willing to grant an easement to BBC to protect known areas, also the Wetlands Protection Act would cover those areas.

Mr. Pettey asked if there is a guarantee from the BBC, what is the commitment?

Mr. Decker answered, if assignment is made, the BBC seeks to perform on the agreement as it stands, and are willing to have discussions with Ms. Cormier. The intention is to place a conservation restriction on the property, fundraising is needed to make the transaction happen; looking for \$100k possible from CPA, and Ag Open Space Council, as has happened several times in the past. This is a

supersensitive ecological property, this is what BBC does, protect property in to the future, with no hint of development.

Mr. Valcourt asked if the BBC would be willing to work with the current buyer? Mr. Decker answered absolutely.

Mr. Pettey noted that as the seller, he is looking for a non-refundable commitment.

Jenna Magnuski added that as a community that values farming, and open space in town, having understanding of how conservation easements work, can a condition of releasing the lien, in order for Ms. Cormier to buy with the understanding of putting so many acres into an easement, maintaining community values and dreams not being crushed.

Mr. Ouellette addressed Ms. Magnuski's point stating that with only 10 days, this wouldn't be feasible.

John Bullard: Planning Board, Open Space & Buzzards Bay spoke to commend the Pettey Family for preserving this land, he has watched Mr. Decker tackle conditions like this, it is complex and takes time. The Pettey Family has preserved the property in the past, however if restrictions are released even for a moment bad things can happen, not intended, the outcome of dreams being realized to bring both parties together is going to take time. It is worth it to try, not worth the risk of having the land unprotected, this way the land is protected while the situation gets worked out.

MOTION by Mr. Valcourt to exercise First Right of Refusal and assign to the Buzzards Bay Coalition, seconded by Mr. Ouellette. The Board voted 4-0 in favor.

3. Licenses/Permits

- a. Request from the Holy Ghost Club for a One Day Liquor license for Friday, September 16, 2022 from 5-10 for a Fish Fry Dinner.

MOTION by Mr. Valcourt to approve the One Day Liquor License with Police Recommendation, seconded by Mr. Ouellette. The Board voted 4-0 in favor.

- b. Request from the Holy Ghost Club for a One Day Liquor License for a Saturday, September 24, 2022 with a Rain Date of September 25, 2022, from 12:00pm to 7:00pm for a Fundraiser.

MOTION by Mr. Valcourt to approve the One Day Liquor License with Police Recommendation, seconded by Mr. Ouellette. The Board voted 4-0 in favor.

4. Appointments and Resignations

- a. Request from John Cabral to be appointed to the Council on Aging.

MOTION by Mr. Valcourt to appoint John Cabral to the Council on Aging, seconded by Mr. Ouellette. The Board voted 4-0 in favor.

- b. Request from J. Daniel Erwin to be appointed to the Safety Regulation Board.

MOTION by Mr. Valcourt to appoint J. Daniel Erwin to the Safety Regulation Board, seconded by Mr. Ouellette. The Board voted 4-0 in favor.

- c. Request from Chief Pelletier to appoint Raquel Rodrigues as part time EMD 911 Dispatcher and per diem Community Service Officer.

Mr. Ouellette mentioned he would like to see the officers being appointed at the meetings in the future.

MOTION by Mr. Valcourt to appoint Raquel Rodrigues as Part Time EMD Dispatcher and Community Service Officer, seconded by Mr. Ouellette. The Board voted 4-0 in favor.

- d. Request to change the appointment of Richard Brewer from Council on Aging Member to Board of Selectmen Liaison to the Council on Aging.

MOTION by Mr. Valcourt to accept the Resignation of Mr. Brewer as member of the Council on Aging, and to appoint him as Board of Selectmen Liaison to the Council on Aging, seconded by Mr. Ouellette. The Board voted 4-0 in favor.

- e. Request from the Planning Board to appoint Michael Burris as Town Planner.

Jim Whitin addressed the board, this has been a long time coming, there were 7 applicants, and Mr. Burris stood out, coming from a small town in Franklin County, Ohio.

Bob Daylor added that he has experience in administration, water and sewer for a much larger area, he is Certified Planner and is familiar with writing grants.

Mr. Whitin asked for Mr. Burris to start at 100% of the salary.

Mr. Whitin checked out his references and received all flying marks, they are sad to see him go.

\$90,000 a year salary is recommended and it is in the budget, Mr. Hartnett stated that Mr. Burris was offered 5 vacation days.

Mr. Ouellette noted not to let the fact that he is from out of state scare us, the SRPEDD Director was from out of state and worked out well.

MOTION by Mr. Valcourt to appoint Michael Burris as Town Planner at \$90,000 Per Year Salary. Effective October 3, 2022, seconded by Mr. Ouellette. The Board voted 4-0 in favor.

5. **Discussion**

- a. Cell Tower Settlement Agreement

Mr. Hartnett noted the Town has spent approximately \$25,000 on this court case to date. The BOS and the ZBA were advised by Town Counsel that a successful outcome was not likely, and that these cases are very difficult to win. The Town was at a point in the case where significant resources would have to be committed. Discovery, expert witnesses, document prep, etc.

Mr. Brewer stated these discussions took place in executive session, declared by the Board. Mr. Valcourt stated all the conditions were met that were set forth by the ZBA from the beginning.

Garrett Stuck stated he was very involved with opposition to the Cell Tower, followed as closely as he could, but a lot was done in secret. He asked the Board to walk him through some of the 27 Filings. Did the Plaintiff move to avoid discovery? How did that come out, did something happen in the process of the hearings that turned the tables?

Mr. Hartnett stated he was not sure what the end result was as far as discovery, but he can speak to the fact that Town Counsel from the beginning advised that the case is very difficult to defend, the likelihood of succeeding was not very good and extremely costly.

Mr. Valcourt offered the federal trade commission rules and regulations are in favor of the communications company and not the Town and Town By Laws. This was not lightly considered.

Betty Slade noted the ZBA did their job very well, conditions were absolutely necessary if the tower was approved, and that there is a need for the Communications Company to cover

the town. Her main argument was TMobile did cover the areas without a large tower, and that it was possible to have the coverage without a large tower right next to a state highway. The ZBA carried out good arguments. Members of the board noted that they went back and forth with Town Counsel, and it was determined there are several towers along state highways including Route 6. Ms. Slade continued that financially this sets a terrible precedent, showing the need for the override partially. During the process we were not informed of anything, 100s of people were in opposition. In the future, as it is late now, allow private people to get involved.

Mr. Valcourt stated that when the town is sued this Board is the only entity to enter into agreements and settlements, there were many public hearings, we fought hard and long, we feel we got the best agreement we could.

Mr. Brewer stated the Board does not have to choose to go into Executive Session, it is voted by roll call vote. If litigation is mentioned, there should be more verbiage as to what is meant by litigation and when is it necessary to go into executive session. It is not intended to be a secret process, there are minutes.

David Cole stated there were many hearings held by ZBA but not by the Select Board, for future reference the Board of Selectmen should consider having an open hearing before executive session.

Buzz Brownlee, Masquesatch Road asked to make two points for the record. He spoke with an attorney that represents towns across the country, who after reading through the documents, agreed the ZBA did an exemplary job in the hearing process being ultimately fair with all parties involved, and did an exemplary job in the written decision, laid it out very well, fine basis for intention of the decision. The town however could have done much better, the appeals hearing and the written decision were enough to go forward in spite of the cost, he understands the nature of finances in the town. Mr. Brownlee added he is seriously disappointed, and felt blindsided in the end.

Cindy Scheller has been opposed to the tower since it was proposed, and asked who is going to make sure they abide by the concessions. Members of the Board answered the Building and Zoning officers.

6. Action Items

- a. Request to amend the Public Health Director Contract.

Mr. Hartnett explained that this Contract Amendment was approved at the last meeting, this request is to sign the Contract.

MOTION by Mr. Valcourt to sign the amended contract, seconded by Mr. Ouellette. The Board voted 4-0 in favor.

- b. Request from Sue Brayton to reclassify the Principal Clerk Position in the Treasurer's office and post.

Mr. Hartnett noted that Sue Brayton will make the argument that the position should be classified at the same level as the union Senior Agent, at approximately \$30/hr. This would be the only "office position" classified at this level. I had suggested reclassifying the position at the "assistant department head" level similar to other department positions. She believes this position is critical, the department has had issues in the past and she does not want to go backwards.

Ms. Brayton addressed the Board stating the Town of Westport has already experienced what can happen when unqualified people work in the financial departments of the Town.

It is essential to the financial well-being of the Town of Westport to hire and maintain good qualified staff in all the financial departments.

Since July 14, 2022, the Principal Clerk position in the Treasurer's Office has been vacant. The position has been advertised without satisfactory results. Therefore, at this time she is asking the Select Board to upgrade the Principal Clerk position in the Treasurer's office to Payroll/Benefits/Tax Title Specialist. This position is absolutely critical to the Town and has many essential duties.

Similar positions earn between \$25 and \$32 per hour. The Town of Somerset has been advertising at \$25.17 without any luck and our school department pays \$31.16. I have attached the current rates classified by the union contract. My personal feeling is this position should earn the same as our school department but I also recognize the financial constraints of the Town. My recommendation is \$27.51

Mr. Brewer asked what the desired amount is, Ms. Brayton responded between \$25 and \$31, he also questioned if the pay rate would be a new rate, Mr. Hartnett noted the Local Inspector Rate is \$27.51.

Nadine Castro addressed the board stating that the Financial Departments are not the only important departments, the town would not run without the other departments. It is extremely frustrating when you see nonunion employees getting \$5,000 and \$10,000 raises, Matt just received \$5,000, and asked if Lindsey (the one who held the position previously) was offered more money to stay, maybe she would have stayed.

Ms. Brayton answered the position was recently advertised at the current rate.

Mr. Ouellette noted that the Town has lost other employees because of money.

Mr. Valcourt stated that special skills are needed for this position, and the pay is lower than other communities.

MOTION by Mr. Valcourt to offer and post the position for \$27.51, seconded by Mr. Ouellette, the board voted 4-0 in favor.

- c. Request from the Planning Board to amend the salary of the Assistant Planner position. Mr. Hartnett stated Amy Messier has been there for a year or so now, the Personnel Board approved the increase \$66,000 to \$72,000. Mr. Whitin stated that the Board has been very happy with what she has done and don't want to lose her. Mr. Daylor stated she was a finalist in another town, we had the risk of losing her. Mr. Valcourt, with all regulations coming before us, we really need to have good planning, lots of residential developments, solar farms, zoning issues, and updating ancient outdated bylaws. **MOTION** by Mr. Valcourt to amend the salary of the Assistant Planner from \$66,000 to \$72,000 beginning the next payroll, seconded by Mr. Ouellette. The Board voted 4-0 in favor.
- d. Request from Midori Evans from the Cultural Council to post their Community Wide Writing Project, Westport Writes Together through the seasons that launches September 19, 2022 on the Town Website. Ms. Evans outlined the program to the Board, explaining it is granted by the Helen Ellis Grant Program. **MOTION** by Mr. Valcourt to allow the program to be promoted on the Town Website, seconded by Mr. Ouellette. The Board voted 4-0 in favor.

- e. Request to accept the following donations to the Council on Aging: \$200; Ralph Urban for Best Use, \$20; Equipment Loan Best Use, \$20; Paul Sullivan for Tech Help, \$30; Anne Marie Deschenes for Tech Help. Totaling \$270.
MOTION by Mr. Valcourt to accept the donations, seconded by Mr. Ouellette. The Board voted 4-0 in favor.
- f. Request to approve and sign the Mass DEP Title 5 review letter.
Mr. Valcourt stated that the town is in a good position as far as these regulations go, as the Planning Board, Board of Health and Board of Selectmen have been very proactive in this matter. David Cole has also played a big role.
MOTION by Mr. Valcourt to sign the Review Letter, seconded by Mr. Ouellette. The Board voted 4-0 in favor.

7. **Town Administrator Report**
Transfer Station and Cemetery

The Department of Labor Standards inspected the Transfer Station and Cemetery Department on Thursday, August 18, 2022. They filed their report on August 26, 2022, and the Town has 30 days to take corrective actions (September 26, 2022). The Board of Health has replaced the small 5 gallon gas can and will be adjusting the height on one of the railings prior to the September 26, 2022 deadline. We will be requesting additional time to address the lack of toilet facilities at both the transfer station and the cemetery. Providing hot water and heated toilet facilities will require planning, funding and construction time, initial estimates for each location will be approximately \$50,000.

Town Hall Annex Access

The Commission on Disabilities requested an accessible entrance to the Annex gym. The Highway Department worked last week to replace the walkway to the gym prior to the preliminary election. This has been in disrepair for years and the work required widening the walkway and constructing a retaining wall. The recreation department is also working on automating the door to make it fully accessible.

Boiler Inspection

The insurance company completed their yearly inspection report on the Town Hall and Annex Boilers. Some upgrades to the pressure valves will be required and we are currently waiting for repair estimates. (Reports in the Board of Selectmen Files)

Budgets

The Town Accountant and Collector are working on reconciling closeouts for FY22 and are ahead of schedule. We have some preliminary numbers on department turnbacks from FY22 that are in line with estimates. Will be starting the capital planning and budget process within the next couple of weeks for the FY24 budget.

Mr. Hartnett also noted, the Highway Department is addressing the issues at the Roundabout at The Point.

Amy Messier is working on the MS4 and the yearly permit should be filed by the end of the month.

COA Roof work will start the week of 9/26.

The Town Hall Garage roof repairs are done.

Two Proposals received on the Hixbridge Landing Project.

Approve Minutes

- a. August 29, 2022

MOTION by Ms. Boxler to approve the August 29, 2022 minutes, seconded by Mr. Valcourt. The Board voted 4-0 in favor.

8. **Report on Bill Warrant**

Ms. Boxler noted it was in order and signed.

9. **Selectmen Liaison Committee Reports & Suggestions for Future Agenda Discussion / Action**

10. **Comments and Statements**

11. **Boards/Committees/Commissions Vacancy List**

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

13. **Executive Session** – pursuant to the provisions of MGL c 30A section 21(a), Chair declares an open meeting will have a detrimental effect to:

- a. Discuss strategy with respect to collective bargaining - Westport Police Association.
- b. Discuss strategy with respect to Litigation – East Beach Improvement Association vs Town of Westport et al.
- c. Approve Minutes:
 - August 29, 2022

MOTION by Mr. Valcourt at 8:34p.m. to enter into Executive Session for the reasons declared by the Chair, seconded by Mr. Ouellette. The Board voted 4-0 in favor by roll call vote, Boxler aye, Brewer aye, Ouellette aye, and Valcourt aye.

Adjournment


MOTION by Mr. Ouellette to adjourn the open meeting at 8:45p.m., seconded by Mr. Valcourt. The Board voted 4-0 in favor.

Respectfully submitted,



Paula M. Brown
Administrative Assistant

Approved: _____



Ann Boxler, Clerk
Select Board Member

1a School Committee - Kozakiewicz
1a School Committee – Orlando
1a 61a 559 Main Road Pettey
3ab Holy Ghost Club
4a COA Cabral
4b Safety Regulation Board – Erwin
4c – WPD Rodrigues
4e Michael Burris – Town Planner
5a WESP Municipal AFJ Endorsed by Court
6a Public Health Director Contract
6c Salary – Assistant Town Planner
6d Culural Council Writing Program
6e COA Donations
6f Mass DEP Title 5 Review Letter
8a 08292022 Minutes
14c 08292022 ES Minutes