

Tuesday, March 17, 2020
Board of Selectmen Meeting Minutes
Foxborough Town Hall
Andrew Gala, Jr. Meeting Room
7:00 p.m.

Members Present: Mark Elfman, Chair

Leah Gibson, Vice Chair*

Ed O'Leary, Clerk

David Feldman

Chris Mitchell

Also Present:

William Keegan Jr., Town Manager

Mike Johns, Assistant Town Manager

Christina Metcalf, Community Info. Specialist

Chris Mitchell led Pledge of Allegiance

1. 7:00pm - Citizen's Input – No input.

2. 7:05pm COVID-19 update - Bill Keegan

Lot of things going on in Foxborough and lots of information going out to people on multiple websites. Currently Foxborough has 1 potential case that is being monitored. Since January there have been 29 cases of the flu. If you have flu symptoms or believe that you have been in contact with someone who may have COVID -19 please contact your health care provider. If you have an emergency please call 9-1-1. The goal of limiting gatherings to 10 people and prohibiting on premises consumption of food and alcohol and bars and restaurants began today and is effective until April 6th. This is to create a space to slow the effects of COVID -19, by asking people to stay home. We should anticipate extended periods of social distancing even beyond that period of time. Schools will be closed until April 16th. Residents can call 211 for information from the DPH. CDC and DPH will be updating their websites constantly and have reliable information. Mass.gov/covid19 for another resource. Please continue to wash your hands and practice social distancing. Tom Kenvin is giving constant updates on any cases in Foxborough. We currently do not have a case but as more testing becomes available we may have cases in the weeks to come. The Board of Health is working with food establishments and working with them for guidelines with take-out service. Will also provide assistance in dealing with liquor storage and guidance right now. Town Hall is closed to the public and is available for phone calls. We are looking to maintain services and be mindful of our employees' health. We are going to continue to reach out to our senior community and keep them socially connected. Will be doing a cable access show tomorrow for more information and then doing a daily Facebook Live update. The Governor is providing information and updates and we are talking about Town Meeting and Elections.

C. Mitchell- appointment only in town hall. Needs to be the more prevalent on Town Hall website. Appointment only and then screening process. BK – temp cough, have you been sick, do you have a fever are the screening questions.

MJ – There are no senior greeters as they are a high risk population.

BK – Inspections asks the same questions if in homes. There has been some rotation of staff.

C. Mitchell – do you have capabilities to have employees work from home?

BK – Exploring that right now, some have limited capabilities to work from home but there are less operational staff that can. Our goal is to limit the amount of people in an office so we can limit exposure.

DF – Recommending to fill out the question survey and create contact tracing.

BK – Open to all ideas and hope people are understanding and patient.

LG – Is everyone able to come in person?

BK – Not everyone is allowed. Questions to call or email or drop in box.

MJ – Same with DPW, COA, Library doors are locked and keeping people healthy while still working.

CM – What is the emergency management team doing? I know volunteers ready ready to serve.

BK – We don't need assistance currently, it's a unique situation. We are managing the situation as best we can and what is the best way to provide service that are best, while also keeping our staff safe. Looking at this as it progress looking at if there are test and or vaccines and the best way to deploy that as they become available.

3. 7:10pm Public Hearing - New England Revolution Confirmatory Vote

B. Keegan - We discovered a clerical misstep. It had to post in one particular place the way to correct this is to confirm the action taking.

C. Mitchell – who is responsible for posting?

BK – Our office is responsible.

Motion to confirm vote take on 3/3/20 to approve the Kraft Soccer LLC Applications for the 2020 New England Revolution home games including potential home games as well as international matched and double headers that include the Revolution by E. O'Leary, 2nd by D. Feldman. **Approved 5-0.**

4. 7:15pm Public Hearing - Earth Removal Confirmatory Vote

Motion to confirm vote take on 3/3/20 to Approve River Ridge Holdings, LLC application for an Earth Removal Permit to be exercised at East Belcher Road, Foxborough, MA under the conditions set forth by the Board of Selectmen by E. O'Leary, 2nd by D. Feldman. **Approved 5-0.**

5. 7:20pm -Foxborough Historical Commission Appointment

Letter from Mark Ferencik in support of appointing Maureen Kraus as an associate member read into the record.

Motion to appoint Maureen Kraus to the Foxborough Historical Commission for a term to expire on 5/1/20 by E. O'Leary, 2nd by D. Feldman. **Approved 5-0.**

6. 7:25pm - Conservation Commission - Land Donation

Jane Sears Pierce - Open Space in Durham Park. It was supposed to be transferred 10 years ago. Now we are doing this to button it up. Kate Connolly has review and the Conservation Commission voted to accept the land pending Kate Connolly review and approval. The site visit is done, looks lovely, attached to Oak street land and Murrays brook and it is a nice addition.

C. Mitchell - why was it over looked?

JP – It was never done, knew it was coming someday. Before my time as conservation director.

D. Feldman – was the land donations a part of sub division approval?

JP – I believe so, yes.

Motion to accept a land donation of Parcel A, on Cocasset Street and Montgomery Way in Foxborough, otherwise known as a portion of land located in the Durham Park Subdivision.

7. 7:35pm Sale of Bond issuances for Burrell School and Water Dept. – George Samia, Finance Director

B. Keegan - You have the language before you for the sale of the actual bonds that occurred on Tuesday, that the amounts were significantly low. The net was 1.91% that we were able to sell these bonds for

G. Samia - According to the Hilltop securities this is the lowest rate since 1886, since we went out for bond. Oddly as the week has progressed it has gone up, but we hit it at the right time.

BK – The document you have is the Board authorization for the Clerk to sign. If you look at the percentages, they look like they are much higher but the way that works is there is a premium of \$3.4 mil that reduces the amount of money being borrowed. They front loaded the value of the bond and offset that and pay off a portion of the bond right upfront which means that over time the net effect of it is 1.91%. There is a tax advantage for doing it that way.

GS- You get the premium right up front they did it this way for a tax advantage on the borrowers end.

C. Mitchell – So we went to them to borrow \$26 million and in effect we are borrowing \$23 million?

BK/GS – Yes, that is correct. This is a big premium, never seen one this big. We've done this before.

Motion to approve the sale of Bonds as described in the document presented to the Board of Selectman on the Evening of March 17, 2020 and as authorized by the clerk of the Board, Edward T. O'Leary by E. O'Leary, 2nd by D. Feldman. **Approved 5-0.**

8. 7:45pm CIP Review of Recommendations - Bill Keegan

We have a plan before you ton that was worked on the past weekend. Couldn't fund everything. The one thing we did was determine what we could financially afford. List was vote on by committee. Comment made that we would spend \$3 mil in cash we only spend \$429,068k in free cash lowest in 10-11 years. We have spent \$450k in overlay surplus and we have \$2 mil in that account and that is the amount that we take off the top for amounts that we need for paying of elderly tax breaks, veterans tax break. This is surplus that is available for release and release by assessors. Also using some of that to pay for debt service - \$550k. Of that amount \$429,000 was free cash, \$450,000 was overlay surplus, \$134,000 from the meals tax that went to pay for the West Street Dam matching funds, (we received a \$709k grant from the State for the Dam), \$106k was paid for with overlay surplus. The Fire dept. apparatus and vehicles are being purchased in two ways. The ambulance and 2 ambulance chassis for \$479,500k which will come out of EMS receipts reserve. Another \$559k for a command vehicle from apparatus receipts reserved, which we get for renting this vehicles throughout the year. Water department pay for new

vehicle and replace 2 trucks including plows and lift gates for \$240k and that will come out of Water free cash. There will also be a \$50K upgrade for sewer with Sewer free cash. To be clear there are 3 types of free cash, general fund, water, and sewer free cash, using \$650k for street reconstruction from Chapter 90 money from state for roads. \$9.4 mil water borrowing amount, \$400k water vehicle storage unit and office building Rt.1 water tank management asset fee. Water system improvement for tank replacement and underground water lines for \$2.5mil. Total borrowing amount is \$9.4mil. That will fit within the existing rate structure that we have. All these votes were taken separately and they are presented to the Board for further consideration. Let BK know if there are questions. We are not using significant amount of our reserves to pay for these but available within our available accounts. If we didn't use the \$9.4 for these purposes we would have had \$2.4 million expenditures from various accounts and only \$249k of that used for free cash. We only used small amount would be \$3.3 or \$3.5 mil in free cash.

BK – I will talk about the budget in a few minutes and we trimmed the budget by half a million dollars despite the fact that we got hit with a very late charge from the Southeastern Regional Vocational School of \$170k which was not anticipated.

C. Mitchell – The overlay surplus was a million total? Does overlay run into free cash if not spent?

GS - \$550k budget prime to cover the bonding and \$450K in free cash

GS – Overlay stays in overlay until released by the Assessors. Every year there is a new overlay created and it keeps recharging itself for future use.

C. Mitchell – How much discussion around the economy during this time?

DF - Yes we did and discussed meals tax and occupancy. Probably see a hit in the last quarter of 2020 and first quarter of 2021. We are in good position even though this is the case.

BK – the lowest amount of free cash that we have used, \$700k was the next lowest we've used and been the most conservative we've taken.

CM - Have we done any revenue forecasting?

GS – The most important thing to think about, not knowing how big or bad this is coming to be, the Town is in about in good of shape as we are going to be and in two weeks can give you and update (middle of April once 3rd quarter results are in). I can only tell you when we projected for the beginning of the year. And in the beginning of 2019 there was about \$400k-\$500k that wasn't collected because there was nobody was here to collect revenue from the stadium.

BK – This means that our revenue was artificially low, if it was at \$3.5mil it should have been at \$4 mil.

GS – We are in about as good as shape that you are going to get at the moment. We were about half way where we thought we were going to be half way through the year.

BK – We should be mindful of current situation. Hold it for two weeks and then take a vote next time.

CM – Do you know what the Advisory Committee meeting has planned?

BK - Advisory Committee has had no meeting. Annual Town Meeting may not be held until end of May but we are able to operate until then.

9. 8:05pm Review of 2020 Town Meeting Warrant and FY21 Budget

BK – We did provide the Board a summary of the overall budget and we are making cuts as information becomes available and I trimmed almost 300k. The overall increase for the Town is at 2.28%, the school remains at 3.82%, and overall the budget for Town & School is up 3.31%. I have been able to trim the SEMRECC line down to \$310K from \$500K because there will be 9-1-1 tax will be coming back to us to help fund. On top of that we trimmed money associated with debt service. We were able to reduce the General budget costs by \$392,535 which now takes the overall General Budget 4.62% which was significantly higher without the bonds being sold at the rate at which we sold them. The overall budget increase has been reduced by \$505,000 if we include the water and sewer because we took a significant reduced cost on the debt service for the water bonds. The net reduction in cost is \$505,062.65, it could have been as high as \$700k worth of cuts if in fact the Southeastern Regional was projected to come in at \$513,000 and that was with a 7% increase. It actually came in at \$683,112. We can't talk to them right now but we are told that there 10 new students from Foxborough and new formula that is penalizing us.

D. Feldman – So between Southeastern Regional and charter schools assessment it costing \$3 million annually?

BK – Yes, the charter went from 2.4% to 2.1%. Fortunately we were able to make cuts in other areas. No happy about that but we are in a better position to address it. SERGS will have to come in a make a presentation, the question is when they will be able to.

GS – SERGS offered to come in give and give a presentation to Board about why it has gone up but essentially it comes down to 10 new students.

BK – The face that we are well fund works against us with those other regional programs. Will wait and see when we can get them in here given the circumstances. No action needed right now on the budget.

MJ – Working on 2 contract and if Town Meetings runs later we can maybe get the 2 contracts for Police and Steel Workers.

10. 8:15pm Review & possible adoption of remote meeting policy – Moved to not discuss at beginning of meeting

11. 8:25pm BOS - Declaration of Local State of Emergency – Mike Johns

This was recommended by our attorneys. On March 12, I participated in client advisory phone conference by our labor attorneys, Clifford & Kenny. It was a labor related discussion with more than 20 towns and gave an opportunity to ask questions. They are not town counsel only labor counsel and one of the things they recommend that the Board adopt the Local State of Emergency. It has been adopted at the federal and state level and this may open opportunities for funding for the unforeseen. We don't know exactly what it provides us but it can't hurt to adopt it. This does not mean we are in a critical emergency stage at all. It's saying that if we have cost associated with this state of emergency we want to be able to provide the opportunity to recoup those costs. Our Fire Chief recommended to that any costs that we incur should be well tracked so we can track and get back funds if it applies.

BK - We are not in any way shape or form worse than any other community in Massachusetts. It has been recommended to us. It gives the opportunity flexibility to operate the town in this state and makes us eligible for refunds. Some communities make the mistake of not doing this and then they are not eligible for refunds. It is important for us to take this step.

CM – I've noticed that Sharon has declared a local state of emergency, have any local other towns done this?

BK – I'm not sure of numbers but Wrentham and Mansfield have taken this step.

GS – We did it 5 or 6 time in East Bridgewater if there was a larger than normal snow storm. If FEMA came in after the fact we could say we declared.

CM – You said our Labor counsel recommended this, why not Town counsel?

BK – Because Mike was working on trying to secure agreements with the unions to try and be flexible with our practices during this unprecedented period and this was also recommended.

EO – read Declaration of Local State of Emergency into the record

Motion to Declare of Local State of Emergency for the Town of Foxborough by E. O'Leary, 2nd by D. Feldman.

Approved 5-0.

12. 8:35pm BOS - Discussion and possible vote on Temporary side letters of agreement between Town and Unions during State of Emergency – Mike Johns

Six side letters were drafted by the Labor attorney. I wanted to bring them in front of you today. All unions have contracts. We are in uncharted waters and having to flex schedules. There may be people who have to be self or be mandated to quarantine so we are trying to, on advice of labor counsel, we are opening the flexibility of use for sick time. If they have symptoms and goes home, we are not requiring them to have a doctor's note, because it is not in the best interest to send to emergency room or healthcare facility. It may best to do that 2 week quarantine and this allows flexibility to do this without making a past practice. The town benefit of that is it will only be to the end of the local state of emergency. With schools closed, we could have a parent in a hospital and the other would have to be here taking care of children and working here and they may have to flex some. We want to provide that flexibility to our employees to the max extent possible. We may have situations and employees cannot work regular hours but can work other hours during off hours and then end when the state of emergency has ended. The language has been adopted by DPW, both units of Steelworkers and Library. Police and Fire have been presented and have no opposition from Police and no response as of yet from the Fire Dept. I wanted to let you know 3 out of 5 have been approved. These are good measures from labor counsel this is good to have and will protect the town.

DF – This side letter removes any precedent?

MJ – It will. So afterwards this can't be used to have flexible hours or flexible family sick leave. When this state emergency ends so will the side letters.

CM – Are these side letters for each union all the same?

MJ – Yes, with the exception of the Library. They wanted to add language relative to checking in and out of books and what hazards that presents. We wrote into theirs best practices in regards to that will be agreed to between library director and union and has been presented to all employees of the union. As well as an update if there are any changes in procedures in Town that the library director will review with library union. It's been adopted because just as good for employees as for the town to not carry these past practices.

LG – If info is upload after the fact please notify us.

MJ – Good to know, I will send out email notification if there are late additions to Board Docs. You should consider to vote all of these and if there are changes we will bring them to you from Police and Fire.

CM – I don't want to open a can of worms, but in talking to labor attorneys and unions about COVID-19 and liability. If anybody in any municipal building and an employee is work someone has it can get it does it go into workmen's comp situation.

MJ - Per counsel it is not necessarily 111f or workers comp because it could be incurred anywhere. It is in writing from our attorney.

MJ – All side letters have provisions 1.A-E and the Library has provisions 1. F, G, and H. Provision F. The Library Director in conjunction with Health officials and the union shall develop a list of best practices for the handling of library materials and interactions with patrons. The list of best practices is to be updated as necessary and distributed to staff. Provision G – Communications with the Union. The Library Director shall provide on Coronavirus related decisions and precautions to a designated representative of the union daily. Provision H – This agreement is subject to modification by mutual agreement of the parties. Any changes will be memorialized in writing. It has been agreed between everyone that in writing can be through email.

LG – Have those 3 provisions been approved by labor counsel?

MJ – No, but labor counsel made the template document and then advised that we go and open up discussion with the unions about what the specifics are in these agreements. Our labor attorney recommend to adopt these side letters, recommended provisions 1 and 2 and the general language but the specific were negotiated between myself and union leadership.

BK – These were not because we finished negotiating at 6pm tonight but we can certainly do that incase anything needs to get amended and based upon what I've read seems fine.

MJ – I do have a 2 page guidance document that was provided to us as well as the templates that we used to form that specific A-H and in the other cases A-E. I did follow guidance document and the reason they did this is because they were getting pummeled by questions by all of their clients. The last 3 for the Library are not outside what our labor attorney have advised.

Bi

CM - To clarify, the overall agreement is one and then we have five contracts that we are voting on? And of which have signed? Any push back?

MJ – The Steelworkers Unit A & B, the DPW union, and the Library Union have all signed. The two which are not signed because I haven't had time to review with them are Police and Fire. They have seen a draft and there is no push back from Police. I've have no dialogue with Fire Department as of yet.

CM – Have we done side letters like this before?

BK – No, this a unique situations.

Motion to accept side letters of agreement between the Town and following Unions: Steelworkers Unit A & B, Public Works, Police, Fire, and Boyden Library during the State of Emergency and pending review and approval by Town Labor Counsel by E. O'Leary, 2nd by D. Feldman. **Approved 5-0.**

13. 8:45pm Assistant Town Manager's Update- Mike Johns

We have been talking a lot about our health of employees and the health and service to our residents as well as the continuity of services. As we have traveled around to different departments and building the message we have been carrying is that we are looking out for you as employees, providing services without endangering our employees. We are continuing to communicate and trying to communicate with employees and will be doing better in that going forward. Have talked about staggering workforce schedule and what they are doing for work and have been ensuring employees that we are looking to keep them working, keep them paid and use their sick time in a flexible manner and keep paying their health benefits.

14. 8:55pm Town Manager's Update – Bill Keegan

While Mike has been dealing with the operations of things my goal has been to communicate with the public and community at large. And also to coordinate with state and federal agencies, with public safety folks and to take a look at how we can help each other. Gillette Stadium reached out and said that they will help us if they can .We received a call from Ed Hurley with YMCA and they offered to help in any shape or form. This is an unprecedented time. But I've been amazed and inspired how people are being helpful. We will continue to coordinate the best we can to help the best we can. Our office staff has been great. We can use the help that anyone wants to offer. If you have ideas and we can do and make sense we can do them. We want to be helpful but need to be careful how we do it. We need to communicate on the Foxborough local side to not on the state and federal side, which has plenty of information.

CM – make information easy to find and push out more information as possible. What does the senior center need help with or volunteers to help? If you could talk to Marc Craig about what needs there are like checking on elderly neighbors and such.

BK – MC has been working with Fire and Tom Kenvin to work on that. We need to be careful not to engage too many people. The Schools are working to make sure that meals are available for kids and that will be coming from the Schools. Jeff Peterson – Tomorrow there is going to be run to the Boston Food Pantry with distribution on Thursday and packaged by Ahern school food service. Still working out logistics going forward and what is needed.

CM – Does the food pantry need volunteers or need donations?

MJ – Our employees have risen to the occasion. We have reminded them that you're public servants and we aren't going to put you in danger but we are public servants and held to a higher standards. We sent 3 people home today from 3 different departments. Had Tom Kenvin to follow up and brought in facilities to disinfect. And will have that history and want to protect individuals and rest of work force.

CM – If we needed to have an emergency meeting, what are the posting requirements?

BK – Not sure how those rules apply under those emergency legislation. It would have to be a full scale emergency.

CM – Not saying we are there, but if it's very bad we could get there.

BK – If at that point someone complains about the posting, we will address that.

MJ – The technology set up right now and able to participate fully. If in two weeks we can't be here, then we can all be virtual or whatever combination. We will continue making sure we can do this for future meetings.

15. 9:05pm - Selectmen's Update

15.01 Discussion - Old Business

15.02 Discussion - New Business - Downtown Business Banners – postpone discussion

CM – Thanks to everyone town wide working diligently so we can run.

ME – This is an unprecedented situation that we are dealing with and the world is upside down, like a Hollywood movie and please be diligent and patient with us and it is hard for us to stay on top of this.

Clean up Foxborough will be postponed until a date in September. Because so many volunteers are senior citizens and children, AJ and Tina decided to postpone.

16. Action Items

16.01 Motion to approve a donation of \$30.00 donation to Veteran Services from John D. Johnston Jr. and Juanita K. Johnston in memory of Edith Butler by E. O'Leary 2nd by D. Feldman. **Approved 5-0.**

16.02 Motion to approve a donation of \$100.00 donation to Veteran Services from Richard Sigrist in memory of Edith Butler by E. O'Leary 2nd by D. Feldman. **Approved 5-0.**

16.03 Motion to approve a donation of \$20.00 donation to Veteran Services from Linda Travers for Care Packages postage by E. O'Leary 2nd by D. Feldman. **Approved 5-0.**

16.04 Motion to approve a donation up to \$2,500 to the Foxborough YMCA from a 2017, \$10,000 Plainridge Park Donation made to the Foxborough Police Department by E. O'Leary 2nd by D. Feldman.

Discussion: CM – Please explain this.

GS – This was originally donated money for an Opioid task force that was never used. Chief Grace would now like to put that money towards a YMCA program related to Opioids prevention for teenagers at the Y.

Approved 5-0.

16.05 Motion to approve the public event application for Foxboro Cares 5k Race on May 30th by E. O'Leary 2nd by D. Feldman. **Approved 5-0.**

16.06 Motion to approve the public event application for the Foxborough Youth Baseball & Softball Association Opening Day parade on April 11th from 9:30-10:30 am by E. O'Leary 2nd by D. Feldman. **Approved 5-0.**

16.07 Motion to approve a Common Victualler license for Sushi Madness Inc. by E. O'Leary 2nd by D. Feldman. **Approved 5-0.**

16.08 Motion to approve a Sunday Entertainment License for Better Food Foxboro, LLC d/b/a Citizen Crust by E. O'Leary 2nd by D. Feldman. **Approved 5-0.**

16.09 7- Motion to approve One day liquor licenses for Normandy Farms on April 25, May 02, June 13, July 8, August 12, September 19 and November 7 of 2020 by E. O’Leary 2nd by D. Feldman.

Approved 4-0-1. C. Mitchell recused himself from vote.

16.10 Motion to approve a Charity Wine Permit for the Sage School on Saturday April 4, 2020 by E. O’Leary 2nd by D. Feldman.

Discussion: CM - we should deny, as we know that it cannot happen.

Motion opposed 0-5. Denied due to local emergency. Conceptually yes, but due to the state of emergency this permit is denied because it goes against mandate by governors.

Subject to the action of emergency status in the community as well as across the Commonwealth the following groups may have to change dates as further evidence is gathered about the crisis we face in the community.

16.11 Motion to approve Board of Selectmen Meeting Minutes for December 10, 2019 by E. O’Leary 2nd by D. Feldman.

Discussion: LG – The minutes had me not present in the beginning but then present during executive session. Is that correct?

CM – Yes, you had come in right after the vote as we were going into Executive Session.

Approved 5-0.

17. Adjourn

BK -Before we adjourn, I want to thank Tom Brady for what he had done for this community and New England Patriots and the 6 Super Bowls he helped bring to this community.

Motion to adjourn by E. O’Leary, 2nd by D. Feldman. **Approved 5-0.**

**Attendees participated remotely*