



## Board of Selectmen Public Meeting Minutes January 15, 2019

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

### 1. Public Announcements & Comments

*Police Chief Frank Fredrickson introduced new Dispatchers Jaime Sundby and Kelly Waugh; new Patrol Officers Ryan Golden, Eric Rondina, Michael Cheung, and Liam Breen; new Civilian Victim Services Advocates Patrick McGuire and Anne Catalano; announced promotion for Sgt. Richard Fichter, Jr.; and acknowledged achievements of Lt. Andrew O'Malley and Detective David Schneeweis. He also thanked the Board and Town Administrator for their help in the months since the loss of Officer Gannon.*

*Yarmouth Representative to the Assembly of Delegates Suzanne MacAuliffe reported on the Assembly's reorganization; the County budget review; the new dredge; charter review; and a meeting with the legislative delegation. She also expressed disappointment with the way the new school project has been proposed to the Town.*

*Christine Greeley announced the groundbreaking for the new Cape Cod Regional Tech; the winning bid came in \$9 million under budget. The Vineyard Wind comment period is coming to an end; a citizens' group will be seeking protective status for Lewis Bay.*

*Vida Morris expressed concern about the voting process for the proposed new regional school.*

### 2. Public Hearing

a. New Entertainment License for Compass Rose. Licensing Chair Mike Stone read the legal notice into the record. Owner and Manager Andora Hamilton presented the application for indoor live music without amplification at the Compass Rose. Selectman Stone asked for public comment. Tom Nickinello of the Yarmouth Chamber of Commerce, Vida Morris, and Maryanne Agresti of the Yarmouth New Church spoke in support of the application. Selectman Post asked for clarification on the occupancy limit. Ms. Hamilton confirmed that there is no expansion planned, and that she understands the egress requirements.

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

**Motion by: Tracy Post**

**Seconded by: Mark Forest**

**Yea 5 Nay 0**

**MOTION: To move that the Board of Selectmen approve the application as presented.**

**Motion by: Mark Forest**

**Seconded by: Tracy Post**

**Yea 5 Nay 0**

### 3. Town Meeting Attendance Presentation

Town Moderator Dan Horgan provided an overview of the recommendations of the Town Meeting Review Committee. Citing the length of the meetings as the biggest obstacle to attendance, the Committee recommended holding a spring and a fall meeting. The second strongest recommendation was to return to a weeknight evening instead of a Saturday. A review of statistics indicated that weeknight evening attendance was generally better than Saturday attendance. Mr. Horgan also noted that civics education should be increased.

Selectman Post supported the recommendations, and brought up discussion of the logistics of holding a “pre-Town Meeting” to educate voters on the particular issues. Committee member David Reid addressed Selectman Holcomb’s question regarding which types of articles would appear at spring and fall town meetings. He suggested that CPA, zoning, local planning, and housekeeping items would be logical for fall meetings. Budget items would need to be addressed in the spring. He also suggested that separate meetings may improve overall participation, not just numbers. Selectman Forest noted new legislation that requires 8<sup>th</sup> grade students to participate in a civics project. Discussion continued about educational opportunities and outreach to non-voting taxpayers.

There was consensus that a by-law amendment would be necessary to change the meeting date. Mr. Reid suggested the Board establish a policy on when warrant items will be heard. Discussion continued regarding an ending time for meetings and time limits on speakers. The Board thanked Mr. Horgan, Assistant Town Administrator Chris Dwelley, and the Committee for its work.

### 4. FY2020 Budget Review for Municipal Operations

Interim Technical Services Director Rich Bienvenue provided an overview of the wide variety of services provided by Municipal Operations. He then reviewed the budget lines, which have seen in an increase of 13% or \$97,000. Mr. Bienvenue outlined the increases in existing services and new/additional budget items. As part of the evaluation of IT operations resulting from the flood damage, new budget items were recommended.

In response to Selectman Post’s question regarding data security while outsourcing and hosting services are being used, Mr. Bienvenue noted that a security assessment and audit needs to be done. Selectman Tolley noted the ever-increasing cost of doing business due to technology, and discussion continued regarding the efficiencies gained through technology, security issues, and disaster recovery/emergency preparedness. Town Administrator Dan Knapik and Mr. Bienvenue updated the Board on the technology and communications improvements underway. Chairman Holcomb asked how the savings will be reflected for fleet and energy management. Mr. Bienvenue advised that they will appear in the FY20 energy budget.

### 5. Appointment of Municipal Operations Director

Town Administrator Dan Knapik reviewed the evolution of the Municipal Operations Department, noting the overlap between technology and finance resulting from the flood. As a result of Mr. Bienvenue’s management of the recovery, and particularly negotiations with the insurance company, Mr. Knapik recommended him for the position of Municipal Operations Director. The charter is silent on mid-term department head vacancies, and that can be addressed in the future.

While Selectman Forest considered Mr. Bienvenue a fully capable candidate, he argued that under the charter, the Board of Selectmen make decisions on department heads; and the three-candidate rule still stands. Therefore, Mr. Forest could not support the appointment because it is not consistent with the Town Charter.

Town Administrator Dan Knapik reviewed the opinion of legal counsel regarding Mr. Forest's concerns. The charter does not address "acting" or "interim" department heads, therefore the administrative appointing authority addresses interim appointments. Citing a number of department head appointments that have not been part of a three-candidate panel, Mr. Knapik felt that this was no different.

Selectman Stone felt that Mr. Bienvenue was well-qualified, but concurred with Mr. Forest that it would be best to wait for the charter change to be approved by the legislature to waive the three-candidate rule. The Selectmen's duty is to uphold the charter and legislative approval should be obtained. Both Mr. Stone and Mr. Forest would be willing to appoint Mr. Bienvenue as an interim.

Selectman Post recalled previous appointments made by Town Administrator. Mr. Knapik noted that Town Counsel has reviewed his memo without comment. He will pursue clarity on the issue of permanent appointments. Discussion followed regarding the optics and the integrity of the competitive process.

**MOTION: To move that the Board of Selectmen appoint Rich Bienvenue as acting Municipal Technical Operations Director.**

**Motion by: Tracy Post**

**Seconded by: Mark Forest**

**Yea 5 Nay 0**

## **6. Staff OSHA Presentation**

Waste Management Superintendent Roby Whitehouse and Town Clerk Phil Gaudet reviewed the bill signed into law last year that expands OSHA standards to public sector workplaces. Training requirements were outlined, noting that MIIA will provide assistance with training and tracking software. The Town applied for and received a \$10,000 grant for PPEs. A volunteer Safety Committee has been formed, with the goals of minimizing risk and injuries; developing written compliance programs; implementing a reporting system; conducting inspections; and addressing emergencies. Mass Maritime Intern Joe Valenzola will be assisting. Although expensive to implement, the payoffs include improved efficiencies, reduced injuries, and improved employee morale.

Mr. Knapik admitted that it is hard to know the overall cost to the Town, but a Free Cash request for \$50,000 has been budgeted for the first year.

## **7. PACE (Property-Assessed Clean Energy) Legislation**

Director of Community Development Karen Greene introduced CEDC Chair Peter Smith and PACE Vice President Wendy O'Malley. The CEDC is recommending that the Town opt into the PACE program. Ms. O'Malley explained that it is an energy improvement financing program for private commercial entities. No public funds are used in the financing. PACE has been implemented in over 20 states. Key elements, requirements, and terms were explained.

Selectman Tolley asked how the betterment is collected. Ms. O'Malley explained that it will be billed and collected by the Town, which will then pay the lender; however, the program applies to

projects over \$250,000, so there will be a limited number of properties eligible. Discussion followed regarding the details of the financing, rates, and disbursement and default scenarios. Town Assessor Andy Machado provided a memo of support. Finance Director Ed Senteio advised that the Finance Department will make internal adjustments to minimize administrative costs to the Town. The Town would need to opt in to the program.

**MOTION: To move to authorize the Town of Yarmouth to participate in the Massachusetts Commercial Properties Assessed Clean Energy Program as stated in the Selectmen's packet:**

**WHEREAS, NOW THEREFORE, BE IT ORDERED, as follows:** The Board of Selectmen of the Town of Yarmouth hereby approves the Municipality participating in PACE Massachusetts pursuant to the PACE Act, and authorizes the Town Administrator to enter into a PACE Massachusetts Municipal Assessment and Assignment Agreement (the "Agreement") with MassDevelopment, pursuant to which the Municipality will agree to: (i) levy PACE betterment assessments and impose PACE betterment assessment liens on benefitted properties located in the Municipality, in the amounts determined by MassDevelopment to be sufficient to repay the PACE financing; (ii) assign the PACE betterment assessment liens to MassDevelopment, which MassDevelopment may in turn assign to the providers of the PACE financing (each a "capital provider"), as collateral for such PACE financing; (iii) include on the property tax bills for the benefitted properties the installment payments necessary to repay the PACE betterment assessments, in the amounts and at the times as determined by MassDevelopment; (iv) collect and pay over to MassDevelopment or its designee, the PACE betterment assessment installment payments, as and when collected; and (v) enforce, to the extent required by the Agreement, the PACE betterment assessments and liens; the Agreement to be substantially in the form presented to this meeting, with such changes, modifications and insertions as the Town Administrator may approve as being in the best interest of the Municipality. The Collector/Treasurer of the Town or such other Town agency as may be designated in the Agreement is authorized to levy such PACE betterment assessments and impose the PACE betterment assessment liens on behalf of the Town without further authorization by this legislative body. Notwithstanding any other provision of law to the contrary, officers and officials of the Municipality, including, without limitation, municipal tax assessors and tax collectors, are not personally liable to MassDevelopment or to any other person for claims, of whatever kind or nature, under or related to PACE Massachusetts, including, without limitation, claims for or related to uncollected PACE betterment assessments. Other than fulfillment of the obligations specified in the Agreement, the Municipality has no liability to the owner of the benefitted property or to any capital provider related to the Municipality's participation in PACE Massachusetts.

**Motion by:** Tracy Post

**Seconded by:** Mark Forest

**Yea 5 Nay 0**

## **8. Board of Selectmen**

a. Committee Appointments. Appointments Chair Mark Forest recommended the appointment of Eric Weston to the Board of Health to fill an unexpired term to run through October 2021.

**MOTION: To move that the Board of Selectmen appoint Eric Weston to the Board of Health to fill an unexpired term to run through October, 2021.**

**Motion by:** Tracy Post

**Seconded by:** Mike Stone

**Yea 5 Nay 0**

b. Review of ATM Articles. The Board reviewed a draft of the proposed articles for Annual Town Meeting to be finalized at the January 29<sup>th</sup> meeting.

c. Approval of Meeting Minutes

**MOTION: To move that the Board of Selectmen approve the minutes of the April 24, 2018 Selectmen's meeting.**

**Motion by: Tracy Post**

**Seconded by: Erik Tolley**

**Yea 5 Nay 0**

d. Upcoming Agenda Review. POCCA, Committee Handbook, and Library Ad Hoc Committee presentations will be rescheduled.

e. Individual Items. Selectman Tolley asked to place Bass Hole on a future agenda to discuss parking.

## **9. Town Administrator Items**

a. Consent Agenda

**MOTION: To move that the Board of Selectmen approve the Consent Agenda.**

**Motion by: Tracy Post**

**Seconded by: Erik Tolley**

**Yea 5 Nay 0**

b. Town Administrator Updates: None.

c. Water Resources Planning: Next tri-town meeting will (hopefully) occur in early March.

d. Dennis-Yarmouth School Agreement: None.

e. Mattacheese School Project: None.

f. Cape Tech: None.

g. DPW Facility: None.

## **10. Adjourn**

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

**Motion by: Tracy Post**

**Seconded by: Mark Forest**

**Yea 5 Nay 0**

**Meeting adjourned at approximately 10:00 p.m.**

Respectfully submitted,



Linda Dennehy

## DISTRIBUTED MATERIAL AGENDA PACKET

- YPD Employee Ceremony Background Info
- Entertainment License Application from The Compass Rose
- Town Meeting Review Committee Recommendations
- FY2020 Budget Review Presentation for Municipal Operations Department
- Memo to BOS from Town Administrator dated January 10, 2019 re: Municipal Technical Operations Director Appointment
- Staff OSHA Presentation
- Memo to BOS from Economic Development Coordinator dated January 10, 2019 re: Massachusetts PACE Program
- Memo to BOS from Appointments Chair dated January 10, 2019 re: Appointment to Board of Health
- Draft 2019 ATM Articles Summary
- Board of Selectmen Meeting Minutes of April 24, 2018
- 2019 BOS Upcoming Agenda Items Schedule
- Memo to BOS from Recreation Division dated January 7, 2019 re: Donations