

**Carver Select Board
Meeting Minutes
Town Hall- 108 Main Street
December 6, 2022 - 5:00pm**

In Attendance: Chair Mark Townsend, Vice-Chair Sarah Hewins, Jen Bogart, John Cotter, Jim Hoffman, Town Administrator Robert Fennessy and Assistant Town Administrator Elaine Weston.

Motion to adjourn into Executive Session in accordance with G.L. c. 30A, §21(a)(3), to discuss litigation strategy with respect to the Town's potential joinder in multi district litigation against suppliers, manufacturers and other parties responsible for PFAS and other chemical contamination that may be present within the Town, if discussing the matter in open session will have a detrimental effect on the Town's litigating position and the chair so declares by Hewins, second by Hoffman.

Roll call-affirmative: Bogart, Townsend, Hewins, Hoffman

Motion to adjourn from Executive Session at 5:45 pm and to reconvene in open session at 6:00pm by Hewins, second by Hoffman.

Roll call- affirmative: Cotter, Bogart, Townsend, Hewins, Hoffman

Open Session:

Chair led the Pledge of Allegiance and Hoffman read the community prayer.

Citizens Participation:

Dan Ferrini: Wells in the area of Fosdick Road going dry from the Johnson bogs. He is asking that Town Counsel look at the Attorney General's finding on the Solar and Battery Storage.

Mary Dormer: She is requesting a cease and desist and to meet with residents whose wells have gone dry in regards to the same matter as previously stated by Ferrini. She is requesting a forensic evaluation of that same area.

Judith Pratt: Bates Pond is in her backyard of Meadow St. She referenced a picture in which the water level is below a rock and stated that the water level has never been this low. She stated she thinks the water is being used by the Maki site.

Town Administrator Update

Attorney General's decision on warrant articles on Solar and Battery Storage Moratoria:

In Nov. the Attorney General ruled that what was voted is contrary to State Law and it did not fall within the parameters of the State's protection of solar use. Fennessy read the Attorney

General's disapproval of the two moratorium articles that passed at Town Meeting. An appeal is estimated to cost the Town approximately \$15,000 in legal fees and it would take several years to get the appeal done and the moratorium is for 11 months. He has authorized the sub-committee to continue to draft articles for town meeting and to look for ways to put in reasonable protections or restrictions.

Bogart is on that committee and stated she would respectfully disagree with Fennessy on how things are going. She expressed her concern with how little the committee had accomplished. She stated Town Planner Tom Bott told her he was not intending to write an article for Town Meeting. She stated she does not feel the vote of Town Meeting is being respected. Townsend stated it is a conversation she should be having with the committee.

Townsend asked Fennessy to have another conversation with Town Counsel on what can be done. Fennessy stated the intent of the moratorium was for a review of the by law, not to stop it. Fennessy stated Bogart is a valuable voice on the committee.

Great Meadow area private well(s) status:

The Town was made aware last week that someone was having a problem with their well. There was an issue that they may have a dry well or a water flow issue. The pumping of one of the water sources into another may have had an effect on that, but there is no determination. The pumping stopped and the wells were replaced, one being on Great Meadow. This was replaced by the owner of the Earth Removal Permit. There is no one else that has come forward as having a dry well.

Townsend asked that the Board be kept informed if the issue arises again. Hewins clarified the land owner is Van Johnson and that two wells have already been replaced and the pumping has been stopped.

Fennessy will discuss recommendations from the Board of Health on how to handle the situation of notifying the residents.

Community Preservation Committee Applicant: Patricia Cooney- Cooney stated she would like to get involved and is concerned about what is going on. The Open Space in town is important to a lot of people.

Bogart asked how she found out about the opening. Cooney stated she saw it on the website and via word of mouth.

Motion to approve appointment through 6/30/2025 by Bogart, second by Hoffman.

Vote 5-0

Update on Town Hall siding and Library HVAC repair/replacement: Dave Siedentopf present. Library: The Town has contracted with Apex Corp. They will evaluate the site and will need to get large equipment into the attic. A few units will be energy recovery units. They are looking

to start sometime this month once enough equipment is in. He will keep the Library Director and the Select Board informed as work progresses.

The equipment being removed will be decommissioned. There are fire walls in the attic making this project very challenging. Eleven (11) large air handlers are there now. The VRF is technology that has been proven to be efficient and reliable. This will be serviceable.

Cotter asked when the project is anticipated to finish. Siedentopf stated spring, as long as there is no delay in equipment. The anticipated cost is \$1.87 million.

Hewins asked if the roof needs to be opened for installation. Siedentopf stated no- there are other ways that the installation can happen, such as through the ceiling.

Siding: The RFQ is ready to go and will be finalized tomorrow. It will be in the Central Register by next week. A site visit will be mandatory in order to bid on the job. It will be vinyl siding which has come a long way and will keep the same look. This work can be done during the winter.

Fennessy asked for an update on the trim work. Siedentopf stated the decorative molding will be painted and are not a part of the quote with the siding.

Pole Hearing Continuation from 11/15/22: Ryan Earle & Faye Sweatman from Eversource present. Townsend stated this is the third hearing on the poles. He is concerned that the first time the maps were wrong and the second time it was found that the poles were already installed. Bogart asked why it happened again. Bogart stated when it happened before the Select Board was ensured by Earle that this would not happen again.

Earle stated he understands and apologized for this. There was a lot of private work and they were operating thinking it was private.

Bogart would like to see fines.

Hewins stated that hearings are required by State law.

Fennessy stated he spoke to Town Counsel. Fines are not an option. The option is that they can order the poles to be removed and then they can be re-installed once they are approved.

The Board expressed their frustration with this being the second time that poles are being installed prior to approval by the Select Board. Townsend asked that Earle get a letter from his superiors to the Board that this will not happen again.

Bogart asked that someone look at who is making the plans as the plans have come in with errors on several occasions.

Cotter asked if the application states if it is private or public work and what is the internal control. Hewins stated this is on a public way, not private property so they should have known it is not on private property. Fennessy stated the paperwork is clear.

Motion by Hewins to approve the installation of the poles, second by Hoffman.

Vote 4-0-1 (Bogart abstain)

King Richard's Faire Traffic Plan Committee- revision of charge: Chief of Police Marc Duphily revised the charge to: The Select Board charges the previous constituted committee, comprised of the Town Administrator, Chief of Police, Fire Chief, EMS Chief, Emergency Management Director & Operations and Management Director to work with representatives of King Richard's Faire to establish a daily capacity of visitors which allows for the successful operation of the business, minimizes traffic impact and does not negatively impact the ability of the town's public safety departments to ensure public safety services are deliverable.

Townsend expressed concern about the number of advance tickets sold but was pleased to see they were sold with assigned dates.

Hoffman asked if the traffic set up would need to be changed as opposed to ticket sales. Chief Duphily stated this will need be resolved to determine the best coarse of action.

Fennessy stated there was a meeting after the Faire ended with all Public Safety Officials as well as representatives from the Faire. They are looking forward to working with the Town to make things better going forward.

Motion to approve the charge as revised by Hewins, second by Hoffman.

Vote 5-0

Amendments to bylaws for Annual Town Meeting Warrant:

Section 1.1.2 Town Meeting Quorum: Townsend stated this is a result from last year's town meeting when there was a question if there was a quorum to continue the meeting. The two proposals from Town Counsel may need to be combined. Fennessy will send it back to Counsel to be re-written.

Section 4.1.1 Committee Vacancies: This arose from language that is unclear. Town Counsel was asked to review this to provide clearer language to avoid interpretation. The new language clarifies this. The new language reads: The appointing authority for any appointed Board, Committee, or Council may remove any member who is absent from the consecutive duly held meetings unless one or more absences is excused by the Chair or Vice-Chair in the case of the absences by the Chair.

Cotter has concerns if a committee cancels meetings for several months. Townsend stated that is not addressed in this bylaw.

Bogart stated she feels this is too lenient and would like to see a limit. She stated if you make a commitment to the Town and also make a commitment to the National Guard, then you should open up the commitment to the Town to give someone else the opportunity to fill a vacancy. The time span of the vacancies should also be considered. Fennessy stated that it could be re-worded that upon the vote of the remaining Board members instead of the Chair or Vice-Chair.

Hoffman asked what is the technicality of a 'duly' held meeting. Fennessy stated it is a meeting that has been opened. Fennessy stated that if the chair wanted to get rid of someone and knew they were going away, the Chair could schedule three meetings while they are away.

Townsend would like to get clarity on the bylaw and that the member is not automatically off of the committee as well as giving the appointing authority some discretion.

Hoffman is concerned about meetings not being held due to the absence of a member. Townsend stated those are two separate issues.

Motion to approve the revised article 4.1.1 for Town Meeting, second by Hewins.

Vote 4-1 (Bogart)

Code of Civil Conduct: Fennessy proposed the Code of Civil Conduct at a previous meeting.

Motion to approve the Code of Civil Conduct by Cotter, second by Hewins.

Vote 5-0

Discriminatory Harassment Policy Updates:

There was a change in the law relating to natural and protective hairstyles called the 'crown act'. The policy has updates to add ancestry, ethnicity, pregnancy and pregnancy related conditions, veteran status and natural or protective hairstyle.

Motion to approve by Hewins, second by Hoffman.

Vote 5-0

Agenda Policy Amendment to #5 Citizens Participation: Townsend would like to eliminate sentences 4 & 5 of the policy which restricts what can be commented on to only items on the agenda.

As a result of the Open Meeting Law training, each committee can follow their own policy. He would like to see this section opened on the Select Board Agenda Policy so that people can speak to items, even if they are not listed on the agenda.

Motion to approve the change to modify #5 - Citizen participation portion of the Agenda Policy by Hewins, second by Hoffman.

Vote 5-0

Authorize Town Administrator to appoint Special Labor Counsel at the Town Administrator's discretion: Fennessy stated there are cases that may be better served with alternative counsel that are more specialized.

Motion to authorize the Town Administrator to hire labor counsel for labor and personnel cases at his discretion until a further vote of this Board by Hewins, second by Hoffman.

Bogart asked if they will know what firm it is and the cost. Fennessy stated it won't be any more than we are paying now.

Cotter asked about our current counsel firm if they don't have labor counsel. Fennessy stated they do, but there is an issue of quantity vs. quality.

Vote 5-0

Town Administrator Update:

Town Hall IT & Technology Advisory Committee Update:

The IT and Technology Advisory Committee for the Town Hall met and had a state contractor come in and give a quote for upgrades to meeting room #1. This included a 'neat' screen & addressed the cords all over the room. The quote ranged from \$14,000 to \$51,000. ARPA funding may be a possibility for these upgrades.

Hewins asked how the public will view a budget demonstration. Fennessy stated it will change to be modernized so that people viewing from home can see things clearer.

Townsend asked for an update on advertising for committees. Fennessy stated a pamphlet will be going out with the tax bill.

Cotter asked in regards to the Attorney General's decision and Great Meadow issues, if the Chairman from the Battery Storage Committee as well as the Health Agent or Earth Removal Committee Chair could give the Board an update.

Approval of Minutes/licenses, etc.:

Minutes of 11/1/22:

Motion to approve by Hewins, second by Bogart.

Vote 3-0-2 (Cotter and Hoffman abstain)

Minutes of 11/15/22:

Motion to approve by Hewins, second by Cotter.

Vote 5-0

Select Board Notes:

Jen Bogart: Discussion about drafting articles for the 2023 Town Meeting that would revert the zoning changes approved at the 2022 Town Meeting back to what they were before the 2022 Town Meeting. Bogart stated this is due to the North Carver project falling through. She stated the Chair of the Finance Committee put it out on social media that the project had fallen through. She stated if zoning is left in place then things can happen by right.

Select Board Community Announcements:

Cotter: none

Bogart: Thanked the Recreation Committee for the gingerbread house giveaway

Hewins: none

Hoffman: none

Townsend: Thanked TA Fennessy and Health Agent Forgue to an issue that arose. A few residents reached out to him, he called the TA and the TA dropped what he was doing, the Health Agent was gone for the day and returned to work to help a resident.

Next Meeting:

December 20, 2022

Motion to adjourn by Hoffman at 7:32pm, second by Hewins

Vote 5-0

Listing of Exhibits: Application of Patricia Cooney to Community Preservation Committee, Eversource Pole Hearing public notice and notice of pole locations and relocations, Town Meeting by change proposals for 1.1.2 and 4.1.1, Code of Civil Conduct, Discriminatory Harassment Policy, Minutes of 11/1/22 & 11/15/22, Motion on special labor counsel, Picture of a pond referenced by Pratt during citizens participation