



## Board of Selectmen Workshop Meeting Minutes April 5, 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.*

### 1. Town Counsel Interviews

a. Zisson & Veara, P.C., Mr. James Veara and Mr. Paul Benatti were present for the interview. Chairman Tolley disclosed that Zisson & Veara is the law firm that represents his corporation and he has filed the appropriate disclosure with the Town Clerk in February; he received a verbal response from the State Ethics Commission yesterday advising there may be an appearance of a conflict, but there is no actual conflict with the town considering Zisson & Veara for town counsel while Mr. Tolley is serving on the Board of Selectmen and left the decision to Chairman Tolley's conscience. Chairman Tolley stated he has no conflicts of conscience with this issue. He asked if any of the Board members had any objections with the issue.

Selectman Quirk stated he does not have any objections and stated he also has worked with the law firm Zisson & Veara in his capacity as an attorney over the years and also as special town counsel in Brewster in the past. He stated he also does not feel he has any conflict of conscience.

Chairman Tolley asked the applicants to introduce themselves and provide a brief background. Mr. Jaime Veara introduced himself and explained his educational background as a graduate of D-Y High School, Boston College, and the University of Miami School of Law. He is admitted to practice before the U.S. District Court for the District of Massachusetts and the U.S. Court of Appeals for the First Circuit.

Mr. Paul Benatti introduced himself and explained his education background as a graduate of Provincetown High School, Amherst College, and his law degree is from Boston University. He is admitted to practice before the courts of the Commonwealth of Massachusetts, the U.S. District Court for the District of Massachusetts, the United States Tax Court, the U.S. Court of Appeals for the First Circuit, the U.S. Claims Court, and the Supreme Court of the United States.

Zisson & Veara, P.C. has been providing town counsel services since 1973. Their experience includes municipal law, land use and zoning matters, town counsel services, including town meeting representation and administrative appeals on zoning, health, planning and conservation matters, civil litigation, Land Court litigation, administrative law, criminal law, family law, and appellate practice before the state appellate court, Massachusetts Supreme Judicial Court, and the U.S. First Circuit Court of Appeals. Their firm has participated in labor disputes, has extensive experience with Boards of Selectmen, Planning Boards, Boards of Health, Conservation Commissions, and Zoning Boards across Cape Cod.

Selectman Stone wanted to explain the position of Town Counsel that Yarmouth is looking to fill. He stated that the Town contracts separately for labor counsel, bond counsel, and tax title

services. He further explained we would look for legal services involving land use, alcohol and entertainment license matters, housing and real estate matters, community preservation issues, and other various municipal topics.

b. Charles M. Sabatt, P.C. Chairman Tolley asked Mr. Sabatt to introduce himself and provide a brief background. Mr. Sabatt introduced himself explained that he has practiced law for nearly 40 years and has a broad range of experiences. He is a life-long resident of Cape Cod, having graduated from Barnstable High School and Boston College Law School. He is currently serving as the counsel for the Barnstable Fire District and special counsel for Bourne. Among his experiences, he has acted as special counsel in municipal personnel disciplinary hearings, served as a hearing officer in employee matters, served as special counsel for a local Zoning Board of Appeals. He has prepared reports concerning allegations of employee misconduct or harassment in several Cape towns. Mr. Sabatt further explained his extensive litigation experience in Land Court, Probate Court, Superior Court, District Court, and the U.S. District Court.

c. Mr. Jason M. Rawlins, Law Offices of Jason M. Rawlins. Mr. Rawlins introduced himself and explained he is Of Counsel to the law firm of Wilkins, DeYoung & Carter in Hyannis, MA, and has his own office in Bridgewater, MA. His practice is a general practice. He is a graduate of Bridgewater Raynham High School, Bowdoin College in Brunswick, Maine, and the New England School of Law in Boston, MA. Mr. Rawlins explained his experiences include being the current Associate Town Attorney for Bridgewater, MA; has worked closely with town boards, councilors, committees, managers, officers, officials, and employees. Additionally, as associate town attorney, he personally handles all aspects of litigation (Superior Court, District Court, Housing Court, Bankruptcy Court, and Labor Relations Board), negotiation, contract drafting, advising, and providing legal opinions on a wide variety of legal issues.

d. Michael P. Marnik, Esq., Attorney-at-Law. Mr. Marnik introduced himself and gave a brief overview of his biography. He is originally from Lynn, MA and currently a resident of Orleans where his practice is also located. He is a graduate of the College of Holy Cross in Worcester, MA and Villanova University School of Law. He has held the rank of Lieutenant in the U.S. Naval Reserve, Judge Advocate Corps during the Vietnam War. Mr. Marnik explained his professional legal career includes more than 34 years of trial work with an intense concentration in personal injury defense, real estate law, and municipal practice. Mr. Marnik explained his desire to be Yarmouth's Town Counsel and the level of dedication he would invest in representing, advising, and working with the Town and its officials, officers, and employees.

Chairman Tolley advised that as a Town Counsel Appointment was not included on the agenda, there should be no vote by the Board. Chairman Tolley advised the town counsel discussion and possible appointment would be added to next week's agenda. Selectman Stone asked what the process would be going forward as his recollection is if an acceptable candidate was not selected among the initial interviews, the Board would look to the off-Cape firms that applied for the position. Selectman Quirk explained that the history of town counsel's in Yarmouth has been that the town has had very few but long-standing attorneys as town counsel and if the Board were to look off-Cape, the experience would be very different in terms of specific attorneys we would deal with and probably not in the same price range as a local firm or attorney.

## **2. Board of Selectmen**

### a. Individual Items.

1) Selectman Post reminded everyone that annual clean-up day is Saturday, April 23, 2016 from 9:00 a.m. to noon. The meeting place is at town hall and there will be a free volunteer cookout at 12:30 p.m. Mr. Johnson-Staub commented that the Yarmouth Chamber of Commerce has stepped up to assist with this event.

2) Selectman Quirk offered his condolences to the family, on behalf of the Board, on the recent death of a long-time town employee, Mr. Bill Stone.

3) Chairman Tolley commented that on Wednesday, April 13, 2016 beginning at 8:30 a.m., the town will re-implement the Committee Volunteer Appreciation Breakfast to be held at the St. Pius Life Center.

### 3. Town Administrator's Items

#### a. Consent Agenda.

1) Yarmouth Housing Production Plan. The Planning Board and Community Housing Board approved the Plan and would like the Board of Selectmen's recommendation for approval. Selectman Holcomb commented that he believes the Housing Production Plan is a sound plan with very realistic goals and recommends the Board adopt the plan.

#### 2) Donations:

• Libraries	
- Karls Boat Shop, Inc.	\$ 23.97
- Fairway Financial Insurance Agency	\$ 100.00
- Hyannis Public Library	<u>\$ 22.99</u>
<b>TOTAL</b>	<b>\$ 146.96</b>

**MOTION: To move that the Board of Selectmen approve the consent agenda.**

**Motion by: Tracy Post**

**Seconded by: Jim Quirk**

**Yea 5**

**Nay 0**

b. Town Administrator Updates. Mr. Johnson-Staub mentioned that he and Chairman Tolley met with the Chairs of Harwich and Dennis and other officials to discuss shared treatment facilities for the wastewater plan. All three communities recognize there are opportunities to share costs for shared treatment facilities. However, there are a lot of details to work out. Chairman Tolley stated that some towns' officials suggested that the next meeting not occur until after all town elections have occurred. Ms. Post also reminded everyone that the Planning Board is holding an informational public meeting on Wednesday, April 6, 2016 on the wastewater project.

The Seaport Economic Council, a state agency with grant funds available, reached out to Director of Natural Resources Karl von Hone regarding Yarmouth applying for a grant to assist with the Packet Landing Pavilion Project. We will pursue the application process for this project.

Selectman Post corrected herself from a comment she made at last week's meeting regarding petition articles. Her research showed it would take 200 signatures to call a special town meeting and only 100 signatures can be placed on a special town meeting petition article. Mr. Johnson-Staub commented on Town Counsel Bruce Gilmore's opinion that if a petition article was passed at town meeting, it would not take effect as the Town Charter would also need to be amended.

## 4. Adjourn

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

Motion by: Jim Quirk

Seconded by: Tracy Post

Yea 5

Nay 0

Respectfully submitted,



Linda Dennehy

## DISTRIBUTED MATERIAL AGENDA PACKET

- Letter of Interest to BOS from E. James Veara, Esq., Zisson & Veara, P.C. dated January 25, 2016 re: Town Counsel Position
- Letter of Interest to BOS from Charles M. Sabatt, P.C., Attorney At Law dated February 4, 2016 re: Town Counsel Position
- Letter of Interest to BOS from James M. Rawlins, Esq., Law Offices of Jason M. Rawlins dated January 20, 2016 re: Town Counsel Position
- Letter of Interest to BOS from Michael P. Marnik, Attorney-at-Law, dated February 15, 2016 re: Town Counsel Position
- Memo to Board of Selectmen from May Waygan dated March 31, 2016 re: Yarmouth Housing Production Plan
- Memo to Interim Town Administrator from Libraries Division dated March 29, 2016 re: Donations to the Yarmouth Town Libraries
- ATM Warrant Article Summary
- BOS Projected Agenda Items
- Public Announcement and Flyer for Annual Yarmouth Community Clean-up Day