



Board of Selectmen Public Meeting Minutes June 18, 2019

The regular meeting was called to order at approximately 6:00 p.m. in the Town Hall Hearing Room by Chairman Mike Stone. Selectmen present: Tracy Post, Norm Holcomb, and Mark Forest. Also attending: Yarmouth Town Administrator Dan Knapik; Yarmouth Assistant Town Administrator, Chris Dwelley; and D-Y School Superintendent Carol Woodbury.

1. Public Announcements and Comments

a. *Award of Scholarships:* D-Y School Superintendent Carol Woodbury explained that the Town of Yarmouth Scholarships are funded by the Frederick Howe Educational Endowment Fund, taxpayer donations, and the Ellen Chase Scholarship. Selectman Tracy Post presented awards totaling \$30,000 to 18 students.

b. *Heather McElroy, Precinct 1, representing the Cape Cod Commission, announced the One Cape Summit July 29 & 30th at the Waquasset Inn.*

c. *Don Marino, Precinct 1, urged the Town to drop the lawsuit against the School Committee and asked when the decision would be made. Chairman Stone explained that the public comment period is not a question-and-answer session, and that discussion on the lawsuit occurs in Executive Session, not open session. Mr. Marino objected.*

d. *Jim Cullen, Precinct 1, urged the Town to drop the lawsuit and asked the Board to explain its plan going forward. He recommended mediation.*

e. *Tom Sullivan, Precinct 1, thanked the Board for representing the taxpayers in the lawsuit and pointed out several technical points on which the decision might be appealed.*

f. *Janet Hively, Precinct 6, praised the intergenerational programs offered by the school district and the Age-Friendly group and urged the Board not to appeal the decision.*

g. *Vida Morris supported an appeal of the court decision.*

h. *Tom Nickinello, Precinct 3, representing the Chamber of Commerce, announced Englewood Baking Company grand opening ribbon-cutting ceremony.*

2. Public Hearings

a. *Transfer of License for Grand Café.* Licensing Chair Mike Stone read the legal notice into the record. Jackson Paguay and Luis Paguay were present. Mr. Luis Paguay is seeking to transfer the license to Grand Café, Inc. and to extend the restaurant's hours to 1:00 a.m. daily. In a letter dated June 17th, Liquor License Liaison for the Yarmouth Police Department, Phil Magnuson, outlined previous offenses and noted that Mr. Jackson Paguay had the Yarmouth Rules and Regulations translated into Spanish. Mr. Paguay has also had the model policy translated, and agreed to send a copy of the translation to Officer Magnuson. Officer Magnuson stated that Mr. Luis Paguay seemed to have an adequate understanding of the rules and regulations. Officer Erica Wenberg performed a compliance check on June 7th and reported that the business was in

compliance. Mr. Manuel Flavio Carchi intends to stay on at the restaurant at least 30 hours per week as manager. They are seeking bi-lingual staff to accommodate their customers.

Selectman Post asked why they need extended hours. Mr. Jackson explained that it is to accommodate their customers. Chairman Stone advised the Paguay' s to follow up with their insurance company if the license is transferred, and to advise the Town if there is a change in manager. There was no public comment.

MOTION: To move that the Board of Selectmen close the public hearing.

Motion by: Tracy Post

Seconded by: Mark Forest

Yea 4 Nay 0

MOTION: To move that the Board of Selectmen approve the transfer of the license.

Motion by: Norm Holcomb

Seconded by: Tracy Post

Yea 4 Nay 0

MOTION: To move that the Board of Selectmen allow a change in the hours of operation to 11:00 a.m. to 1:00 a.m. daily.

Motion by: Norm Holcomb

Seconded by: Mark Forest

Yea 4 Nay 0

b. Change of Manager for Blue Rock Club (formal hearing not required). Michael Allen, Executive Vice President of Operations for Red Jacket Resorts, requested a transfer of liquor license from the former General Manager to himself. He confirmed that he has attended the seminar offered by Officer Phil Magnuson and has had updated TIPS training.

MOTION: To move that the Board of Selectmen approve the transfer of the license.

Motion by: Tracy Post

Seconded by: Mark Forest

Yea 4 Nay 0

3. Summer Season Operational Update

Director of Public Works Jeff Colby, reported that DNR has been involved with regional discussions on white shark activity and is seeking approval for beach signage. The Seagull Beach boardwalk has been repaired and the Center Street shoulder has been stabilized for pedestrians.

Director of Community Services Pat Armstrong introduced Assistant Recreation Director Amy Howell. Over 40 lifeguards have been hired for the summer; some are multi-lingual. Beaches will be fully staffed beginning on Monday, June 24th. Free, family-friendly activities at the parks and beaches have been expanded to include libraries, concerts, movies, GAGA tournaments, beach soccer, fishing derby, and a Spike-U volleyball tournament. Also, pickleball courts should be completed this week.

Town Administrator Dan Knapik reported that the Town has been contacted by media outlets regarding Yarmouth's shark awareness efforts and policy. There was discussion on the Town's liability if shark warning signs are posted at the beaches. Town Counsel has approved of the proposed signs.

Amy Howell outlined her background and experience. There was discussion regarding lifeguard staffing, the regional shark working group, shark sightings, and the possibility of deploying a "smart buoy" off Yarmouth's coast. The cost for the buoys could be in the range of \$250,000 - \$500,000.

MOTION: To move that the Board of Selectmen approve the posting of new caution signs at public beaches.

Motion by: Norm Holcomb

Seconded by: Tracy Post

Yea 4 Nay 0

4. Yarmouth Hazard Mitigation Plan Annual Report

Town Planner Kathy Williams reported on the Town's Hazard Mitigation Plan (HMP). The HMP Planning Team includes representatives from Public Works, Natural Resources, Highway, Health, Conservation, Planning, Police, and Fire. The Plan includes 30 action items that the team is working to address. Selectman Post suggested an intern from Mass Maritime Academy to assist staff. There was no public comment.

5. Golf Bond Anticipation Note Signing

Finance Director Ed Senteio asked for the Board's approval to continue short-term (one year) funding in the amount of \$1,980,944 for improvements at Bayberry Hills Golf Course and the restaurant at Bass River Golf Course.

MOTION: To move that the Board of Selectmen sign the anticipated note.

Motion by: Tracy Post

Seconded by: Mark Forest

Yea 4 Nay 0

6. 163 Higgins Crowell Road – Nuisance Property

Chairman Stone explained Chapter 139, Section 1 of the General Laws which deals with dangerous or nuisance properties. On advice of Town Counsel, Building Commissioner Mark Grylls is asking for the Board's approval to utilize that process for 163 Higgins Crowell Road. Commissioner Grylls explained that the building burnt a year ago, but went into foreclosure shortly thereafter. There are title issues which prevent the building from being torn down, and people are getting into the unsafe structure. This process would allow the Town to make the structure safe and place a lien on the property in order to recover the costs.

MOTION: To move that the Board of Selectmen authorize the Building Commissioner to utilize the process outlined in Chapter 139, Section 1 of the General Laws in regards to the property located at 163 Higgins Crowell Road.

Motion by: Tracy Post

Seconded by: Norm Holcomb

**Yea 3 Nay 1
(Mr. Forest opposed)**

7. D-Y School Agreement Update

Chairman Stone reported that the Board has voted to make public its most recent response to an offer from the Town of Dennis.

The Town of Dennis offer: "Dennis Board of Selectmen will place an article on the warrant to seek an appropriation to fund the fiscal year 2020 Dennis-Yarmouth Regional School budget at Dennis' foundation enrollment percentage of 31.3459%."

The Town of Yarmouth response: "The Yarmouth Board of Selectmen agree that the use of a foundation enrollment percentage should be the basis to determine student cost-sharing. However, use of the foundation enrollment percentage needs to also incorporate fixed district costs that are part of the administration of a school district. The Yarmouth Board of Selectmen support the use of an agreed-upon foundation enrollment percentage that should be part of a multi-year rolling average -- for example, five years -- coupled with the addition of fixed district costs subject to further negotiations. These fixed district costs should also include an escalator for inflation."

Second item: “The Dennis Board of Selectmen will place an article on the warrant to seek an appropriation to fund the feasibility study at Dennis’ foundation enrollment percentage of 31.3459%.”

The Town of Yarmouth response: “The Yarmouth Board of Selectmen respectfully request that the Dennis Board of Selectmen consider using the foundation enrollment percentage effective in October of 2016. The District received permission from the Massachusetts School Building Authority (MSBA) to expand the feasibility study to include the Wixon School on October 6, 2016, and the foundation enrollment at that time would be the more appropriate measure of contribution.”

Third item: “The Dennis Board of Selectmen will place an article on the warrant to seek an advisory vote of support for an amendment of the agreement to support funding for the new middle school project at Dennis’ foundation enrollment percentage of 31.3459% contingent upon compliance with statutory procedure including preparation and approval of an amendment by the School Committee, approval of the amendment by the Department of Elementary and Secondary Education (DESE), and approval of the amendment at both towns’ town meetings.”

Yarmouth response: “The Yarmouth Board of Selectmen support an amendment to the agreement that uses as the capital share the same share that was used during the most recent significant district capital improvement, the renovation of the Dennis-Yarmouth High School.”

Fourth item: “The Dennis Board of Selectmen will take a public vote of unanimous support and will advocate in support of these articles.”

Yarmouth response: “The Yarmouth Board of Selectmen will support publicly the agreement language as amended in our response as may be further negotiated and finalized.”

Fifth item: “The Dennis Board of Selectmen will agree to participate in negotiations to amend the agreement to include Dennis funding the operational budget at each town’s foundation enrollment percentage.”

Yarmouth response: “The Yarmouth Board of Selectmen agree to participate in negotiations to amend the agreement to include each town funding its students’ share based on the use of an average of foundation enrollment as set forth above, coupled with a fixed district cost factor that is calibrated for inflation.”

Finally: “The Yarmouth Board of Selectmen would agree to the dismissal of the lawsuit pending a successful vote in support of the amended agreement by the Dennis-Yarmouth Regional School District Committee, each town meeting, and approval by the Department of Elementary and Secondary Education (DESE).”

Selectman Post noted that the Board has not yet received a response to its counter-offer. She, Selectman Holcomb, and Town Administrator Dan Knapik attended a meeting with DESE last week at which they asked Dennis representatives to consider formal mediation. She also reported that the School Committee voted last night to request an extension of the June 30th deadline from DESE. Selectman Holcomb suggested the Board take a vote on mediation.

MOTION: To move that the Board of Selectmen support in concept mediation, and support an extension of time for the MSBA funding made by the School Committee.

Motion by: Tracy Post

Seconded by: Norm Holcomb

Yea 4 Nay 0

Chairman Stone noted that the regional agreement ultimately needs to be supported by the School Committee and both towns' town meetings.

8. Board and Committee Actions

a. Committee Appointments

MOTION: To move that the Board of Selectmen appoint Gail Charette as a regular member to the Town of Yarmouth's Disability Committee for a 3-year term running through January, 2022.

Motion by: Tracy Post Secended by: Norm Holcomb Yea 4 Nay 0

MOTION: To move that the Board of Selectmen appoint Michael Smith as a member to the Recycling and Solid Waste Advisory Committee to fill an unexpired term running through February, 2021.

Motion by: Norm Holcomb Secended by: Tracy Post Yea 4 Nay 0

MOTION: To move that the Board of Selectmen appoint George Perkins as a regular member to the Water Resources Advisory Committee to fill an unexpired term running through August, 2020.

Motion by: Tracy Post Secended by: Norm Holcomb Yea 4 Nay 0

b. Approval of Minutes for November 14, 2018; November 20, 2018; December 4, 2018; and Executive Session Minutes of April 23, 2019; May 4, 2019; and May 14, 2019

MOTION: To move that the Board of Selectmen approve the minutes of November 14, 2018, November 20, 2018, and December 4, 2018.

Motion by: Tracy Post Secended by: Norm Holcomb Yea 4 Nay 0

MOTION: To move that the Board of Selectmen approve and hold Executive Session Minutes of April 23, 2019; May 4, 2019; and May 14, 2019.

Motion by: Tracy Post Secended by: Norm Holcomb Yea 4 Nay 0

c. Upcoming Agenda Review: Selectmen's Goals, and a year-end report from the golf department will be added to the next agenda, which will be July 16th. Center Street improvements/ parking regulations will be added to a future agenda.

d. Individual Items: Selectman Post updated the Board on last night's School Committee meeting, at which the budget was discussed. Selectman Stone attended the Bray Farm Sheep Shearing Festival and thanked the many volunteers who support the farm.

9. Town Administrator Items

a. Consent Agenda: Association of Federal Retired Employees donation of \$100, among other donations.

MOTION: To move to approve the Consent Agenda as presented.

Motion by: Mark Forest Secended by: Michael Stone Yea 4 Nay 0

b. Town Administrator Updates: The Donkey Wedding fundraising event at Bray Farm was a resounding success

c. Water Resources Planning: DHY meeting this Friday. Update on the agreement will be before the Board in July.

- d. Dennis – Yarmouth School Agreement: Nothing further.
- e. Mattacheese School Project: None
- f. Cape Tech: The building is expected to come in ahead of schedule.
- g. DPW Facility: Awaiting a final construction figure to bring to Fall Town Meeting.

10. Adjourn

MOTION: To move that the Board of Selectmen adjourn the meeting.

Motion by: Tracy Post

Seconded by: Norm Holcomb

Yea 4 Nay 0

Meeting adjourned at approximately 8:40 p.m.

Respectfully submitted,



Linda Dennehy

DISTRIBUTED MATERIAL AGENDA PACKET

- Transfer of Annual Wine & Malt License from Grand Café Restaurant, Inc.
- Change of Manager from Blue Rock Club, Inc.
- Memo to BOS from Town Administrator dated June 12, 2019 re: 2019 Summer Season Operations Update
- Memo to BOS from Town Planner dated April 19, 2019 re: Yarmouth Hazard Mitigation Plan (HMP) Annual Maintenance Report
- Memo to BOS from Appointments Chair dated June 12, 2019 re: Disability Commission Appointment
- Memo to BOS from Appointments Chair dated June 12, 2019 re: Recycling and Solid Waste Advisory Committee Appointment
- Memo to BOS from Appointments Chair dated June 12, 2019 re: Water Resources Advisory Committee Appointment
- Draft Board of Selectmen Meeting Minutes of November 14, 2018
- Draft Board of Selectmen Meeting Minutes of November 20, 2018
- Draft Board of Selectmen Meeting Minutes of December 4, 2018
- Executive Session Meeting Minutes of April 23, 2019 (under separate cover)
- Executive Session Meeting Minutes of May 4, 2019 (under separate cover)
- Executive Session Meeting Minutes of May 14, 2019 (under separate cover)
- 2019 BOS Upcoming Agenda Items Schedule
- Memo to BOS from YPD dated June 11, 2019 re: Donation Approval Request - Darien Newlander
- Memo to BOS from YPD dated June 11, 2019 re: Donation Approval Request – MA Department of Corrections, K-9 Division
- Check from National Association of Retired Federal Employees (NARFE), Chapter 818 – Donation to the Town