

Tuesday, February 2, 2021
Board of Selectmen Meeting Minutes
Virtual Meeting
7:00 p.m.

Members Present: Mark Elfman, Chair*
Ed O’Leary, Vice Chair*
Stephanie McGowan, Clerk*
Leah Gibson*
Chris Mitchell*

Also Present:
William Keegan Jr., Town Manager*
Mike Johns, Assistant Town Manager*
Christina Metcalf, Community Info. Specialist*
*Attended remotely

1. 6:30pm Executive Session

Motion to go enter into Executive Session for Union negotiation and strategy discussion regarding upcoming contracts for Local 379-MCOP AFL-CIO, United Steelworkers Unit A and Unit B, Union AFSCME - DPW, and Boyden Library Employee Union and reconvene in Open Session by S. McGowan, 2nd by C. Mitchell.

Roll Call: CM – Yes, SM – Yes, ME – Yes, EO – Yes, LG – Yes.

2. 7:00pm - Citizen's Input - No input.

3. 7:05pm COVID-19 Informational update – Bill Keegan

I will be introducing the new Director of Public Health momentarily. He provided me with the update I will be reading tonight. The state continues to increase its vaccination capabilities. There have been 496,103 vaccines administered in the state, with over 100,000 in the last few days. All groups in Phase 1 and Phase 2 group 1 are eligible to receive the vaccine. Please reach out to your health care provider if you fall in that category or visit mass.gov/covidvaccinelocations, you can also call the Council on Aging at 508-543-1252 to get assistance with your appointment. A state run centralized call center should be available shortly to make appointments. If you wish to make an appointment at Gillette Stadium you can visit cic-health.com or call 1-888-623-3830. The next order of priority is phase 2 and more info on those will be coming out soon. We have 100 doses to administer to the 75+ age group in Foxborough and will be doing so at the Senior Center. The Town remains in the red category with a 6.5% positivity rate and we have 141 active cases in Foxborough. The State is in Phase 3 step 1 of its reopening plan.

4. 7:10pm Introduction of New Director of Public Health – Matthew Brennan*

BK – Joined us a week ago and comes to us from the Town of Weymouth

MB – Thank you for having me and happy to be here and was the assistant health director for the Weymouth Health Department and was there for almost 10 years. I’m a Tauton resident and when this opportunity came up I jumped on it. I’m looking forward to working with all of you in the future.

ME, CM – Welcome to Foxborough

5. 7:15pm Clean Up Day Committee New Member Appointment – Tina Belanger*, Jennifer Riggs*

Tina Belanger – I connected with Jennifer earlier this year and had organized a neighborhood cleanup. She is a willing volunteer who feels strongly about cleaning up Foxborough.

Jennifer Riggs – I’ve been in Foxborough for 4.5 years and have done smaller scale clean ups in other towns and started a Facebook group to do that. Because of Covid we haven’t been able to do it. Tina reached out to me about the committee and clean update and it was a perfect fit so here I am willing to join if you’ll have me.

TB - It’s great to have new volunteers and fresh ideas. AJ Dooley is excited as well. We are looking to try and figure out something for this year. The key component to our day is the trucks and trash pick-up. We are looking to do it

May 1st or May 8th and are looking to reconfigure our website for signups. We may be able to do a drive-through to pick up the bags. It is a wonderful community event and trying to figure out we can have something like it.

Motion to appoint Jennifer Riggs to the Clean Up Day Committee for a term to end May 1, 2022 by L. Gibson 2nd C. Mitchell

Roll Call: CM – Yes, SM – Yes, ME – Yes, EO – Yes, LG – Yes.

6. 7:25pm DPW - Presentation and discussion on the possible creation of a Stormwater Utility – Chris Gallagher*, Lance DelPriore*, Mike Jaillet*, Kerry Synder*

CG – Lance is the Town Engineer since last March and took on right away the stormwater management for Foxborough and our stormwater is regulated by EPA and DEP.

LD – We are here tonight to start a discussion regarding some of the growing unfunded mandates that are coming from the state and federal government, in particular the MS4 permit with the increased street sweeping, catch basin cleaning, and other requirements as well as other major infrastructure requirements such as dam maintenance that are competing for budget and address how do we fit these things into our budgets. We are joined tonight by Michael Jaillet, former town manager of Westwood and Kerry Snyder who is the advocacy director for the Neponset River Watershed Association. They both have significant experience and have other communities that are trying to negotiate the growing financial pressures.

KS – Thank you for having us. This will be a brief overview of stormwater and what some of the mandates are and why they will be increasing in cost for towns across the state and some ideas that some of your neighbors are considering at this point. Stormwater is any precipitation that hits a hard surface that is not soil that water runs off and is removed through stormwater management system so there isn't flooding. The water goes to the nearest water body to make sure that it doesn't cause property damage or public safety hazards. When that water enters the stormwater system it is governed by the MS4 permit. The MS4 Permit has 6 minimum control measures that it requires all municipalities to do. They are good housekeeping, illicit water discharging/leaks, control construction runoff, maintain system in perpetuity, public education and outreach, and public engagement. This is important because what goes into that stormwater, fertilizer, leaves, bacteria, etc., is very consequential and affects the quality of the surface waters. It affects water quantity as well. The MS4 Permit costs are rising. With climate change bringing more extreme precipitation events to our region, our systems are old and not built for the storms we are starting to see. The permit last for 5 years and each iteration imposes more mandates on permittees and is more prescriptive. Currently Foxborough's needs estimate is \$500k per year and that is only going to increase. Funding alternatives for stormwater included is property taxes, state & federal grants, bonds or state revolving fund loans or a stormwater fee/enterprise fund. A stormwater fee/enterprise fund is a user based fee. You are paying for the system that you are using and you are contributing to, it can go to capital or general fund costs. The MAPC has a toolkit to help towns figure out how they want to set up the fee. The benefits are predictable, dedicated annual revenue. You get tax exempt properties that don't get regular taxes but can be taxed for this. There are 22 cities and town have implement stormwater fees. Nearby Milton did this in November 2020.

M.Jaillet – The main point of the remaining presentation that creating an enterprise fund and fee for stormwater management can have a significant impact on the quality of that service and the funding of all other services. The funding of stormwater management is usually through the general fund and results in several shortcomings. The cost will only grow and communities will have to determine if they will continue to fund drainage with general fund at the expense of other services, explore other funding, or establish a new funding source. Enterprise funds are usually established for water and sewer, those expenses and revenues are accounted for separately and funds remaining at the end of the fiscal year become retained earnings. Fees are determined to cover expected annual operating and capital costs. Annual revenue is not limited by Prop 2 ½. New development can be charged a connection/impact fee. Capital investment is usually funded within the enterprise fund and therefore these services are usually funded at the appropriate level. Currently communities are confronting financial shortfall due to the

pandemic. It has reduced local receipts and increased costs of services like education. The result is an increased competition for limited resources that in the short run is often dealt with by limiting capital investment and imposing constraints on non-essential services. For several reasons, now might be the best time to create and implement this drainage enterprise fund/fee. The town of Milton had a budget shortfall a few years ago and the DPW director decided to implement a fee to prepare for the growing stormwater costs and it was able to avoid seeking an override for a year and also ask for less when seeking an override in future years. The Town should educate itself on the drainage fee studies done by MAPC and other communities who have implemented them.

ME – Thank you for the presentation and it is an interesting concept.

SM – How many water users do we have?

CG - It is a different utility. We have a little more than 6,000 water users. It is separate from water and sewer. Those are set up as enterprise funds by the user. There are few different methods to get to how much it would cost per user.

BK – The issues goes beyond the water and sewer users. This affects large parking areas, rooftops, and other areas that aren't taxed for anything. We are looking for solutions. The federal government is more or less imposing on us. We discussed this 3 years ago and we are at a point now that we need to look at the options. We don't want to impact the general fund and have to cut services.

SM – Chris, in a prior Advisory Committee meeting you had spoken about this and if a homeowner was not willing to help out that the town could bill the homeowner.

CG – That would go to the stormwater bylaw in place that is one of the components to the MS4 permits. If there are people who are contaminated the stormwater. According to the bylaw we are able to go and fix and make it better and then back charge it.

BK – It is an option that is on the table that makes sense but we can look at other options as well. We need to address it sooner rather than later so it doesn't affect the general fund.

EO – Do you know how many miles of collection of water pipes that we have and how many thousands of gallons of water that could be involved in this?

CG - I can't. This goes to this we have 2,200 catch basins but I'm not sure how much drainage we have.

LD – Foxborough has approximately 50 miles of stormwater pipe installed in varying degrees of maintenance

CG – Until a pipe floods someone out we don't know. We've been told what we have to do.

ME – Would this be a separate utility that would have its own committee?

KS – Different towns approach it different. You would have a board that would recommend a fee and Milton has a tiered, some has a flat fee. It's covering this 3rd water utility that gets forgotten

ME – I think the next step would be to get some numbers and Milton has expressed willing to help along with MAPC.

KS – The MAPC could come and talk as well as some of the staff from Milton would also help and discuss this.

ME – Lance what would the next step be?

LD – It would be worth exploring that the fee structure would look like to not burden the residents of the town. Look at the impervious area numbers and seeing an alternative budget for next budget and what that impact would look like for the next budget.

ME – This would be a warrant article for consideration by the town.

Michael Jaillet – The creation of an enterprise fund does need town approval.

ME – Research and come back to us Lance with a plan.

BK – Thanks to Mike Jaillet

7:45pm DPW – Presentation, discussion, & possible vote on the purchase of sewer capacity by Sharon Gallery

Chris Gallagher*, Michael Stanton, Water & Sewer Comm Chair*, Dave Spiegel, 95 LLC Manager*, Dave Formato, President of Sharon Gallery*

CG - We were in receipt of an application for sewer wastewater capacity purchase with the application in hand from Sharon Gallery. In order for a sewer to be sold outside the town boundary the Water and Sewer Commissioners and the Board of Selection both need to approve. This requires a

Dave F. – I am with Onsite Engineering, president. We are working with David Spiegel and 95 LLC.

LG – Has the Water and Sewer board met yet or is the Board the first step?

Mike Stanton – The Water and Sewer Commission has endorsed this.

DF – The project we are looking into tying into the sewer is the Sharon Gallery Lifestyle Center off of Old Post Road. We have 3 development phases that we would need capacity for and those 3 phases would total 34,764 gallons per day of wastewater capacity.

LG – Why is this in front of the board?

BK – Back in 2015, the town made a change to its charter that requires a joint approval by the Board of Selectmen and Water & Sewer Commission to sell capacity outside of town.

CG – With Ninety-Five LLCs project they found it would be better to be in the sewer business than to have their own treatment plant. With the capacity available now and the pipe network in Sharon available, they submitted the application to make the connection to the water/sewer. In Foxborough, if you want to connect to sewer you buy your capacity in the treatment plant and that is your capacity forever. It's a onetime capacity fee.

LG - Why not Sharon?

CG – They don't have sewer, we do. Going back to Bills point, something that the town put a lot of working into was connecting the sewer was connected in Mansfield and Norton. Foxborough sells capacity at actual flow rates. We gained all that excess capacity back with the new plant expansion. At Cannon Forge and we bought sewer capacity back from them which was 60,000 gallons. We have less than a 1,000 sewer customers in Foxborough we are in a position and the Board is in position to sell sewer. We need to sell an additional \$3.1 million worth of sewer capacity.

BK- It doesn't hurt the future capacity of the town either.

CG – It is in the Master Plan and we have allocated flow to uptown, 29 Wall Street, Kingswood Common and Firehouse Brewery apartment, and Chestnut Green. I wanted to make sure we have flow allocated for the Walnut Street housing project. We still have 370,000 gallons per day.

ME – What would this bring in for us for revenue?

CG - \$1.5 million. With what we have sold \$2.1 million of sewer if we sold this as well it would be \$1.6million. The domain project took a large portion of that.

CM – This has been the plan all along and sell off the excess.

LG – Can the DEP limit what we use per day? Is there any downside or cost that we can't foresee?

CG – On the sewer side no, the sewer district regulates and when we get to 80% capacity then we'd have to go in front of the DEP. This is a benefit to the existing rate payer. This would not go on the back of the exiting . This will not default to the sewer rate payers but to the Town.

Discussion by SM, CG and MS regarding the capacity that was sold to Foxborough by Sharon in the past.

LG – Is there a timeline that we reevaluate this?

CG – If it is approved, we would work with Dave S. and Dave F. on when they would need to buy it. The project is happening over the next 3-5 years. The motion is for all the capacity and we would work on the time line of how much they would need and when.

LG –The motion is general with no financials or time or details.

CG – It is something that the Water and Sewer Commissioners and previously Roger, now myself that is our job function. When Forbes Crossing came through and applied for more sewer capacity we did that in a phased

approach and as he was issued building permits payments were due. That is something internally, as our job functions we would work on. I'm happy to report back when we have those agreements in place.

Mike Stanton – This is all meter. We've got a ready and able purchaser, I represent the rate payers and I believe this is a huge win. There will be a side letter in line with past practices so the town is protected. I won't rest until I have the \$5 million plus in an interest bearing account.

Motion to approve the wastewater capacity application to Ninety-Five, LLC for the Sharon Gallery development located at 144 Old Post Rd, Sharon MA, in the amount of 34,764 gallons per day by L. Gibson 2nd by C. Mitchell.

Roll Call: CM – Yes, SM – Yes, ME – Yes, EO – Yes, LG – Yes.

8. 8:05pm Preliminary Review of Annual and Special Town Meeting Warrants

BK – This is what we have seen so far for articles and we have 2 additions that are on this. We can/will add articles up to the 15th of this month. We will add the library contract if we get that as well.

- A company that is interested in some space off our public safety building tower
- Land transfer: This is the Uptown as well as the Dam issue on west street
- Building code revision: changing of the stretch code to be a Green community
- Sewer district revision: We do this on an annual basis
- Flood plain bylaw revision: Waiting on the language for that article

Special Town Meeting Warrant: The contracts because they are in this fiscal year and a better budgeting tool

LG – We don't meeting again until after the 15th, can you walk us through the timeline?

BK – It closed on the February 15th per by-law. If there are additional articles they would have to be approved by the Board. With the Special Town Meeting you have control of when it opens and when it closes.

9. 8:15pm Assistant Town Manager's Update

- We have our new Director of Public Health and we have our new building commissioner.
- We spoke in executive session, but we opened negotiations.

10. 8:25pm Town Manager's Update

- We vaccinated our first seniors over 75 years old. We will make available vaccines as we have them.
- We have established a Covid vaccine hotline. It is 508-543-1611.
- Donations that have been received:

Veterans - Charles and Arleen Breen \$75 donation in memory of David Gaffey

Veterans - Kaitlyn and James Brown \$25 donation in memory of David Gaffey

Fire Dept. - Mr. and Mrs. Charles Albert \$100 donation to the Fire.

COA - Marie Cerqua \$50 donation in appreciation for transportation provided by COA/HS

CM – On the vaccines, great that we are doing it but you said over the weekend that we had 400.

BK – I was under the impression that we got 400 as well and heard from Health that it was only 100.

Christina Metcalf – The COA had 100 vaccines to give out at the COA, the remainder went to homebound seniors and used in mobile clinics.

11. 8:35pm - Selectmen's Update

11.1 New Business: Chris Mitchell has decided not to run this election. Thank you to all the Board and the town managers office for all the help.

LG – Special meeting for Foxborough Common Business Collaborative in the evening to talk with community groups about how to get people Uptown in 2021. Paige is taking a big hand doing this. Recreation offered their spring and summer programs.

11.2 Old Business: SM- we met about the common traffic. This big project wasn't really what we thought. Chris will have discussion about the parking, and go forward what we could qualify for the grant, if we don't do this. There will be more discussion.

EO- There were more 24 crashes in 2020.

BK – Microenterprise Grants still available for small business with 5 employees or fewer. Please contact Paige Duncan in the planning department for more information.

12. Action Items

12.1 Veterans – Acceptance of \$150 donation to Veterans

Motion to accept a \$150.00 donation to Veterans Services from Anne Gaffey and Edward Gonsalves in memory of David Gaffey by L. Gibson 2nd by C. Mitchell.

Roll Call: CM – Yes, SM – Yes, ME – Yes, EO – Yes, LG – Yes.

12.2 BOS - Southeastern Regional Services Group Intermunicipal Agreement Reauthorization

Motion to reauthorize and amend the Intermunicipal Agreement that created the Southeastern Regional Services Group (SERSG) so as to extend the term of that agreement for a period of twenty-five years from February 1, 2021, subject to any rights of termination or withdrawal, with all other terms of the original agreement remaining in place without change, and to authorize the Town Manager to execute any documents necessary to effectuate the purposes of this vote by L. Gibson 2nd by C. Mitchell.

Discussion – CG – this group consists of about 23 towns. We have monthly board meetings and it is beneficial to know our abutting professional. What contractors are working out well, who is spending what on plowing? Moira who is the manager, does all of our procurement for paving. We are bidding in bulk and that gives us drastic savings. We don't have to do the bidding so we save on advertising and time

Roll Call: CM – Yes, SM – Yes, ME – Yes, EO – Yes, LG – Yes.

12.3 CBS Sporting Club - Extended Hours Request

Motion to approve extended hours for CBS Sporting Club on February 13, March 6, and March 27, 2021 to include food service until 2:00am with alcohol service to remain as in existing license.

Approval may be rescinded for any and all dates requested if Covid restaurant operating regulations change, the Board of Health deems it unsafe to extend the hours, or CBS Sporting Club is found to be in violation of current Covid restaurant operating regulations by L. Gibson 2nd by C. Mitchell.

Roll Call: CM – Yes, SM – Yes, ME – Yes, EO – Yes, LG – Yes.

12.4 COA – Acceptance of \$500 donation so the Council on Aging

Motion to accept a \$500 donation to the Council on Aging from an anonymous donor for Senior Center Programs by L. Gibson 2nd by C. Mitchell.

Roll Call: CM – Yes, SM – Yes, ME – Yes, EO – Yes, LG – Yes.

13. Adjourn

Motion to adjourn by L. Gibson 2nd by C. Mitchell.

Roll Call: CM – Yes, SM – Yes, ME – Yes, EO – Yes, LG – Yes.