



Board of Selectmen **Public Meeting Minutes** **August 29, 2017**

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

1. Public Announcements & Comments

Ann Goring of Follins Pond Road reported on an ongoing problem with road collapses during heavy rains. On behalf of herself and affected neighbors, she is requesting engineering inspections by an engineering company as well as the Town engineer. Highway Department Superintendent Rick Kelley and his staff have been most cooperative.

Christine Greeley announced a public information session for the Cape Cod Regional Technical High School Building project on October 5th at 5:30 p.m. at Bridgewater State University. She also restated her opposition to recreational marijuana in Town.

Joe Tierney, representative to the D-Y School Committee, advised that Ken Jenks is now the Assistant Superintendent; Tony Morrison has been appointed as the new Principal at D-Y High School and a guidance counselor has been moved up to Assistant Principal. Maria Lopes has recently been hired as the new Director of Pupil Services. There is also a new Assistant Principal at Mattacheese Middle School.

2. Marijuana Legislation Update by Town Counsel

Town Counsel Jay Talerman reported on the various actions a town can take to ban or regulate the sale of recreational marijuana. There can be only regulation, not prohibition, of medical marijuana. Having voted against recreational marijuana, Yarmouth has a quicker path to ban sale and/or cultivation by placing a question on the Town Meeting Warrant prior to December of 2019. As a general by-law, only a majority vote is required; as a zoning by-law, a 2/3 majority is required. Therefore, if the Town is seeking a ban via general by-law, Attorney Talerman recommends including a zoning article to regulate marijuana retailers should the ban fail (a “belt and suspenders” approach). The State may begin processing license applications as early as May 2018. Further clarification and test cases can be expected between now and then. Mr. Talerman reviewed some of the provisions regarding zoning by-laws, such as a host community agreement, and that the Town cannot limit recreational marijuana retailers to fewer than 20% of the town-issued retail liquor licenses. He also explained that cultivation, testing, and manufacture are other pieces of the puzzle. One town he is aware of prohibits sales but allows cultivation. There is still a great deal of uncertainty surrounding the legislation.

Selectmen Stone and Tolley are in favor of a “belt and suspenders” approach. Attorney Talerman will hold office hours at town hall on September 12th, and will be available for evening meetings and public input meetings. A vote regarding policy direction will be placed on a future agenda. The Planning Board will be asked to work on the zoning by-law.

3. Electronic Communications Brief by Town Counsel

a. Social Media Policy

IT Director Shawn MacInnes offered a revised draft of the Town's Social Media Policy. Attorney Talerman was consulted regarding staff use during office hours and staff use outside of office hours. The current language is the strictest allowed. Restrictions on personal social media use should be treated in the same way any diversion from work-related duties would be treated, such as personal phone calls.

Mr. Stone asked for Attorney Talerman's opinion regarding conflicts that may arise between Town interests, such as the business community and the police community. Attorney Talerman explained that the biggest legal concern is publishing something that is going to infringe upon privacy rights. Public records, such as arrest records, are public; social media publishing is more of a policy question. He noted that Yarmouth has more information available electronically than most other towns.

Mr. Holcomb and Mr. Tolley lamented the complex nature of social media and the negative impact it can have on public opinion. Mr. Talerman's recommendation is to combat it with a strong, positive, official site.

In response to Ms. Post's questions, Mr. MacInnes explained that the policy mainly addresses staff who will be posting to official websites. There should be no conflict with first amendment violations because they will clearly be acting as representatives of the Town. The policy offers guidelines on how, when on personal accounts, an individual can clearly indicate that s/he is not representing the town. A social media plan is currently in development to create Town sites, i.e. Facebook, Twitter, etc. Mr. MacInnes added that because many employees are not "9:00 to 5:00" but work flexible hours, it would be difficult to enforce a prohibition on use "during work hours."

The Board's general concern continued to be the vagueness of "excessive use" and how the policy plays out on the administrative level. The policy will continue to be refined and will be presented for review and vote on a future agenda. Mr. Knapik noted that there is a lot of good work going on that the Town's social media presence will publicize.

b. Board of Selectmen Email Policy

This revised policy reflects the Open Meeting Law and intends to funnel email information through the Town Administrator's office to allow easier access and transparency. Committee-related correspondence should go through the staff liaison who will forward it to the Town Administrator's office to be forwarded to the Board. This process reinforces the fact that the communication is public record (even if it is sent via a private email address) and can be included in a public records information request. Attorney Talerman noted that the policy should help response time to those requests, which include all forms of communication whether a quorum existed or not.

4. CVEC Presentation on Impacts to the Net Metering Program Proposed by Eversource 2018 Rate Case

Liz Argo from Cape and Vineyard Electric Cooperative (CVEC), Manager of Programs and Administration, and Steve Gavin of the Yarmouth Energy Committee, explained the impact of the immediate decrease in the value of net metering credits to the Board. The Town currently earns

credits from nine projects. The total savings in FY16 was \$161,911, which will drop to \$120,865 if the proposed net metering changes go into effect. Mr. Gavin added that the increase in electric rates would result in a total impact to the Town of almost \$1 million per year going forward. The Town has done a great job of investing in renewable energy per the State policy, and the Board has already signed a letter of opposition. The Energy Committee and the school district were well represented at the public hearing, which was almost entirely in opposition to the proposal. CVEC has capped its legal spending in this case at \$35,000. Additional funding would be necessary if the Department of Public Utilities (DPU) approves the changes. The decision will come in December and become effective January 1, 2018.

Ms. Argo and Mr. Gavin responded to questions from the Board, explaining that the DPU bases its decision on the fiscal effect on towns, school districts, fire districts, and other customers. Not much weight will be given to State policy or legal issues like existing contracts. A second letter has been drafted, but towns are being encouraged to write their own stories. Mr. Knapik offered to revise the letter to reflect the impact on Yarmouth and forward it before the August 31st filing deadline.

MOTION: To move that the Board of Selectmen direct the Town Administrator to amend the language in the draft letter and to sign it on behalf of the Board of Selectmen of the Town of Yarmouth and to file it before the August 31st deadline.

Motion by: Mike Stone

Seconded by: Mark Forest

**Yea 4 Nay 0
Abstain 1 (Tracy Post)**

5. Community Preservation Act and Town Projects Menu

Community Development Director Karen Greene presented an overview of Town projects requesting Community Preservation Act (CPA) funds. The application deadline is September 15th. Ms. Greene introduced Christine Marzigliano, Open Space Committee Chair; Jane Cain and Trish Cassisi from the Yarmouth Libraries; and Parks, Recreation, and Cemeteries Director Pat Armstrong.

a. Open Space Committee.

The Open Space land acquisition is in negotiation. The appraisal and title search are in process, as well as costs associated with demolition and disposal of existing structures and maintenance. Mr. Holcomb asked for the maintenance costs and conditions of current parks, noting that some have become overgrown and are in disrepair. He suggested that until the Town can maintain existing facilities, it does not make sense to invest in open space, particularly with a shrinking population and taxpayer base. He did not agree that this Open Space application aligns with Selectmen Goals. Mr. Stone concurred.

Ms. Marzigliano responded that the Open Space Committee focuses on parcels that provide vistas, protect watersheds, and expand conservation areas. It has passed on parcels in commercial areas and locations that do not have open space value. There are still properties on Route 28 without a vista that can be redeveloped.

Ms. Post noted that CPA funds cannot be used for maintenance. Ms. Greene explained that they are currently in the due diligence phase which includes exploring maintenance programs with groups like the Cape Compact of Conservation Trusts. An analysis of existing properties is underway. Ms. Post asked staff to more thoroughly explore the tax impact of removing another commercial property from the tax base.

b. Yarmouth Libraries:

Ms. Cain and Ms. Cassisi explained that the Yarmouth Libraries are working in collaboration with Dennis and Barnstable to digitize *The Register* and *The Barnstable Patriot*. While there was support for the concept, there was also some concern that money was going to support a Barnstable effort. In response to the Board's other questions, the applicants stated that several vendors were evaluated for the project; digitizing will begin at the year 1836; and the annual license costs roughly \$2,700.

c. Recreation Commission:

Pat Armstrong provided a revised application for Sandy Pond Recreation Area which has replaced artificial turf with natural turf athletic fields and improved access to the water has also been added. A revised budget is in development. This application is for engineering, design, and permitting.

Mr. Tolley would like to see the new costs. Mr. Holcomb reiterated his concern with the lack of maintenance and apparent minimal use of the park. Mr. Stone concurred, adding that Hyannis is currently developing a large regional athletic park. Ms. Armstrong acknowledged that the pocket parks need attention and a maintenance plan will be developed.

The Board asked Ms. Armstrong to come back with updated cost estimates. Ms. Post also asked that the need be demonstrated, and how this project will fit into the Town's overall long-term capital plans. Mr. Knapik explained that a long-term capital plan will be completed within the next 18-24 months, outlining expenditures including school buildings, beach infrastructure, wastewater, etc. The biggest challenge will be prioritizing the projects.

Discussion moved to Flax Pond. The design intends to allow use of the park by the public while the childcare program is in session. The Board agreed that more detail is needed. Ms. Armstrong agreed to provide them as soon as she gets them.

Discussion moved to the Berry Avenue lot which is adjacent to Englewood Beach and the Town's sailing program. Use of the area has grown significantly in the past decade, and this lot is proposed for staff parking during the week, and public parking when the sailing program is not in session. The appraisal is complete and title search is in progress. Ms. Armstrong is under the impression that the property may not be available for up to a year from now.

6. Disability Commission and Charge Vote

In consultation with Town Counsel Jay Talerman, Mr. Knapik updated the Charge for the Commission on Disability, which was originally authorized by Town Meeting in 1987. He also noted that by Massachusetts General Law, fines for parking in handicap spots can be diverted to a special fund to further goals of the Disability Commission. The Commission is also able to apply for grants.

Discussion centered around membership. Mr. Knapik will research the statute and revise the charge, to the extent possible, to reflect a smaller commission; to clarify the term "immediate family"; and that the majority of Commissioners shall be handicapped. Mr. Forest reviewed the original membership charge.

7. Board of Selectmen

a. Board and Committee Appointments: Mr. Forest asked the Board to accept the resignation of Tanya Daigneault from the Board of Health.

MOTION: To move that the Board of Selectmen accept the resignation of Tanya Dagineault from the Board of Health with thanks.

Motion by: Tracy Post

Seconded by: Norm Holcomb

Yea 5 Nay 0

b. Upcoming Agenda Review: CPA Town Projects vote on September 12th. After discussion, the Board agreed not to take a formal vote. Mr. Holcomb gave a detailed list of complaints regarding the lack of stewardship at Alms House Road. Mr. Knapik advised that more roadwork will be done and that the heavy use of the road over the summer limited the amount of pruning that could get done as it is a single-lane roadway. The September 19th workshop meeting is still on schedule. Mr. Knapik asked if any of the Selectmen would volunteer for a stakeholder interview. A discussion on a marijuana by-law will be added to a future agenda.

c. Individual Items:

Mr. Tolley reported on the grand opening of Maplewood at Mill Pond Village. The facility far exceeded his expectations.

Mr. Holcomb reported on the meeting of the D-Y Agreement Subcommittee. They will proceed through the current agreement section by section at weekly meetings. Dennis has asked for a list of alternatives to the current operating cost split. Yarmouth has asked for options with regard to capital spending. Mr. Holcomb suggested that if the district were treated as a single town, cost would be distributed by equalized value and Dennis would pay a majority of the budget. The Board discussed the concept.

Mr. Stone extended condolences to the family of Charlie Ardito on his recent passing. He also reported on a recent Learning to Cope support meeting he attended and suggested that the meetings be announced during public meetings.

8. Town Administrator's Items

a. Consent Agenda: None.

b. Town Administrator Updates: Yarmouth's historic sites will be put on an app to access historic information which would tie in with the digitization of *The Register*.

c. Wastewater Planning: None.

d. Dennis-Yarmouth School Agreement: The next meeting of the D-Y Agreement Subcommittee is September 11th at 4:30 p.m., location TBD. Consultant Mark Abrahams is available; price is being worked out.

e. Mattacheese School Project: None.

f. Drive-In Site Utilization Project: None.

g. Calendar Key Dates: None.

9. Adjourn

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

Motion by: Mark Forest

Seconded by: Mike Stone

Yea 5

Nay 0

Meeting adjourned at approximately 9:57 p.m.

Respectfully submitted,



Linda Dennehy

DISTRIBUTED MATERIAL AGENDA PACKET

- Mead, Talerman & Costa, LLC Client Advisory / Marijuana Bill ~ House No. 3818
- Draft Social Media Participation Policy
- Draft E-mail Communications Policy for all Members of All Committees of the Town of Yarmouth
- CVEC Presentation on Impacts to the Net Metering Program proposed by Eversource 2018 Rate Case
- FY19 Proposed Town-sponsored Applications for Community Preservation Funds with Library Director Cain's letter dated August 15, 2017 re: Request for CPC Funds and Executive Summary of a Master Plan Study on Flax Pond Recreation Area and the Sandy Pond Recreation Area
- Draft Disabilities Commission and Charge
- Letter to Board of Health from Tanya Daigneault undated re: Resignation from the Board of Health
- 2017 BOS Upcoming Agenda Items Schedule