



BOARD OF SELECTMEN REGULAR MEETING MINUTES

Monday, July 10, 2023

Members Present: Richard W. Brewer, Chair
Steven J. Ouellette, Vice Chair
Shana M. Shufelt
Ann E. Boxler
Manuel Soares, Clerk

Also Present: James Hartnett, Town Administrator

6:00 p.m. Call To order & Pledge of Allegiance

Welcome Comments from the Chair

Mr. Brewer announced the next meeting will be Monday, July 24th.

He also recognized the 4th of July Committee and Grand Marshall David Palmer, for a successful day despite the weather.

Under MGL Chapter 30A, section 20(f) – this meeting is being recorded.

Acknowledgments & Recognitions

Liz Collins was presented a citation for her many years of service, her 20+ year tenure started as an elected official of the Housing Authority in 2000 for which she served until her retirement in February 2023, in addition to various Boards and Committees, including the Board of Selectmen from 2003-2006, Affordable Housing 2010-2023, CPC 2002-2023, Economic Development 2015-2023, Housing Partnership 2002 – 2012, Ag Open Space 2003-2006, Estuaries Project Committee 2005-2011, Registrar of Voters 2005-2011 & 2014-2021, Water and Sewer Committee 2003-2006, Arts Council 2006-2009, Public Safety Complex Committee 2005-2007, Fire Station Building Committee 2009-2011 and the Trust Fund Council 2003-2006.

Public Hearing

6:05pm - Request from Sabah Elnemer, Manager, Hala Auto Sales for a Class II Motor Vehicle License and a Repair License at 757 State Road. Requested number of vehicles: 26.

Mr. Hartnett addressed the Board stating that this was previously JK & Sons Auto Sales, the application is complete and the police report is favorable.

Mr. Elnemer addressed the board stating he has been in business for 12 years, and is taking over the Repair and Sales business at this location.

Mr. Ouellette advised him to be mindful of the sidewalk when parking cars.

MOTION by Mr. Ouellette to approve the request for the Class II and Repair Licenses, seconded by Ms. Shufelt. The Board voted 5-0 in favor.

1. **Licenses/Permits**

2. **Appointments and Resignations**

- a. Request from Ruth Bourns to be appointed to the Cultural Council.

MOTION by Mr. Ouellette to appoint Ruth Bourns to the Cultural Council, seconded by Ms. Shufelt. The Board voted 5-0 in favor.

- b. Request from the Energy Committee to appoint Walter Barnes, Max Kohlenberg and Henry Ritter.

MOTION by Mr. Ouellette to appoint Walter Barnes, Max Kohlenberg and Henry Ritter to the Energy Committee, seconded by Ms. Shufelt. The Board voted 5-0 in favor.

- c. Request to re-appoint Robert Rebello to the Long Term Building Committee.

MOTION by Mr. Ouellette to appoint Robert Rebello to the Long Term Building Committee, seconded by Ms. Shufelt. The Board voted 5-0 in favor.

3. **Action Items**

- a. Request to approve the Employment Agreement for Beverly Bisch, Senior Services Director for the Council on Aging.

Mr. Hartnett addressed the Board stating this agreement has been signed by Beverly Bisch and is consistent with the Board's previous discussions.

MOTION by Mr. Ouellette to approve the employment Agreement with Beverly Bisch, seconded by Ms. Shufelt. The Board voted 5-0 in favor.

- b. Request to approve contract with General Teamsters Local Union 251.

Mr. Hartnett addressed the Board stating that the MOA was previously approved by the BOS and the contract has been updated, and ratified by the union.

MOTION by Mr. Ouellette to approve the contract with the General Teamsters Local Union 251, seconded by Ms. Shufelt. The Board voted 5-0 in favor.

- c. Request from Matt Armendo, Board of Health Director to approve the Southcoast Public Collaborative Inter Municipal Agreement (IMA) for the Public Health Excellence for Shared service Grant.

Mr. Hartnett addressed the Board stating that this is the grant that the BOH participated in last year, it benefited the BOH as well as the Town. The Town used the admin funds for laptop installation and repairs to the Annex septic system. This year the total community grant will be \$432,769.21 and the Town will receive \$64,915 in admin funds for being the lead community.

Ms. Ryden, Board of Health added this contract was reviewed by Town Counsel. Mr. Soares questioned what communities were involved, and the purpose of the collaboration, Ms. Ryden answered, Marion, Mattapoisett, Rochester, Lakeville and Freetown, for the purpose of implementing shared services, for public health. The state needs to build up local health boards, the grant will support the effort, and expand public health services.

Mr. Brewer questioned if this was state funded, Ms. Ryden answered yes.

Mr. Soares expressed that it is disappointing that the neighboring communities were not involved, Ms. Ryden answered that Fall River was in a different collaborative and Dartmouth opted out.

MOTION by Mr. Ouellette to approve the Inter Municipal Agreement, seconded by Ms. Shufelt. The Board voted 5-0 in favor.

Ms. Ryden then asked if the Board would entertain posting an Attendant I position at \$19.80 an hour under Item 11, Topics not reasonably anticipated forty-eight (48) hours in advance of the meeting. Ms Shufelt questioned the position asking if there is a vacancy, it was explained that the current vacancy is for an Attendant II, however they haven't been successful in filling this position the Attendant I position does not require a hoisting license. It was agreed upon to entertain this request under item 11.

- d. Request from Coastal Healing to amend the Host Community Agreement (HCA). Mr. Hartnett addressed the Board explaining that Coastal Healing is requesting modifications to the Host Community Agreement. At this point we have limited sales information, Adult Use gross sales for the month of December were \$36,337.75 and Medical Sales from October 11, 2022 to December 31, 2023 \$25,241.21. (2.5 months). Hartnett recommended that the agreement not be permanently amended until the new CCC regulations come out. Town Counsel believes our Host Agreement would not be subject to the new regulation but that is being disputed by others. The Board could consider a waiver of the fees for a short period of time maybe until June 30, 2023.

Mr. Brewer broke down the various fees

- a) Community Impact Fee
- b) Annual Community Benefit Payments
- c) Additional costs, payments and reimbursements

Attorney Phil Silverman, representing Coastal Healing, addressed the Board, there have been quite a few changes to the law since the HCA was signed, the law went into effect last November. He is requesting to amend the agreement and documented expenses to be more consistent with the new law. Atty. Silverman proposed to pay the town \$10,000 for October to May 31st. Expressing the company will need some time to do this. He continued to explain what's been happening with the industry over the last couple of years, and how it has changed significantly since this HCA was executed.

Mr. Brewer asked for clarification, as to when he referenced A, B and C, C is what we are talking about here. Silverman answered, all of them I think are impacted by the new law, the 3% isn't appropriate anymore, doesn't fit under the new law. The additional \$25,000 is if you can show that there are impacts from this company on the town that cause the need for additional services under the new law. Mr. Brewer stated that this creates a problem, in your letter you said the town will continue to receive all the local property excise taxes as well as the three percent sales tax proceeds from the sales of Coastal's retail operation. Silverman apologized, Sales Tax is a separate issue not impacted by the new law, you probably have already received some of those funds. We're not seeking to change that. He added that's a tax versus the impact fee..

Hartnett added in discussing it with Town Council, the other side of the argument is that this host agreement was designed and approved prior to the new law.

Atty. Silverman stated that's the dispute, so as a practical matter that is the stance that the Municipal attorneys have taken. He believes the CCC is going to rule on that soon but again as a practical matter this company's not in a position to be able

to pay these kind of monies. The Company has been entirely compliant, fixed up an old building, \$30,000 in property taxes, employs Westport Residents, they have paid \$17,500 in sales tax thus far. They are looking for relief, and to go forward under the new law.

Mr. Soares questioned the PILOT, Mr. Hartnett explained the property taxes are being paid, not part of the PILOT.

Atty. Silverman stated that his clients have no problem with the way the town has treated them. The licenses are valuable, and difficult to sell. The company is not quite breaking even right now. They have continued with their medical license, which a lot of companies have not, the medical license itself is \$50,000.

Ms. Shufelt noted she is sympathetic, but the town needs every penny it can get, long term likely to get more dollars, she is concerned about making a permanent change to HCA, with so much uncertainty, Mr. Hartnett made it known that we would have collected about \$50k, instead will be \$10k, she suggests to amend the agreement through June 2024.

Mr. Hartnett suggested meeting with Town Counsel to discuss how to handle this, and to possibly waive fees through June 2023.

Atty. Silverman added that he feels the Cannibus Control is going to take care of this, and deem HCA not compliant with new state law, and will reject the HCA, he is asking to waive for 6 months to give time to see what CCC has to say, new regulations tomorrow.

Ms. Shufelt noted the Sales Tax portion of the agreement is okay, the Property Tax portion of the agreement is okay. The town is expecting \$25k in November of 2023, and they are proposing \$10,000. We've received 15,000 in sales tax. She asked Atty. Silverman if he's looking to waive both, she's okay with waiving the community impact fee, but is more reluctant to waive the additional 3% as this was a big selling feature to the voters.

Ms. Boxler added she is ok with waiving the the 1st \$25,000, but not willing to change for June 2024.

Mr. Ouellette agreed with Ms. Shufelt that the 3% was a huge selling point at multiple town meetings.

Atty. Silverman reiterated that they are not in a position to pay the Community Impact Fee right now.

Mr. Soares posed his concerns about another issue, the Highway Access Permit. Mass DOT sent a letter to the company about work being completed by August.

Atty. Silverman questioned if this just pertained to his clients, and that they would address it in a timely manner if it's something that needs to be done.

Mr. Brewer noted that he understands the realities here, and to maybe wait a little longer to assess the fees.

Ms. Shufelt suggests waiving any fees and penalties until a decision is made, and to revisit in 2-3 months.

Mr. Ouellette reiterated the selling points from Town Meeting.

MOTION by Ms. Shufelt to waive demand fees through December 2023, seconded by Mr. Ouellette. The Board voted 5-0 in favor.

- e. Request to consider the appointment of a search committee to fill the position of Fire Chief upon Brian Legendre's Retirement.

Mr. Hartnett addressed the Board with the Possible Committee Make-up

- Out of Town Fire Chief (Kevin Partridge from Berkley?)
- Chief Legendre
- Personnel Board Member (Cindy Brown offered to serve)
- Town Administrator
- Select Board Member

Mr. Brewer noted the importance to process this in an orderly sensitive way

Mr. Hartnett questioned whether to proceed in house or beyond.

Mr. Brewer doesn't see the need for two Board of Selectmen Members to be on the committee, and is in favor of a five person committee.

Ms. Shufelt questioned whether this should be a committee or a working group.

Mr. Brewer suggested committee subject to Open Meeting Law, posting, minutes, etc. Mr. Ouellette questioned conflict with current Chief on committee, Ms. Shufelt thinks it's a good idea to have the Chief on the committee. Mr. Brewer added that the Town Administrator was not on the previous committee, and suggested having the Current Chief on the Committee but not as a voting member. Ms. Boxler suggested the same five members. Ms. Shufelt suggested swapping out the Chief for a FinCom Member.

MOTION by Ms. Shufelt to appoint Steve Ouellette to the Search Committee, as the Board of Selectmen Representative, seconded by Mr. Brewer. The Board voted 5-0 in favor.

MOTION by Ms. Shufelt to include FinCom, Present Chief (ex-officio), Town Administrator and out of town Fire Chief to the Search Committee, seconded by Mr. Ouellette. The Board voted 5-0 in favor.

- f. Request from Denise Bouchard to carry over 26.5 hours of vacation time.

Mr. Hartnett noted that Denise put off use of her vacation time in order to finish the Town Report.

MOTION by Mr. Ouellette to approve the carryover of hours to be used by September 30, 2023, seconded by Ms. Shufelt. The Board voted 5-0 in favor.

4. **Discussion**

- a. Audit Presentation for FY2022 by Town Auditor Anthony Roselli

Mr. Roselli from Roselli and Clarke stated that financial operations are being run much better now. The Treasurer and Town Accountant are in the growing stage, we are trying to be educational with them, and there are some minor issues like OPEB not being called in, in a timely manner. In summarizing the Management Letter, he stated there were no material weaknesses. The current challenges everyone is facing are inflation running ramped, FED's interest rates, shortage of people, construction, balancing budgets, network security and departments turning over monies in a timely manner. The Town is ahead of the curve with OPEB, over 2.5 million in account, Bristol County is catching up over 70% funded. The Treasurer needs to be keeping up on TBills, investments, excess cash in banking system is fragile right now.

Mr. Brewer questioned the point in which Pension will be fully funded, Tony answered the town is at 71% about 6 or 7 years away, minimum contribution will still need to be made.

Mr. Roselli addressed the Findings and Recommendations stating that Tax Liens, and Foreclosures have been the same for 11 yrs, General Ledger – closing check list with Town Accountant, Water Invoices, Mr. Hartnett added that he is working with Fall River on the water billing issue.

Mr. Brewer asked about getting materials in quicker so the 2023 Audit can be done sooner. What can the Board of Selectmen and Audit Committee do to make this happen quicker? Tony answered to start asking questions of the financial team at the end of August. The information should come easier this year as Nicole and Sue now own the whole year. The team should start looking at new software.

b. Override Ballot Question Committee Forum, July 11, 2023

Serves as a reminder, from 7pm-9pm

c. Board of Selectmen August Meeting Schedule

The Board discussed the August Schedule and suggested holding only one meeting in August.

MOTION by Mr. Ouellette to approve the change, and to meet on August 21st, seconded by Ms. Shufelt. The Board voted 5-0 in favor.

5. Town Administrator Report – Verbal

-AC Units at Annex, older units close to end of life, maybe replace one a year for the next few years.

-Computers – working very well, Keith is looking to contract with ICS to come in and provide service for the next 3 years at \$40,000-\$50,000/yr

-The June 24th Recycling Program went very well

6. Approve Minutes

7. Report on Bill Warrant

Ms. Boxler noted it was reviewed and signed.

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

Boxler – Affordable Housing, there is a fundraiser Thursday 9/14 for Sodom Road house, tickets are \$75.00.

Brewer – Town Administrator Performance Goals will be reviewed at the next meeting

Ouellette – SRPEDD usual walk through, looking to fill technology position, he would like to thank the Highway Department for putting up the flags, and the Parade Committee

Soares – Marijuana Applicant met with the Planning Board, applicant is purchasing building next door to Coastal Healing with a good business plan, they had a concern with what is going to happen with the state

9. Comments and Statements

10. Boards/Committees/Commissions Vacancy List

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

FY 2024 Appointments (See attached list)

MOTION by Mr. Ouellette to appoint as listed, seconded by Ms. Shufelt, the Board voted 5-0 in favor.

Request from BOH to post both inhouse and outside for an Attendant I Transfer Station both in house and outside.

Affordable Housing Trust
Cable Advisory

Craig Dutra
Irene Buck
Gloria Cabral
Rene Kochman
Donald Krudys

Infrastructure Oversight Committee

Bob Daylor
Manny Soares

Long Term Building Committee

Mark Schmid
Manny Soares

Tax Incentive Program

Susan Brayton

MOTION by Mr. Ouellette to post the Attendent I Position as requested, seconded by Ms. Shufelt, the Board voted 5-0 in favor.

Adjournment

MOTION by Mr. Ouellette to adjourn the meeting at 7:59p.m. Seconded by Ms. Shufelt. The Board voted 5-0 in favor.

Adjournment

Respectfully submitted, Paula Brown, Administrative Assistant/Confidential Clerk

APPROVED:  _____ Manuel Soares, Clerk, Select Board Member

FILE ATTACHMENTS:

PH Hala Auto Sales & Repair
2a Bournes - Cultural Council
2b Energy Committee Appointments
2c LTBC – Rebello
3a Beverly Bisch Contract
3b Duly Executed by Town of Westport and IBT251 - MOTA
3c BOH- Inter Municipal Agreement
3d Coastal Healing (2)
3d Coastal Healing Host Agreement
11 FY24 Appointments