



Board of Selectmen **Regular Meeting Minutes** **January 26, 2016**

The regular meeting was called to order at 6:30 p.m. in the Town Hall Hearing Room by Chairman Tolley. Selectmen present: Jim Quirk, Tracy Post, and Michael Stone. Also attending: Assistant Town Administrator, Peter Johnson-Staub. The Board of Selectmen gave the Pledge of Allegiance.

1. Public Announcements & Comments

Ms. Andrea St. Germaine provided an update to the Board on the schools. She provided copies of a pamphlet entitled "Condition of Education in the Commonwealth" which was put together by the Rennie Center for Education Research & Policy. Ms. St. Germaine also commented that at the school board's meeting last evening, the board adopted a tentative budget of \$57M, which still needs to be trimmed down some. She also commented on current school population and the student exchange program which is ongoing with Spain.

Having been notified by Larry Azer that the schools will now have to pay for septage disposal beginning in FY17, she asked if all other departments within the town also have to pay for septage disposal.

Ms. Vida Morris commented on the town administrator selection process and stated her opinion that the town department heads, and in particular, the Police Chief, should have no public position on the process. Additionally, she stated her disgust for one of the Board member's alluding to postponing any further action until after the election in May, suggesting that would alter the outcome of Selectmen votes. She further objected to the composition of the selection committee, the Chairman of the Finance Department commenting that no further funds would be forthcoming for a new search, and strongly suggested the Board form a new selection committee comprised of townspeople who have the best interest of the town at heart and not an agenda of their own. She also commented at the pushback that ensued following the principled stand from two of the Selectmen to vote their consciences. Ms. Morris strongly urged the Board to form a new search committee which does not include any current or former town employees.

Mr. Tom Nickinello commented on and thanked the DPW on their exceptional road clearing efforts during the most recent storm. He also reminded everyone the St. Patrick's Parade will be held on March 5th. Mr. Nickinello also shared his views on the town administrator appointment process and expressed his support for Mr. Johnson-Staub.

Ms. Suzanne McAuliffe, Yarmouth's representative to the Assembly of Delegates, provided an update to the Board. The budget process has just begun for the Assembly and she expects the process to take until May.

Ms. McAuliffe commented on a gap of the administrator position within in the County and suggested that has led to employees not being provided guidance or direction. She also commented on the status of the fire academy and that should the academy close, Yarmouth would bear the additional expense of sending our fire fighters off Cape for training. She also strongly urged the Board to come to a consensus on a town administrator appointment.

DPW Director, Jeff Colby, provided the Board an update on the snow removal efforts during the storm this past week. He highlighted that additional equipment and new equipment was available, as well as additional supervisors, to expedite snow removal. He reminded the Board and the public of two new, helpful online features available to the public: "Notify me" and "Request Tracker."

2. Public Hearing

a. New Alcohol Inn Holder & Weekday & Sunday Entertainment Licenses for Rourke's Top of the Cove. Chairman Tolley turned the meeting over to the Licensing Chair, Selectman Stone. Mr. Kevin Richards, manager for Rourke's Top of the Cove, was present for the hearing. Selectman Stone read the legal ad into the record. Mr. Richards briefed the Board on his and his wife's background and experience in the restaurant business.

Mr. Michael Edwards, operations manager for The Cove for the past 24 years, spoke on behalf of, and in support of, Mr. Richards and Rourke's Top of the Cove. Selectman Post asked a few questions regarding Tips certification and insurance requirements. The Board had questions regarding serving alcohol outside of the restaurant (in the pool area specifically) and the unique situation of the license holder being a different entity or person than the inn holder. Mr. Richards explained how he plans to operate the very limited bar service within the confines of the fenced pool area.

Chairman Tolley asked for clarification on the number of seats expected within the restaurant as there is a discrepancy between the application, the Building Department and the Health Department. As the Building Department is the lead department for making the call, the application will be considered for 194 seats. The Board also had questions regarding who is eligible to enter the restaurant and who is responsible or liable if a patron purchases an alcoholic beverage or leaves the premises. Mr. Richards and Mr. Edwards agreed that liability would rest with Rourke's Top of the Cove and Mr. Richards.

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

Motion by: Jim Quirk

Seconded by: Tracy Post

Yea 4

Nay 0

MOTION: To move that the Board of Selectmen grant the licenses as applied for.

Motion by: Jim Quirk

Seconded by: Tracy Post

Yea 4

Nay 0

3. Protect Our Cape Cod Aquifer (POCCA) Presentation

Laura Kelley, Director of Protect Our Cape Cod Aquifer (POCCA), made a presentation to the Board of Selectmen, asking for their support on the following three requests:

1) A letter of support for Senator Dan Wolf's Bill S.478. This bill would give each town the right to negotiate a no pesticide spraying agreement with Eversource Energy.

2) That the Board prepares to write the Massachusetts Department of Agricultural Resources and prepare to testify in strong opposition to Eversource's yearly operational plan when the time comes for such comments arises after January 1, 2016.

3) That POCCA and POCCA's attorney, Bruce Taub, be invited to discuss with our town counsel, the possibility of Yarmouth joining in efforts to take Eversource to court, in an effort to stop

all herbicidal spraying along all town-owned and privately owned right-of-way's (ROW). There would be a \$1,000.00 filing fee for the town should the town choose to participate in this law suit.

The Board queried Ms. Kelley on some specifics of the support she is requesting and stated that they would need to see Eversource's 2016 YOP before reaching an informed decision on the level of support they are willing to provide. Additionally, the Board is somewhat reluctant to engage in a lawsuit where counter suits could be filed, potentially leaving the town open to judgements against it. Chairman Tolley stated that though he is sympathetic to Ms. Kelley's cause, he doesn't feel the Board is in a position, at this time, to approve her three requests. Selectman Post stated she is not opposed to going on record in support of this initiative but is not comfortable with further action or commitment from the town at this point. Chairman Tolley asked Mr. Johnston-Staub to contact the pro bono attorney, Mr. Taub, to obtain additional information on the legal action he is proposing.

A resident of Yarmouth Port voiced her support for Ms. Kelley's initiative stating her concern for Eversource spraying as her property abuts power lines. She asked the Board of Selectmen for their support as well.

4. Close ATM Warrant

Mr. Johnson-Staub explained to the Board the few changes on the ATM Warrant Article List from the previous version the Board saw. The Parker's River Bridge easements and takings, and easements and land grants will need to be two articles. There is also one additional petition article that was received in town hall in time but was omitted from the previous list, that article being allowing dogs on public beaches.

The Board asked about articles for the schools (a potential override and a capital article for Cape Cod Tech). Mr. Johnson-Staub informed the Board any potential override and capital expenditures would be included in the schools' operating budgets.

MOTION: To move that the Board of Selectmen close the tentative FY17 Annual Town Meeting Warrant listing articles #1 through #40 in accordance with the Charter.

Motion by: Jim Quirk

Seconded by: Tracy Post

Yea 4 Nay 0

5. Interim Town Administrator Appointment

Chairman Tolley stated this agenda item will be postponed until the February 9, 2016 Board of Selectmen meeting when the full Board is present.

6. Board of Selectmen

a. Individual Items.

1) Selectman Quirk stated that there is an item in the consent agenda from the Cemetery Ad Hoc Committee asking for approval of the revised charge for the committee which he would like to remove from the consent agenda and act on it separately.

2) Chairman Tolley wanted to congratulate the Department of Public Works on the amazing job the department did with snow removal during the most recent storm.

7. Town Administrator's Items

a. Consent Agenda

Donations:

• Parks & Recreation		
- Elisha Taylor Trust		\$ 1,166.67
• YPD		
- Cecilia Clarkson	\$	50.00
- Nancy Hunley & Cindy Marvin	\$	50.00
• YFD		
- TOPS	\$	<u>25.00</u>
TOTAL	\$	1,291.67

MOTION: To move that the Board of Selectmen approve the Consent Agenda with the exception of the Cemetery Ad Hoc Committee Charge.

Motion by: Jim Quirk **Seconded by:** Tracy Post Yea 4 Nay 0

b. Board and Committee Actions. The Board discussed the memo from the Cemetery Ad Hoc Committee. Selectman Quirk explained that he believes the Committee is looking for confirmation of their charge for the additional six months the Selectmen appointed the committee for.

MOTION: To move that the Board of Selectmen approve the Cemetery Ad Hoc Committee Charge as presented.

Motion by: Jim Quirk **Seconded by:** Mike Stone Yea 4 Nay 0

c. Town Administrator Updates. None.

8. Adjourn

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

Motion by: Jim Quirk **Seconded by:** Tracy Post Yea 4 Nay 0

Respectfully submitted,



Linda Dennehy

DISTRIBUTED MATERIAL AGENDA PACKET

- New Alcohol Inn Holder & Weekday & Sunday Entertainment Licenses for Rourke's Top of the Cove
- Email to BOS from Laura Kelley, Director, Protect Our Cape Cod Aquifer (POCCA) dated November 22, 2015 with supporting documents
- Proposed FY17 ATM Warrant
- Proposed Motion for Interim Town Administrator Appointment
- Memo to BOS from Cemetery Ad Hoc Committee dated December 28, 2015 re: Extended Committee Charge
- Memo to BOS from Parks & Recreation dated January 11, 2016 re: Donations
- Memo to BOS from YPD dated January 11, 2016 re: Donation Approval Request
- Memo to Town Administrator from YFD dated January 13, 2016 re: Gifts
- Memo to BOS from YPD dated January 20, 2016 re: Donation Approval Request
- Finance Committee Agenda for January 20, 2016
- Finance Committee Meeting Minutes of January 6, 2016
- Finance Committee Meeting Minutes of January 13, 2016
- Public Notice for Affordable Housing Trust Request for Proposals
- Carl Lawson email dated September 28, 2015 re: Eversource Right-Of-Way Maintenance
- Hazardous Waste Inspector letter dated January 21, 2014 re: Yarmouth BOH Comments on NSTAR YOP