

**Carver Select Board
Meeting Minutes
Town Hall Meeting Room #1
May 18, 2021 - 6:00pm**

In Attendance: Chair Mark Townsend, Vice-Chair Sarah Hewins, Jen Bogart, Jim Hoffman, Robert Belbin, Interim Town Administrator Rick LaFond & Assistant Town Administrator Elaine Weston.

The Chair led the Pledge of Allegiance and Belbin read the community prayer.

Legal Update: Gregg Corbo from KP Law present for a legal update. LaFond stated the only outstanding litigation has been resolved so there is no need for Executive Session. The update can be done in open session.

Corbo stated any outstanding claims are being handled by the Town's insurance carrier. The litigation concerning the 164 Center Street enforcement action is what the update will focus on. Aggressive litigation through the course of a year has resulted in a successful court judgement of \$9,600 in the form of a lien on the property. The enforcement process is a simple process as there is a bylaw in place and there is proof that a property owner that is not in compliance. Often times these cases involve multiple court appearances before someone will come into compliance. It often does happen as quickly or cost effectively as the Town would like. This case took approximately one year to resolve. There have been other cases in the past which KP Law has successfully resolved for the Town.

Belbin asked if the judgement included legal fees. LaFond approximated that there is about \$3,000 in legal fees attached to the judgement. Belbin asked if interest is accrued on the lien. Corbo stated he believes that interest does accrue at approximately 12%.

LaFond stated there is currently an issue going on now in which it takes several months for the Town's permitting enforcement departments to gather evidence and documentation prior to going to counsel to move forward with the legal process. He stated that in some cases letting these things go can set a precedent and Town does not want that to happen.

Corbo stated if the property owner is not willing to work with the Town, it takes longer and costs the Town more money. These issues can be resolved more expeditiously if the property owner is cooperative. It is always more advisable to resolving these things locally, although it may take longer and to try to use court as the last scenario.

Motion by Hewins to move Open Meeting Law Discussion out of order, second by Hoffman.

Vote 5-0

Open Meeting Law Update and Discussion: Gregg Corbo from KP Law present to discuss. He reviewed several topics of the Open Meeting Law(OML). There are three major legal requirements of the Open Meeting Law: Notice, Purpose & Minutes. The OML is a deliberation

amongst a quorum of a public body to discuss matters within the jurisdiction of the body. Deliberation is communication, oral or written, through any medium including email, between or among a quorum of a public body on any public business. A quorum is the majority of the full complement of members on a multiple-member body, except in limited circumstances. A public body is a multiple member board, commission or committee or subcommittee established for a public purpose.

A meeting is subject to the OML, however, there are exclusions such as a site visit, distribution of meeting agenda, scheduling of procedural information, distribution of meeting materials, reports, documents, etc., so long as no member expresses an opinion, thought or idea about the document. Attendance at a social gathering, another meeting or training is allowed as long as no town business or participation in town business is discussed. Belbin stated that it inhibits the ability to have a town hearing when a committee on a site walk discusses items. Belbin is hopeful that all committees and boards in town will see this presentation to hear this. Townsend stated the intention is to have a presentation for other town committees and boards. LaFond asked if the Select Board attended a Planning Board meeting and comments- is that allowed. Corbo stated that they could attend as residents and to state that if they speak publicly. The Select Board is not actively deliberating- they are participating in their individual capacities. Corbo stated you still have the right to talk about things in public forums as long as you adhere to your responsibility that if a particular project comes in front of you, you must be able to fully and fairly perform your duties. Members should be clear when they speak publicly that they are not speaking as a member of the Board, but rather as a resident.

Townsend asked about commenting on social media. A quorum is deliberation on any platform, which can include in a social media string or chat. Corbo stated to advocate for caution as there is potential for inadvertent violations. If a member makes a comment and two more Board members reply, then that could be considered a deliberation. This is the same in respect to email. There are approaches that can be taken to avoid violations such as assuming email will be forwarded to unintended recipients or state at a public Board meeting that you made a comment.

Corbo stated social discussions are not a violation of the Open Meeting Law. The deliberation has to be on something that is within your Board's jurisdiction.

The public notice must be published 48 hours in advance of the meeting, must be posted with the Town Clerk's office and does not include legal holidays or weekends. The notice must include the date, time and location of the meeting as well as the topics 'reasonably' anticipated to be discussed. Corbo addressed what level of detail needs to be on the notice.

If the Chair was aware of something that is going to be raised at the meeting, the Chair needs to put it on the agenda. Matters not reasonably anticipated such as items that have come to the

Board's attention yesterday, can be discussed. What would be required is to update the notice as far in advance as possible. If it is not an emergency and can wait, then it should wait.

An example would be the Board of Health has a situation that may cause imminent harm. They can act in an emergency manner and then post a meeting and ratify the matter as soon as possible with the proper posting.

Belbin asked what the parameters are if the conversation sidelines into another. Corbo stated if it is a natural progression and votes are not taken it can be discussed. If it is anticipated that a particular subject will arise, or requires a more substantive discussion, it should be postponed to discuss at a future agenda.

The public notice must have enough notice so that a member of the public can decipher what is being discussed so they can decide if they want to attend the meeting or not. For example if it is for a license, the license name should be posted.

The location of the meeting must be ADA accessible. If the meeting location is to be changed, the alternate location must be clearly posted on the door of the original posted meeting location and the main door to the building. In addition, the room where the meeting is held cannot be locked. Corbo stated that if there is an issue of weather, two meetings can be posted so there is an alternate date and the alternate date can always be cancelled if not needed.

Corbo stated if the meeting runs long, a meeting cannot be continued, it must be posted again following the OML requirements. For a public hearing, once you have provided statutory notice of a hearing, a hearing can be postponed or 'continued'. It cannot be continued to the next day- it must be 'continued' at least 48 hours in advance. Another meeting needs to be posted, but the abutters do not need to be notified again. When the hearing is being continued, a date and time needs to be stated publicly at the time of the continuation. In addition, the OML does not require that public comments or public participation be allowed in a public meeting. Only in public hearings is this required.

Hoffman questioned public participation on agenda items. Corbo stated that if you are going to allow public participation, it must be fair and you cannot allow some people to participate and others not to. Hoffman would prefer to see the comments section towards the end of the meeting. Belbin stated he has seen it at both the beginning and the end of the meeting and prefers the beginning. Bogart likes it both at the beginning and at the end.

Remote participation protocols must be followed allowing only one member to be remote at a time.

Executive Session can be held only for the categories listed in the OML. If an executive session is anticipated, it must be listed in appropriate detail on the meeting notice with detail. The meeting must be opened in open session and a motion and vote must taken to go into executive session and it must be stated if you are going back into open session or not.

The chair must also state that going into executive session will have a detrimental effect on the Town's bargaining position. Once in executive session, minutes must be taken and all votes must be via roll call.

Minutes may remain confidential as long as the executive session topic allows them to be.

LaFond asked for an example for when a matter could compromise the Town's position. Corbo stated the Town may need to decide to initiate litigation. If that party knew you were going to initiate litigation, the other party could take action to thwart the Town's claim.

Minutes of the meeting must include the time, date and location of the meeting as well as who was present and absent. A summary of the discussion on each subject should be included and include enough detail to allow a person who was not at the meeting to reasonably understand what was discussed. Decisions made and actions made are to be documented, including roll call votes. A listing of documents used at the meeting should also be a part of the record if it is physically present, verbally identified and the content of the document if discussed by the members.

Meeting minutes must be approved in a timely manner.

Belbin asked about minutes of a special permit and executive session. Corbo stated there is a level of detail needed for a special permit. Corbo stated for executive session, there should not be items of attorney client privilege that may not be suitable for release and those can be redacted prior to release.

Minutes in draft form are subject to release upon a public request.

Citizen's Participation: None

Select Board Goals and Objectives: Townsend suggested that each member of the Board come up to three goals and to email them to Elaine Weston and discuss them at a future meeting. Belbin would like to have goals in place. Belbin did not think the previous facilitator was worthwhile. Townsend stated there are other facilitators the Board can use if the Board would like to. Hewins would like to discuss the goals at a future agenda when there is time and would like to use a different facilitator. Hoffman is also in favor of setting goals and objectives and would like to use a facilitator. Townsend asked LaFond to look into a facilitator to use. Belbin would like to see a listing of the options for a facilitator. LaFond stated there is no listing, but there are retired Town Managers that provide this service.

Town Administrator Screening Committee:

Whether or not to include 3 additional applicants that came in after the deadline: Hewins stated it was clear when the deadline was on the posting. Belbin agrees that late applicants should not be accepted. Hoffman stated he brought up this topic and Bogart agrees.

Motion by Hewins not to accept the late applicants for the Town Administrator Screening Committee, second by Belbin.

Vote 5-0

Composition of screening committee: Bogart stated Fairhaven, Natick, Topsfield, Boxford & Stow (as well as several other communities) committee make-ups as a point of reference. Belbin would like to see 7-9 members similar to the make-up of Fairhaven and would like to see as many people interested that fit into those roles. Hoffman would like to see 7 members and similar make up as Belbin stated: Finance Committee, School Committee, 3 at large members chosen by the Select Board and someone in the Cranberry industry. Hewins would like to see at least 2 Finance Committee members, 1 School Committee, 1 Planning Board member, 1 Former Select Board member, 2 members at large and 2 public safety officials. Bogart likes the idea of someone from Public Safety and does not necessarily want to see 2 members from the Finance Committee as it would give them more weight on the committee. Townsend would like 7 members and would like someone from Finance Committee, School Committee & Planning Board. He would like to see different demographics such as a business owner and/or someone from the senior population.

Motion by Belbin to have 7 members for the Screening Committee, second by Bogart.

Bogart would like to see a base committee of 7 with the option of adding the Public Safety Officials if they choose to participate.

Belbin amended his motion to include 2 additional members comprised of Public Safety Officials (Police, Fire, EMS, EMA Chiefs), second by Bogart.

Hoffman asked if a former screening committee member could be added. There was discussion on several different scenarios of the make-up and different representatives for the committee.

Townsend suggested having an alternate member. Hewins questioned for example if the Board wanted someone from the School Committee, but they chose to have a designee, not one of them.

Vote 5-0

Make-up of the screening committee:

Discussion on if committees should have a designee or a member of the actual committee, Hewins would like them to have the option of a designee, Townsend would like to see a member of the committee assigned and if they choose no one, the Select Board could then choose an applicant or recommend a designee.

Motion by Belbin to appoint the following as the make-up of the screening committee to include one current member of the Finance Committee, one current member of the School Committee, one current member of the Planning Board, three at-large members and one

member from the business community. The aforementioned committees or boards are to designate their appointment at a meeting to be held prior to the 6/1/21 Select Board meeting and if the committees fail to appoint a member, the Select Board will appoint a member in their place, second by Hoffman.

Vote 5-0

Interviews of applicants: Townsend would like to have an additional meeting next Tuesday solely for the interviewing of applicants so that the Board has time to make their decision prior to the next meeting. Bogart would like to have the applicants know that it will not be held against them if they are unable to attend the next meeting for the interview.

Hewins would like to interview the at large applicants. Bogart would also like have an interview. Hoffman questioned if there was an overlap of the applicants and if they are on one of the committees that is making a designee. Belbin and Townsend agreed they would like interviews. A meeting will be held on Tuesday on 5/25 at 6:00pm for interviews of all applicants only and each interview will last no more than 5 minutes.

Charge of the committee: Bogart suggested using the charge that is being used by the town of Fairhaven. Townsend would like everyone to review the charge and to come to the June 1 meeting with their suggestions for the charge.

All applicants will be notified and letters of request will be distributed to the Board.

Community One Stop for Growth Grant: Hewins is working in collaboration with Dave Siedentopf, John Woods, Kevin Tracy & Kevin Forgue, to secure a Community One Stop for Growth Grant. This grant is three parts: 1) to offset the cost of the the Plymouth Street Water Line Extension Project; 2) to provide 'sharrows' – not designated bike lanes, but rather line painting on the roads so both vehicles and bicycles can 'share the road'-from Pine City Road to the intersection of Plymouth Street and Route 58, with appropriate new signage; and 3) to install a new sidewalk on the western side of Route 58 from Plymouth Street south to Purchase Street. If successful, this grant would not only offset the cost of the water line extension, but also free up some Chapter 90 road repair money as well as being integral to our Complete Streets Program. This grant requires a letter of support from several boards including the Select Board. Bogart asked about the section of the road chosen and thanked everyone who worked on it. Belbin asked how much the grant is. Hewins stated they are not sure and there is a lot involved in getting to that point.

Motion to approve a letter of support by the Select Board by Hoffman, second by Bogart.

Vote 5-0

Motion to take license applicants out of order by Hoffman, second by Hewins.

Vote 5-0

Brewery 44: Application for Entertainment License: Mike Johnson, owner present.

Motion to approve license by Hoffman, second by Belbin.

Belbin asked what type of entertainment and where will it take place. Johnson stated there is a beer garden with food trucks on the side of the building and inside will be acoustic and dj events. Anything louder than acoustic will be inside. Belbin asked if plans were submitted. Johnson stated they have worked with the Fire Chief on the outside beer garden. There are cement barriers and it will be 25'x65' and are following the instructions that were received. Hoffman asked what hours for the entertainment. Johnson stated entertainment outside will end at 8:00pm.

Motion amended by Bogart to have written approval received from the Fire Department and that all applicable taxes and fees be paid, second by Hoffman.

Vote 5-0

Role, Responsibility and creation of policy for Chair and Vice-Chair: Belbin would like to have written policies and procedure for this as people come into the position and there is nothing in place in writing. This would provide consistency as changes in the Board happen.

Bogart attended an MMA webinar and it stressed the importance of having a strong Chair for the Board and they cited examples of policies that towns have for their Boards/Chairs and their roles.

Hewins would like to see input from the current chair and former chair as there are many procedural things and that it is the Chair's meeting.

Hoffman would like them to be guidelines , not policies and to have the ability for them to be flexible.

Belbin will put something together and bring it before the Board.

Town Administrator Update:

Cares Act Update:

It is hopeful that the remaining funds of \$403,319 can be used to repair the air handling in the Town Hall. There are currently air purifiers that were purchased under the Cares Act that are being used town-wide in municipal buildings. The purchase has to be something that is not budgeted and something that would otherwise not be done due to Covid. Dave Siedentopf is in the process of getting a quote for this. It is a reimbursement program so the Town needs to be careful to only move forward with projects that would potentially be approved.

Townsend asked if a breakdown is provided with the checks that are received. LaFond stated we do not receive it and it needs to be requested.

A small working group has been created to review where the Town is and to make sure everyone is on the same page as far as the use of the remaining funds.

Plymouth Street Water Line Update: The contract is in the process of being executed and a pre-construction conference is being scheduled.

Mask Wearing mandate update in Town Hall: The policy has been and remains that if you are at your work station you do not have to wear your mask, and if you get up, you need to wear your mask. LaFond stated for the comfort of the public, employees should continue to wear their masks until the State mandates change at the end of May. This was reiterated at the Department Head meeting today. As far as meetings, it is up to the Chair to determine if attendees need to be asked to wear a mask. Belbin stated you can still contract Covid if you have been vaccinated.

Town Walking paths: Rick will get information to the Board on this.

Town-wide yard sale: Bogart distributed a template and it is self-explanatory. The form would be filled out, the town would compile addresses, etc, and it would be distributed/publicized. Hewins suggested the emails be sent to Bogart and the Select Board office can post the information for the public. Townsend stated it may start off slow on the first year, and it may grow from year to year. Hewins suggested Bogart contact appropriate places for advertising. Townsend suggested getting Public Safety approval for the date. Belbin stated once approval is given, the Board doesn't need to continue to make decisions on this, but the Board can be updated. Belbin suggested asking the school if the generation of the map could be done by a student to get volunteer hours.

Council On Aging projected opening plan is in place & a plan has been distributed and the library is also planning on a full reopening.

Next meetings: 5/25 & 6/1

Request for use of Shurtleff Park: Carver Red Hat Mamas on 6/10/21 11:30am-3:00pm.

Motion to approve and to waive the use fee by Belbin second by Hewins.

Vote 5-0

Request for Best Buddies Challenge Bike Ride: 10/2/21.

Motion to approve by Belbin second by Hoffman.

Vote 5-0

Motion to approve minutes of 4/6/21 as amended by Hoffman, second by Bogart

Vote 5-0

Motion to approve minutes of 5/4/21 by Belbin, second by Hoffman.

Vote 5-0

Select Board Community Announcements:

Bogart: Information on the first annual town-wide yard sale will be coming out soon.

Belbin: Members for the Waste District are needed to keep going as soon there will not be a quorum. There is currently \$1 million in funding that needs to last for the next 10 years.

Hoffman: Thanked everyone that attended and donated at the Kane Strong Golf Outing and they had a record year.

Hewins: Jim Walsh, LaFond and her met with SRPEDD on Monday on updates that need to be done on the Open Space and Recreation Plan. This makes the town eligible for state funding. Public input is important and a request will go out for participation.

Townsend: The Memorial Day Parade will be held at 9:30 on 5/31. Old Home Day will be held this year the last Saturday in July and they are looking for volunteers for their committee. Their next meeting is being held tomorrow night at 7:00pm.

Select Board Notes: none

Motion to adjourn at 9:25pm by Hoffman, second by Belbin.

Vote 5-0