



Board of Selectmen Workshop Meeting Minutes March 29, 2016

The workshop meeting was called to order at 6:00 p.m. in the Town Hall Hearing Room by Chairman Erik Tolley. Selectmen present: Norm Holcomb, Jim Quirk, Tracy Post, and Michael Stone. Also attending: Interim Town Administrator, Peter Johnson-Staub. The Board of Selectmen gave the Pledge of Allegiance.

Chairman Tolley explained that he received a call from an individual earlier in the day who asked to speak during public comments at this meeting. Mr. Tolley stated he had forgotten this meeting was a workshop meeting when he was speaking to her and told her she could speak at this meeting. He apologized to the Board and the public for this oversight.

Ms. Carol Wall commented on the ongoing Town Administrator search and asked some of the Board members to reconsider their positions and to appoint Mr. Johnson-Staub as the Town Administrator.

1. Annual Town Meeting (ATM) Town Moderator Articles

a. Article 34: Amend Chapter 47, § 47-6 of Town By-laws changing "1962 Edition" to "2001 Edition". Town Moderator Dan Horgan explained this was a "housekeeping" article to simply update the by-laws to the correct edition.

MOTION: To move that the Board of Selectmen recommend approval of Article 34 as written.
Motion by: Tracy Post **Seconded by:** Norm Holcomb Yea 5 Nay 0

b. Article 35: Amend Chapter 47, add new section to Town By-laws to allow Moderator to provide brief time for proponent of an article to sum up his/her position. Mr. Horgan explained that he felt after last year's town meeting during one of the more contentious petition articles, there should have been an opportunity for the petitioner to summarize his or her position after the public had had an opportunity to comment and before moving the article. Mr. Horgan would like to see the Moderator given the discretion to allow for final comments from the proponent of an article.

Selectman Post commented that she feels allowing for further comments on each article would add considerable time to the meeting and could deter people from attending the meeting. Selectman Stone stated that he supports the article as it serves to allow for fundamental fairness to the proponents of an article. He also commented that he would like to see the article amended from the floor to change the word "brief" to "sufficient." Selectman Quirk stated he felt the Moderator should be able to, and is capable of, deciding when a brief summary is necessary and when it is not and he supports the article. Selectman Holcomb stated he has seen Mr. Horgan conduct town meetings and is confident he will continue to conduct town meetings fairly. Chairman Tolley stated he is also supportive of this article, though he is of the opinion that when an article is called, it is because the discussion and topic have been exhausted.

MOTION: To move that the Board of Selectmen recommend approval of Article 35 as written.
Motion by: Norm Holcomb **Seconded by:** Tracy Post Yea 5 Nay 0

2. ATM Petition Warrant Articles

a. Article 36: Amend Chapter 47, §2 of the Town By-laws to require 100 signatures for petition articles. Ms. Cheryl Cerbone is the petitioner for this article and explained that her petition is designed to obtain a sampling of registered voters who would sign a petition. As the by-law is written now, 10 signatures, in her view, do not reflect a significant sampling of registered voters. A discussion was held on the legality of this article and if the 100 signatures would inadvertently trigger a special town meeting. Mr. Johnson-Staub stated he would have Town Counsel, Bruce Gilmore, review the petition article, our by-laws, and the Town Charter to provide further clarity on what the petition article effects would be, if passed.

Selectman Holcomb stated he does not see anything wrong with the by-law as it is written now and that we should not make it more difficult for people to submit a petition article. Selectman Stone commented that he does not support this article as he is a big proponent of the democratic process and sees placing more restrictions on submitting a petition article as contrary to that process.

MOTION: To move that the Board of Selectmen not recommend approval of Article 36.

Motion by: Tracy Post

Seconded by: Jim Quirk

Yea 5 Nay 0

b. Article 37: Data collection for motor vehicle sound checks. Mr. Harris Contos read his petition article and explained that he feels the town's by-law regarding excessive noise is not being enforced. Further, he stated the Police Department should not be involved in sponsoring, hosting, or participating in events, on town property, where motor vehicle noise regulations are disregarded. The Board expressed their thoughts that what this petition article is asking for falls under the purview of the Registry of Motor Vehicles and should not involve the town or the Police Department. Further, the Police Department involvement with hosting or sponsoring a sound-check event should be considered a public service.

MOTION: To move that the Board of Selectmen not recommend approval of Article 37.

Motion by: Tracy Post

Seconded by: Norm Holcomb

Yea 5 Nay 0

c. Article 38: Motor vehicle conformance with town and state laws. Mr. Harris Contos read his petition article and explained that the intention of this article is to ensure that any event held in Yarmouth that is sponsored, hosted, or otherwise involving the Yarmouth Police Department, YPD will certify that all vehicles involved in the event are in compliance with town and state motor vehicle noise regulations. The Board expressed their opinion that the language of the article is particularly vague as to be meaningless and unenforceable. Further, the infrequency of these events does not constitute a disruption to the town.

MOTION: To move that the Board of Selectmen not recommend approval of Article 38.

Motion by: Tracy Post

Seconded by: Norm Holcomb

Yea 5 Nay 0

3. Final Recommendations for ATM Warrant

1. Article 1: Additional Funds for FY2016. Mr. Johnson-Staub provided a recap to the Board on the specifics of Article 1. The proposed article requests transfer and appropriation from general fund free cash of \$175,000 for snow and ice and \$25,000 for Town Administrator recruitment and selections costs. The article could be changed to request a sum of money rather than specific amounts, if the Board chooses.

Chairman Tolley stated that the issues left on the table from last week's meeting are: 1) does the Finance Committee have the right to take the position it has (i.e., refusing to authorize a transfer of any additional funds for a new Town Administrator search); and 2) is there a way to obtain funds without Finance Committee approval and if so, what are those options short of a vote at Town Meeting. Town Accountant Rich Bienvenue provided an overview of his memo outlining to the Board the remaining balances available to them this fiscal year for town administrator search expenses. Additionally, he reported that "it is contrary to MGL for any municipal department to incur a liability in excess of appropriation made for the use of the department." Mr. Bienvenue also indicated there is approximately \$10,000 remaining in the Town Administrator salaries budget that could be used for a temporary salaried position to conduct the search.

Finance Committee Chairman, Joe Goldstein, commented that it was not the Finance Committee's position to not authorize additional funds for a town administrator search at all, but to not authorize any additional funds for a process that, having just gone through one, failed. Selectman Stone asked Mr. Goldstein if the vote to fund, or not fund, additional money for a Town Administrator search that the Finance Committee took at their most recent meeting was on their agenda. Mr. Goldstein stated it was not a separate agenda item but was conducted under administrative items. Selectman Stone stated he felt the Finance Committee took such action in an attempt to shut the process down. Mr. Goldstein reiterated the Finance Committee's position that spending additional funds would likely result in the same outcome as the first search. Selectmen Stone made the point that the Finance Committee took a vote on this matter prior to anyone asking them for additional funds and felt the Finance Committee's actions were preemptive. Selectman Quirk stated that he recollects Mr. Goldstein commenting to the Board at an earlier Selectmen meeting that the Finance Committee would not authorize any additional funds for another search, again, prior to anyone asking for a transfer from the Committee.

Additional discussion was held as to how the Finance Committee expected the process to continue without funding. Mr. Goldstein stated that he did not expect the process could proceed without additional funding. Selectman Holcomb stated that he does not feel it is the Finance Committee's place to put a barrier in the path of the Board of Selectmen which impedes their actions to move the search process forward. Mr. Goldstein stated again that at the time the Finance Committee took that vote, they did not feel an additional search would yield any different results. A discussion was then held as to what other accounts funds could be transferred from to fund the search.

Selectman Post stated she stands by her comments from last week that she does not support another search or the expenditure of additional funds for another search. Chairman Tolley stated he understands the process needs to move forward but feels spending additional funds is a waste of money and he will not support the motion.

MOTION: To move that the Board of Selectmen ask the Finance Committee, at the direction of the Interim Town Administrator and Finance Staff, to transfer funds from the accounts staff identifies in the amount of \$19,000 to fund additional expenses related to a Town Administrator search.

Motion by: Norm Holcomb

Seconded by: Jim Quirk

Yea 3 Nay 2

Discussion continued on the wording of Article 1. Mr. Johnson-Staub advised the Board of the options available should article 1 fail at town meeting.

4. Vote and Sign Annual Town Meeting Warrant

DISTRIBUTED MATERIAL AGENDA PACKET

- Articles 34 and 35: Town Moderator Articles
- ATM Petition Articles 36, 37 and 38
- ATM Warrant Signature Page
- Board of Selectmen Minutes of March 1, 2016
- Board of Selectmen Executive Session Minutes of September 30, 2014 (separate cover)
- Board of Selectmen Executive Session Minutes of January 13, 2015 (separate cover)
- Board of Selectmen Executive Session Minutes of February 24, 2015 (separate cover)
- Board of Selectmen Executive Session Minutes of April 14, 2015 (separate cover)
- Letter to BOS from Taylor-Bray Farm dated March 17, 2016 re: Fee Waivers
- 2016 Seasonal Alcohol and Entertainment Licenses
- Memo to BOS from YFD dated March 21, 2016 re: Gifts
- ATM Warrant Article Summary
- BOS Projected Agenda Items
- Letter of Thank You to Town Administrator Search Committee from Chairman Tolley dated March 16, 2016