

BOARD OF SELECTMEN
DECEMBER 18, 2013
REGULAR SESSION

Members Present: Nelson Almeida, Gary Sagar, Michael Brady,
Robert McLintock, David Parker

Interim Town Administrator: Gary Stenhouse

Chairman Almeida called the meeting to order at 6:02 p.m. followed by the Pledge of Allegiance and moment of silence.

He announced that in accordance with M.G.L. Chapter 30A, Section 20, anybody taping the meeting must notify the Chairman.

SWEARING IN

**Conduct a Swearing in Ceremony for Steven Fundakowski to the Police Department
(Town Clerk Janet Parker)**

Chief Craig Mace recommended the appointment of Steven Fundakowski as a full time police officer.

A motion was made by Mr. Sagar, seconded by Mr. Parker, and it was unanimously

VOTED: To appoint Steven Fundakowski as a police officer.

Officer Fundakowski was sworn in by Town Clerk Janet Parker.

GIFT ACCEPTANCE

Accept a \$500 Donation to the Animal Shelter Gift Account

A motion was made by Mr. Brady, seconded by Mr. Parker, and it was unanimously

VOTED: To add the second donation and accept the total donations of \$1,000
For the animal shelter with gratitude and thanks.

Accept a Gift of Furniture to the Fire Department

Chief Alan Jack advised that he was approached by members of the firefighters union that a furniture store in town wanted to donate furniture to them.

A motion was made by Mr. Sagar, seconded by Mr. Parker, and it was unanimously

VOTED: To accept the gift of furniture for the Seekonk Fire Department.

LICENSES

2014 License Renewals

Executive Assistant Anne Rogers stated that #11 on Class II motor vehicle license is supposed to have three vehicles on the lot according to the parking plan. He has approximately 30 unregistered vehicles on this lot.

Mr. Brady noted that she had explained to the owner that he can get repair plates.

Mr. McLintock said the night this gentleman was before the Board, Mr. Parker and Mr. Sagar were pretty adamant that he was only supposed to have three vehicles on the lot.

Mr. Parker said that this will be approved only after the zoning officer assures compliance.

Mr. Sagar wanted to recuse himself on entertainment licenses.

A motion was made by Mr. Parker, seconded by Mr. Brady, and it was unanimously

VOTED: To approve the Amusement machine licenses, as submitted.

A motion was made by Mr. Parker, seconded by Mr. Brady, and it was unanimously

VOTED: To approve the antique and second hand license, as submitted.

A motion was made by Mr. Parker, seconded by Mr. Brady, and it was

VOTED: 4 Ayes; To approve the place of public amusement licenses, page 1, as submitted.

Mr. Sagar recused himself.

A motion was made by Mr. Parker, seconded by Mr. Brady, and it was unanimously

VOTED: To approve the place of public amusement licenses, page 2, as submitted.

A motion was made by Mr. Parker, seconded by Mr. Brady, and it was unanimously

VOTED: To approve the place of public amusement licenses, page 3, as submitted.

A motion was made by Mr. Parker, seconded by Mr. Brady, and it was unanimously

VOTED: To approve the place of public amusement licenses, page 4, as submitted.

A motion was made by Mr. Parker, seconded by Mr. Brady, and it was unanimously

VOTED: To approve the place of public amusement licenses, page 5, as submitted.

A motion was made by Mr. Parker, seconded by Mr. Brady, and it was unanimously

VOTED: To approve the place of public amusement licenses, page 6, as submitted.

A motion was made by Mr. Parker, seconded by Mr. Brady, and it was unanimously

VOTED: To approve the place of public amusement licenses, page 7, as presented.

A motion was made by Mr. Parker, seconded by Mr. Brady, and it was unanimously

VOTED: To approve motor vehicle licenses Class I, page 1, as presented.

A motion was made by Mr. Parker, seconded by Mr. Brady, and it was unanimously

VOTED: To accept motor vehicle licenses Class II, page 2, as presented.

A motion was made by Mr. Parker, seconded by Mr. Brady, and it was unanimously

VOTED: To approve page 3 of the Class II motor vehicle licenses with the stipulation that Highland Avenue Services license only be granted when the zoning officer determines they are in compliance with the zoning laws.

A motion was made by Mr. Parker, seconded by Mr. Brady, and it was unanimously

VOTED: To approve page 4 of the Class II motor vehicle licenses, as presented.

A motion was made by Mr. Parker, seconded by Mr. Brady, and it was unanimously

VOTED: To approve page 5 of the Class II motor vehicles licenses, as presented.

A motion was made by Mr. Parker, seconded by Mr. Brady, and it was unanimously

VOTED: To approve Class III motor vehicle licenses, as presented.

OLD BUSINESS

Consider Approval of Lease for Old Town Hall and Vote to Sign

Atty. Katharine L. Klein of Kopelman & Paige and Atty. Dean G. Robinson, representing the tribe, were in attendance.

Mr. Parker asked about the financial obligation on behalf of the town.

Atty. Klein said for upkeep and maintenance The Town has an obligation to replace the roof and gutters by a certain date in 2015.

Atty. Robinson said that he has a letter from Stratus Financial Group Inc. that states the client must have site control before grant money is available.

Mr. McLintock wanted to make sure the funds are there. There doesn't seem to be any financial support.

Chief George Jennings advised the tribe has \$80,000.

Mike Brady noted it was clear from the start that either the Historical Commission or the tribe had to have control of the building in order to obtain grants.

A motion was made by Mr. Sagar, seconded by Mr. Parker, and it was unanimously

VOTED: To approve and execute the lease with Seaconke Wampanoag, Inc.
for Old Town Hall.

Open Meeting Law Complaint Acknowledgement and Resolution: Open Meeting Law complaint from Lauren Walsh received November 20, 2013 concerning an alleged violation on October 23, 2014 and related matters. Acknowledge receipt of complaint, consider possible responses thereto, and vote to resolve the same.

Mr. McLintock read aloud the alleged violation filed by Ms. Lauren Walsh.

He said that sometime ago he filed a complaint on the open meeting law. He finds that the Atty. General's office is not as aggressive as the people who file reports to that office.

Mr. Stenhouse noted they have a document. This is what the board should do to remedy any inadvertent non action that might have happened.

He read from that, The Board has received a complaint from Ms. Lauren Walsh dated November 20, 2013 with respect to the Board's action at its October 23, 2013 meeting on a complaint originally filed on September 18, 2013. In particular, Ms. Walsh indicates concern

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with respect to the form of the meeting notice and the discussion held under the item as it appeared on the amended agenda.

The Board determined at that meeting that the complaint at issue was not filed timely where it related to matters dating from January 10, 2010 through May 16, 2013, and therefore that no remedial action was needed.

The Board further found that in contrast to the position taken by Ms. Walsh, it had no responsibility under the Open Meeting Law with respect to the conduct of the Town Administrator or of other committees.

Nevertheless, the Board found that it takes its responsibilities under the law seriously and that it would ask administrative staff to review with all boards and committees the requirements for meeting notices.

In reviewing the facts alleged, it appears that the October 23, 2013 meeting notice was updated that day to include the item relative to resolution of the September 18, 2013 complaint.

It appears that such matter was not originally included by the Chair on the meeting notice, whether as a result of a miscommunication or inadvertent omission.

After correspondence from Town Counsel was received on that date; however, the notice was updated.

The discussion that ensued was directly related to the revised meeting notice item and related solely to the only then-pending Open Meeting Law complaint filed by Ms. Walsh.

The Open Meeting Law does not prohibit discussion of a matter not reasonably anticipated by the Chair.

Moreover, the complainant was actually present at the meeting and had the opportunity to observe the discussion on her pending complaint.

For all these reasons, there was no violation of the Open Meeting Law and no remedial action is required.

A motion was made by Mr. Brady, seconded by Mr. Sagar, and it was unanimously

VOTED: To resolve the current complaint by taking the following actions, noting that the full discussion of the matter on a properly posted meeting would have cured any previous inadvertent violation. Pearson, 49 Mass. App. Ct. at 125; Benevolent & Protective Order of Elks, Lodge No. 65 v. Planning Board of Lawrence, 403 Mass. 531 (1988). To the extent that it is arguable that the same might be

necessary, ratify, validate and confirm the action taken by the Board at the October 23, 2013 meeting to resolve Ms. Walsh's September 18, 2013 complaint. That they include the minutes of the current meeting, the meeting notice for the current meeting and include in the minutes of the current meeting the minutes of the October 23, 2013 meeting as it relates to Ms. Walsh's then pending complaint. And further to authorize Town Counsel to send a response to the complainant and the Attorney General consistent with the Board's vote hereunder.

Mr. Brady noted that there is one complaint resolved and the complaint read by Mr. McLintock is still open.

Mr. Parker said that one complaint has been resolved, one was untimely, one was resolved by the Atty. General that there was no violation and one is still open.

Mr. Brady asked that responses come back in a timely manner from legal counsel.

Confirm Appointment of School Employee Matthew Wills as a Special Employee for the Recreation Department

Mr. Stenhouse said that, according to legal counsel, Mr. Wills is not eligible because he already works more than 800 hours a year for the Seekonk School Department.

He told the Recreation Director to put him on the payroll like the other teachers who work for Recreation.

COMMUNITY SPEAKS (FIRST SESSION)

School Committee Chairman John Bilodeau asked why as of Monday morning the sidewalks around the schools were not cleared. Students had to walk in the street.

DPW Commissioner Robert Lamoureux read from an e mail he had sent to Mr. Stenhouse and a copy to Jim Roy of the School Department that the sidewalks were frozen and could not be plowed. He did not have the manpower because the crew had worked all night.

Mr. Sagar said that streets have to be the priority. He said the School Department has four pieces of equipment that would have been available for the streets and, in turn, they could help the schools. He felt it was a mistake on Mr. Lamoureux's part. It was a safety issue.

Mr. Lamoureux disagreed.

Mr. Bilodeau could not believe that Board members were saying it was all about resources and money.

Mr. Lamoureux said he does not have equipment to treat sidewalks.

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Mr. Brady felt there should be a bylaw that homeowners are responsible to clear the sidewalk in front of their houses.

Mr. Lamoureux said there are 25 miles of sidewalks.

Mr. Brady felt they should maintain sidewalks at all public buildings.

Mr. Lamoureux said that DPW does maintain the sidewalks at all the buildings and the parking lots at the schools.

Mr. Brady said he is not talking about 25 miles of sidewalks. The focus should be around town buildings.

Mr. Lamoureux said he did let Jim Roy know they would not be doing the sidewalks.

Mr. Stenhouse suggested that he meet with Mr. Lamoureux, Mr. Bilodeux and Mr. Roy, for further discussion and a resolution. He also suggested that the Board consider a by law that people have to take care of their own property.

Mr. Sagar felt it is a matter of scheduling.

Mr. Lamoureux said it is rare when they do not get to sidewalks. The conditions did not warrant putting equipment out there.

Chairman Almeida wanted a resolution by the next meeting.

EXECUTIVE SESSION

At 7:10 p.m. a motion was made by Mr. Sagar, seconded by Mr. Parker, to go into Executive Session for discussion on contract negotiations for the Director of Communications, discussion with the senior center building committee on real estate negotiations per M.G.L. Chapter 39, Section 23B(6), and consider approval of Executive Session Minutes of September 18, 2013 and October 30, 2013; to return to Open Session.

The vote: Mr. Sagar – Aye; Mr. Parker – Aye; Mr. McLintock – Aye; Chairman Almeida – Aye. Mr. Brady was not in the room at the time of the vote.

The meeting reconvened to Open Session at 8:22 p.m.

NEW BUSINESS

Discussion and Set Date for Special Town Meeting in February; Set Open/Close Warrant Dates, if Needed

A motion was made by Mr. Parker, seconded by Mr. Brady, and it was unanimously

VOTED: To set the date for the Special Town Meeting on Tuesday, February 18, 2014, at 7 p.m. pending approval from the School Department, and to open the warrant as of tonight (December 18, 2013) and close on February 1, 2014.

Discuss and Consider Date for Special Election; Set Date, if Necessary

Mr. Sagar said that the Board voted and offered to purchase real estate at 442 Taunton Avenue (corner of Arcade Avenue) former property of American Pool to be used as a senior center.

Based on conversations with members of the senior center building committee, it appears that estimates and quotes received to place a building on Town Hall property is financially impossible.

The Town would need to reauthorize the existing appropriations done previously at the polls and at Town Meeting.

A motion was made by Mr. Sagar, seconded by Mr. Brady, and it was unanimously

VOTED: To schedule a special election on February 10, 2014 from 7 a.m. to 8 p.m. to reauthorize existing funds for the purchase of real estate at 442 Taunton Avenue for use as a senior center.

Discuss and Vote to Consider Reducing the Number of Members on the Armed Forces Memorial Park Committee

A motion was made by Mr. McLintock, seconded by Mr. Parker, and it was

VOTED: 4 Ayes; 1 Nay; To reduce the number of members on the Armed Forces Memorial Park Committee to seven because all boards/committees should have an odd number of members.

The vote: Mr. McLintock – Aye; Mr. Parker – Aye; Mr. Sagar – Aye; Chairman Almeida – Aye; Mr. Brady – Nay.

Prior to the vote, Mr. McLintock advised that the members of that committee are in agreement with this.

Mr. Parker said a committee was appointed to place a garden in front of Town Hall. They asked for volunteers when the decision was made to construct a memorial park. It ended up with eight. There were no terms.

Mr. Donald Kinniburgh stated that the committee was originally formed as a seven-member committee. It increased to eight when Mr. Sullivan was appointed a few weeks ago. He had a problem accepting a person going around polling the committee. He felt it is too obvious. He has no animosity.

Chairman Almeida noted that the eight-member committee was reduced to seven with a resignation. With Mr. Sullivan's appointment, it was back up to eight.

Board members indicated they did not know it was an eight-member committee.

Mr. Brady said he didn't even know who was on the committee and when they were appointed.

Discuss and Vote to Approve Board of Selectmen Meeting Schedule for Every Other Wednesday for the Months of January, February, March, April, May and June 2014

A motion was made by Mr. Parker, seconded by Mr. Brady, and it was unanimously

VOTED: To set the Board of Selectmen meeting schedule for the first four months of 2014 as follows:

January 8 and 22, February 12 and 26,
March 12 and 26, and April 9 and 23, 2014.

Consider Approval of Regular Session Minutes of November 13, 2013 and November 20, 2013

A motion was made by Mr. Sagar, seconded by Mr. Brady, and it was unanimously

VOTED: To accept the Regular Session minutes of November 13, 2013 and November 20, 2013.

Consider Approval of Special Session Meeting Minutes of November 18, 2013

A motion was made by Mr. Sagar, seconded by Mr. Parker, and it was unanimously

VOTED: To accept the Special Session Minutes of November 18, 2013.

OTHER BUSINESS

Discuss Other Topics not Reasonably Anticipated by the Chairman 48 Hours Before the Meeting

Mr. Stenhouse advised that the MBL Land Developing and Permitting contract was reviewed and approved by legal counsel.

airman Almeida said the vendor has been waiting for payment for a couple of months.

A motion as made by Mr. Sagar, seconded by Mr. Brady, and it was unanimously

VOTED: To approve the contract with MBL Land Developing and Permitting in the amount of \$9,500 re: Banna Fire Station.

TOWN ADMINISTRATOR'S REPORT

Update on the Medical Marijuana Center Zoning By-Law Approved at the June 2013 Town Meeting

Mr. Stenhouse advised that a brief report and legal opinion was included in the packets.

Mr. Brady felt they need to write a very strict bylaw about where and how to grow marijuana in Seekonk.

Update on Town Administrator Recruitment

Mr. Stenhouse advised that Mr. Gould would like to schedule interviews in January. There were 45 applicants. Nineteen were selected for essay questions directed toward the Town of Seekonk.

He had correspondence from Dighton Board of Selectmen. They are building a new police station and would like to regionalize the 911 function. He suggested that the Board of Selectmen from Dighton and Seekonk should meet with the chiefs. That could occur on the second meeting in January.

Mr. Stenhouse suggested they should pursue merging veterans' services with Rehoboth and Swansea.

BOARD OF SELECTMEN LIAISON REPORTS AND COMMENTS

Mr. Sagar advised that the senior center building committee had a scheduled meeting for Thursday, December 19th. That would be the proper time to get more information on the possible acquisition of property.

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He asked what is going to be done to correct the shortcomings of the Town's website.

He would like to see the Board, with or without the School Committee, write a bylaw to establish a municipal building committee.

He understood that the Capital Improvement Committee would come before the Board prior to the Special Town Meeting in February.

Mr. Stenhouse said he got an e-mail from the Chair of the Capital Improvement Committee indicating that the Finance Director had asked department heads to submit budgets. He understood that all budgets are in.

Mr. Sagar asked Mr. Stenhouse to check with Ms. Walsh about the second meeting in January.

He noted that two contentious issues this past year were the subdivision on Newman Avenue that put the Water Department against the Planning Department and is now in litigation and will be very costly and also the Board of Library Trustees vs. the veterans. Permits were issued by the ZBA at its recent meeting.

He hoped that they can all learn from this and sit down and resolve issues.

Mr. Brady agreed with the municipal building committee. He felt the Town needs to have a general contractor to assist with RFPs, etc.

Mr. McLintock agreed with Mr. Sagar and Mr. Brady.

Chairman Almeida thanked the Kiwanis Club for hosting the tree lighting ceremony and to all those who attended. He thanked the veteran's agent for his work with Toys for Tots.

Board members extended best wishes for a Merry Christmas and a happy and healthy holiday season.

A motion was made by Mr. Brady, seconded by Mr. Parker, and it was unanimously

VOTED: To adjourn at 9:30 p.m.

The vote: Mr. Brady – Aye; Mr. Parker – Aye; Mr. McLintock – Aye; Mr. Sagar – Aye; Chairman Almeida – Aye.

Respectfully submitted,

Michael Brady, Clerk

Patricia Gamer, Secretary

