

Minutes of the Selectmen's Meeting of July 9, 2013
Town Hall – Meeting Room #1 7:00 pm

Present: Selectmen Sarah Hewins, Helen Marrone, Richard Ward, Vice-Chairman Jack Franey, Elaine Weston and Gregg Corbo from Kopelman & Paige.

Franey led the audience in the Pledge of Allegiance.

Executive Session

Motion by Franey pursuant to MGL Chapter 30A, section 21(a)(2) that the Board go into Executive Session to conduct strategy in preparation for negotiation of a contract with the Interim Town Administrator James Purcell and to return to open session. Second by Ward . Roll call vote: Yes: Franey, Ward, & Marrone; O'Donnell: recused himself, Hewins recused herself.

Return to open session at 7:20 pm

Ratify Contract of Interim Town Administrator

Gregg Corbo reviewed the general outline of the Agreement. Motion by Ward, second by Marrone to accept the contract with the Interim Town Administrator. Vote 3-0. Jim Purcell thanked the Board and he stated he will be available via his phone and email.

Hewins returned to the meeting.

Motion by Franey pursuant to MGL ch. 30A, section 21 (a)(2) that the Board go into Executive Session to conduct strategy in preparation for negotiation of a contract with the Carver Police Union and that we reconvene to open session, second by Ward . Roll call Vote: Yes: Hewins, Franey, Ward, Marrone; O'Donnell recused himself.

Return to open session at 7:35pm

Ratify Police Union Memorandum of Agreement

Chief Miksch reviewed the police Memorandum of Agreement. Motion by Ward to accept the contract, second by Marrone. Vote 4-0-1 (O'Donnell abstain)

Bob Bentley-Public Hearing regarding public records request

Bob Bentley spoke about the implications placed against him and the Community Preservation Committee (CPC). He stated that the CPC has met all requirements regarding posting of meetings and minute keeping. In June, Paul Johnson sent a public records request and it was received on June 10 and the response was sent on the 25th of June and the return receipt was received on June 27th. He feels the accusations are erroneous. Ward called a point of order to hear from Paul Johnson. Johnson agreed that Bentley responded quickly to his request. His issue is that he was unable to obtain the minutes he was looking for from the Town Clerk's office. He stated he feels it is not just the CPC, he feels several committees are not submitting their minutes according to how it was voted on in July 2011. He is trying to determine who the

custodian is of the CPC. Bentley stated that the minutes are available in a timely manner and are kept by Bentley as well as the Secretary of the CPC.

Hewins stated that open meeting law does not require that minutes are kept by the Town Clerk. She feels that Bentley is being accused of violating the open meeting law. O'Donnell stated he was not accusing anyone, he was trying to determine why the minutes weren't available.

Marrone feels the town is trying to get a better handle on minutes and brought up the costs of the legal fees due to open meeting law violations and feels that someone should be able to call the Town Clerk's office and have access to minutes of any meeting.

Johnson would like to see the town require committees to retain all records of meetings.

Gregg Corbo referred to a publication that detailed in which format public records should be kept and he will provide the copy of the publication, but recommends that the Board outline the specifications of the keepers of records into a policy.

Johnson feels there needs to be an overall system and feels that it is a tedious process that needs to have a policy to follow.

Purcell feels he will be able to find a template for a policy. He is concerned that policy does not constitute law. He feels that there needs to be clarity and compliance could become an issue.

Ward stated that the committee appointments should have limited interaction with the public. The person asking for reappointment has the right to defend themselves.

Franey feels that if there is an issue with someone, they should submit it in writing ahead of time.

O'Donnell suggested that Johnson and Bentley discuss what Johnson is looking for in the minutes and Bentley can assist him in locating it.

Request to remove fencing around tennis court at Sampson's Pond

David Wojcik of Cran Bog Hawgs fishing tournament present. The group is beginning to do charity events. If the fence comes down, he feels it will be open space for any type of event the town so chooses. He would like to take down the fence. O'Donnell would like to establish who has jurisdiction over the property and determine if they have a specific use. Ward stated there was a church group that used it for street hockey, but they were hoping the fence would stay up. O'Donnell feels the property could be rehabilitated. Hewins agreed that the group in charge of the property should be consulted to see if there are options for the property.

Approval for Collins Center to begin permanent Town Administrator Search

Hewins recused herself from the discussion and left the room. Franey stated that he was looking into funding for this. Motion by Franey to table until the next meeting, second by Ward. Vote 3-0-1 (O'Donnell abstain).

Establish parameters of a screening committee for a permanent Town Administrator and request for letters of intent

Hewins recused herself from the discussion and left the room. Ward stated that if there was a large/diverse group there would be a good discussion. He would like to see the major committees have a representative there as well as citizens at large. Franey feels it will be easier to deal with a smaller group of people and it needs to be dealt with quickly. Marrone put together a template of what she feels the committee should look like: 7 members: 2 Board of Selectmen, 1 School Committee members, 1 Finance Committee member and 3 residents at large. Ward would like to see more committees involved such as Capital Outlay and Planning Board as they are two important committees. Franey feels this needs to be done efficiently and feels that it will get done quicker if the committee is smaller. Marrone feels she would like to take off a Board of Selectmen member and add a Planning Board member. Franey feels there should be One Selectmen, Finance Committee Chairman, two former selectmen, , one school committee member, two citizens at large. Marrone doesn't feel the Finance Committee shouldn't be limited to the chair due to scheduling conflicts. She also feels the citizens at large should not be employed by the town or be a member of any committee or board. Motion by Marrone to establish a screening committee for a Permanent Town Administrator to include the following: 1 Board of Selectmen member, 1 School Committee Chair, or their designee, 1 Finance Committee Chair, or their designee, 2 former town officials, 2 residents at large (not to include anyone currently serving on a committee or be employed by the town), second by Franey. Vote 3-0-1 (O'Donnell abstain).

Fiscal year 2013 line item transfer approvals

There are no line item transfers needed.

Fiscal Year 2014 Capital Lease Documents approvals

Town Accountant LaMay explained the leases and the need for signing. Motion by Franey to approve the Fiscal Year 2014 Capital Lease documents, second by Hewins. Vote 4-0-1 (O'Donnell abstained).

June 25, 2013 Open Meeting Law Violation

O'Donnell read the formal complaint filed by Robert Belbin. Corbo stated that the Board has 14 days to respond and he recommends that the Board take a vote tonight for him to respond to the complaint. He explained how the wording of the agenda at the time, it was not known to the chair that there would be an appointment made and a broad agenda item was prepared which allowed going into executive session to decide provisions of the contract of an interim Town Administrator. A violation would be if the Board knew ahead of time that they would be needed to go into executive session. He feels the Board acted properly by voting to go into executive session. Motion by Franey to approve Kopelman & Paige to provide a response to the Open Meeting Law Complaint, second by Ward. Hewins questioned if there would be a conflict if she voted on this. Corbo responded that she is not voting on the Town Administrator, but on the complaint itself. Hewins questioned if there is a conflict if Corbo were to respond to the complaint. He does not feel that there is a conflict. O'Donnell stated that we may not want to use Jim's time in responding to the Open Meeting Law complaint. Vote 5-0.

O'Donnell recused himself and turned the meeting over to the vice-chairman.

5-minute recess.

Appointment of Sgt. Marc Duphily as permanent Interim Police Chief

Marc spoke briefly about his accomplishments and his training. Marrone stated she took Chief Miksch's recommendation strongly. Ward and Marrone questioned parts of his specialized training. Ward and Hewins expressed their approval of appointing him as an interim chief. Franey would like Duphily considered as permanent Police Chief. Marrone also stated she would like to see him as the permanent chief. Motion by Ward to appoint Marc Duphily to serve as permanent Police Chief subject to successful contract negotiation and to direct Town Counsel to negotiate a contract and report back to the Board at its next meeting, second by Hewins. Vote 4-0.

Police Mutual Aid Agreement

This refers to what happened after the marathon bombing regarding the laws that police don't have jurisdiction outside of their area. This would put into place a permanent mutual aid agreement which would allow police officers to have full powers if called in (into town or if our officers were called out of town). Motion by Ward to ratify the Mutual Aid Agreement, second by Marrone. Vote 4-0.

Town Counsel Services

Motion by Marrone to reappoint Kopelman & Paige as the Town of Carver legal counsel. Hewins does not feel there is a re-appointment process necessary. Franey stated this was a way to see if there could be other services out there. Marrone feels that all vendors should be re-assessed. Ward feels that Kopelman & Paige has served the town well. Second by Franey for discussion purposes. Franey questioned if it was a conflict of interest for Hewins to participate. Corbo stated that Kopelman and Paige does not set policy and due to the fact that Hewins is in a collective bargaining unit, he feels it is not a conflict, but that she may want to consult with State Ethics on that. Corbo stated that O'Donnell recuses himself due to litigation and may have a financial interest vs. someone who is a part of a bargaining unit who may not have a financial interest. Hewins suggested tabling the matter so she can consult with Ethics. Marrone tabled her motion until the next meeting so Hewins can find out from the Ethics Commission if she can vote, second by Ward. Corbo stated they will continue on as Town Counsel at least until the next meeting. He would like to be up to date on any issues, if they are performance or cost so they can provide the town with good service at a reasonable price. He feels either way there should be a status update. Marrone stated that she does have a few concerns she would like to address regarding items that have had a high ticket cost to the town. Vote 4-0.

Motion by Franey pursuant to MGL Chapter 30A, section 21(a)(2) that the Board go into Executive Session to conduct strategy in preparation for negotiation of a contract with the Police Chief Marc Duphily and not to return to open session at 9:30. Second by Marrone. Roll call vote: Yes: Franey, Ward, Marrone, Hewins.