

Board of Selectmen's Meeting Agenda (Tuesday, March 20, 2018)
Andrew Gala Meeting Room
Foxborough Town Hall
40 South Street, Foxborough, MA 02035

Members present: David S. Feldman, Chairman
Christopher P. Mitchell, Vice Chairman
Mark Elfman, Clerk Virginia
M. Coppola
James J. DeVellis

Others Present: William Keegan, Jr., Town Manager
Mary Beth Bernard, Assistant Town Manager
Kate Connolly, Town Council
Amanda Smith, Community Information Specialist

Minutes Generated by: Amanda Smith

Meeting called to order at 7:00 pm

1.00 Citizen's Input

Heather Harding came before the Board to provide an update on the Open Space and Recreation Plan. The 2011 Open Space Plan was filed with state and a committee was to work on updates (every 7 years). The committee has been meeting for 7 years and they want to have public forum and re-do the surveys used in the past to collect public input. Public forum will be held on March 27th at 7pm in the Andrew Gala Meeting Room. The forum will include a slideshow and the goal is to be interactive with residents. The group reposted survey used in 2011 and are hoping to get more responses this time. The survey will be posted on the Town website, in addition to the conservation commission and recreation department posts that have already been put up. The surveys will be available in paper copy as well. Another survey includes additional questions not included in original survey. The group invited the BOS and residents to attend the forum and take the survey. D. Feldman asked what the deadline for the survey is. H. Harding explained the surveys and report are due at the end of the year. The forum will not be televised but she is hoping to get it taped.

2.00 Barnett Ovrut/Industrial Development Financing Authority - Reappointment of Barnett Ovrut to the Industrial Development Financing Authority for a term starting 4/1/2018 with an expiration of 4/1/2023

B. Keegan stated that Barnett is currently away and this reappointment can be treated like an action item.

Motion to approve the reappointment of Barnett Ovrut to the Industrial Development Financing Authority for a term starting 4/1/18 and expiring 4/1/23 Motion made by M. Elfman, second by C. Mitchell.

No further discussion.

Final Resolution: Motion Carries

Yes: D. Feldman, C. Mitchell, M. Elfman, J. DeVellis, V. Coppola

3.00 Public Hearing- Animal Control Officer Sue Thibedeau - Restraint or Removal of a dog from

7 Meadowview Road owned by Lisa and Mark Brennan

Included Documents: 3/20/18 Public Hearing Notice for Dog; Interim order issued by S. Thibedeau, Foxborough Animal Control Officer with official Foxborough Police Incident Report; Letter from William Short, including veterinary bills and photographs

Present and sworn in for the record by B. Keegan: Lisa Brennan, Keenan Brennan, William Short, and Susan Barry

M. Elfman opened the Public Hearing at 7:13pm and read the public notice into record. B. Keegan stated the Board should hear from Animal Control officer first. S. Thibedeau summarizes her report for the Board and reads it into public record. S. Thibedeau recalled two previous reports of problems but not official complaint was made and V. Coppola asked if these were brought before the Board; S. Thibedeau stated they were not. The dog was on leash with the owner's son in the first incident and was approached by another dog, and the owner had the dog off leash in the second incident in Plainville and charged/bit another dog. There were no previous sanctions. L. Brennan added that her husband always has the dog on a leash. When he takes the dog for a walk, her husband takes her to the truck first. B. Keegan asked S. Thibedeau if she had any recommendations for the Board. S. Thibedeau recommended that to not risk another incident, if she is declared a danger, option 7 (euthanasia). S. Thibedeau indicated she issued an interim order following the incident for a leash and a muzzle pending this hearing. L. Brennan indicated they had obliged to the interim order by S. Thibedeau. First it was a 10-day quarantine, then the leash/muzzle interim order. D. Feldman asked W. Short to recall the incident; he provided his account of the incident before the Board. S. Thibedeau explained that she was looking at the fact that the owner is aware that the dog is dog-aggressive and is looking at the severity of the injuries. L. Brennan stated that Lacey was not aggressive when Sue met her. S. Thibedeau added that animal-aggressive does not mean human-aggressive. M. Elfman told the Board he spoke to the neighbor in car and he said it seemed like the dog came from a completely different part of yard than where the car is. S. Barry said she was driving by with her husband and thought her husband was teasing when her husband gave warning to W. Short, but Lacey came up to W. Short and his dog from behind. She didn't see him across the yard, but she saw the dog come around the tree up to behind W. Short and his dog. S. Thibedeau stated this is a reoccurring pattern of behavior. Whether Mark was out by his truck or not, the outcome was the same. The dog was attacked and sustained severe injuries. Could have been prevented by a leash, taking the reasonable precautions. B. Keegan stated that Town Council, Kate Connolly is here to talk about options for the Board. K. Connolly reads from MGL 140 Section 57 and describes the available options the Board has if the dog is declared a nuisance or declared dangerous. After asked for clarification of the language by L. Brennan, she further explained "confining to premises" and "enclosure" for the Board. D. Feldman asked council for the options available to the Brennans if the dog is deemed dangerous by the Board. K. Connolly explained they would have 10 days to appeal at District Court and have the dog confined/impounded pending the appeal at a facility for dogs deemed dangerous or nuisance. S. Thibedeau explained she came to her determination based on the legal definition of a dangerous dog. K. Connolly clarified the Board can pick one or more options as outlined in the statute.

Move to close public hearing - Motion by M. Elfman, 2nd by C. Mitchell; all in favor; no discussion

Motion to deem the dog a danger.

Motion made by M. Elfman, second by C. Mitchell.

No further discussion.

Final Resolution: Motion Carries

Yes: D. Feldman, C. Mitchell, M. Elfman, J. DeVellis, V. Coppola

D. Feldman asked council to explain the risk in liability to the Town if the dog was confined to the premises and if the dog were to get out. K. Connolly explained that the legal responsibility is on the owner as the Town is acting accordingly per the statute.

Motion to euthanize the Brennan's dog.

Motion made by M. Elfman, second by J. DeVellis.

No further discussion.

Final Resolution: Motion Carries

Yes: J. DeVellis, V. Coppola, M. Elfman

No: D. Feldman, C. Mitchell

M. Elfman motion to euthanize Brennan's dog; 2nd by J. DeVellis; no further discussion; J. DeVellis, M. Elfman, V. Coppola in favor; C. Mitchell and D. Feldman opposed.

D. Feldman asks S. Thibedeau and K. Connolly to explain the process moving forward. S. Thibedeau states the owner has 10 days to start the appeal process. The Town can ask the court to impound the dog during that time. If the owners appeal the decision, Town should request impoundment. K. Connolly recommends the BOS have a written order. V. Coppola asks who would cover the cost of the impoundment. K. Connolly indicates the owner would owe the Town for all costs related to impoundment. S. Thibedeau can issue another order to cover an additional 14 days. The appeals process starts today as the owner has notice. B. Keegan asks council if the order has to be issued by the sheriff. K. Connolly states it is not required by law to have a written order, it is a recommendation for the appeals process. Actual notice to the owner was given as she was present at the hearing and heard the decision. The written order must state the two votes/motions taken. V. Coppola asks if there is no appeal within 10 days, what the process is. K. Connolly states that the dog will be euthanized. S. Thibedeau asks council to clarify if the family can take the dog to their own veterinarian and provide documentation to the Town that the dog has been humanely euthanized. K. Connolly states that the Brennan Family can take the dog to their own veterinarian for humane euthanasia. Impoundment of the dog is in the event of an appeal.

4.00 Discussion/Possible Action Town Warrant Articles and Proposed FY19 Budget

Included documents: 3/12/18 Town Warrant Draft #2 Redline version from Kate Connolly;
3/19/18 Town Warrant Draft #3; Email from Kate Connolly with edits to Town Warrant Draft #2;
FY 2019 Town Operating Budget – Non-School 3/8/18

D. Feldman recommended the Board run through article by article and C. Mitchell suggested discussing the articles as they go through them. B. Keegan read through articles and indicated Article 5 will be sent to the Board after tonight's hearing; the meeting on 3/17 was successful. C. Mitchell asked if the Board votes to remove Article 6, what happens to the CIP vote to keep it on the warrant. B. Keegan explained that technically, there would be no funding requirement so the CIP recommended to make it an article and voted to approve the funding. C. Mitchell added this was already a separate item on the warrant and J. DeVellis asked for clarification on the CIP process as this item was brought forward by the schools. B. Keegan provided clarification that all capital items come before the BOS. The item gets placed on warrant, but then the BOS recommends the funding. If the vote is no for funding, the items stays on the warrants for Town Meeting but the Advisory Committee would take the Board's recommendation. M. Elfman stated that an option the Board has is to take the item off all together. B. Keegan added Article 8 discussion will be postponed until next week due to weather and he and M. Bernard have reached tentative terms for Article 9 today and will prepare a memorandum this week. M. Bernard recommended the BOS get the memorandum as soon as available and look at it during executive session on April 3rd at beginning of meeting to give option to adopt during regular session. R. Scollins added the Advisory Committee is giving themselves until April 25th to finish their votes. V.

Coppola stated concerned regarding the language in Article 15 including the value of the land as she understood the Town is getting the land for free. B. Keegan confirmed the Town is getting the land for free and C. Mitchell added the Town is not paying for the land but there will be some incidentals like survey work. Chief Hatfield added to further clarify the State uses boilerplate language for all transactions like this in all documents; the Town is not looking to purchase the land. If the land is not used for a fire station, the Board would then have to request change of use from the State or turn the land back to the State. V. Coppola asked if the land is turned back to state, would the Town get reimbursed for any costs. Chief Hatfield said his best guess was no. B. Keegan indicated he is looking for guidance how the Board wants to proceed with Article 17 and he referred to changes mentioned previously. D. Feldman asked about the language that describes who can be on the committee. B. Keegan explained that includes residents with experience serving government on a committee so they could evaluate the items and understand how they work. D. Feldman stated he thought the goal was to take the CIP away from just department heads to be more inclusive. S. McCarthy worked out language as a group so as to not exclude people and all agree this is done as appointments. He added that B. Keegan proposed to add the words "operational knowledge" to understand how XYZ works. D. Feldman added that "appointed" means that resident can make a case for themselves and he was originally concerned the language was too restrictive, but not after talking through it.

J. DeVellis asked about the conflict of interest piece and expressed concern about being over restrictive. It may exclude some good talent. He believed there is potential for more of a conflict than having someone in your family on a committee and to strike that part and leave reference to Chapter 268A. S. McCarthy explained that the Advisory Committee saw the original version before the Board discussed this last meeting and viewed it the same way. The group agrees this item is impractical and will keep 268A reference. J. DeVellis added that no other board has this stringent clause regarding conflict of interest. B. Keegan told the Board they will send a revised version to the Board prior to the next meeting to gather all of the Board's changes to act on at next meeting before going to the Advisory Committee. V. Coppola stated Article 18 should say the source is the "Board of Selectmen" not "Veterans" and that Article 20 should say "Governor's Meadow" - no "R" as in land court at that time. K. Connolly said she reviewed language and made recommendations regarding Article 21 and B. Keegan added this would be regulated by the Police Department. Further clarification was discussed as it pertained to the farmers' market and transient vendors, i.e. food trucks. M. Elfman stated he would like a presentation and more information about the \$1.5 million in Article 6 (traffic patterns, attendance space, etc.). B. Keegan said he will set up a presentation for next meeting. C. Mitchell asked what is deadline for adding/removing warrant items. M. Bernard answered by April 25th at the latest and this can be made a priority for the next two meetings. B. Keegan added the budget review will happen at the April 3rd meeting.

No public comment.

5.00 Approve Amendment to Police Chief Contract

Included documents: Updated language to contract amendment

B. Keegan explained to the Board this is an amendment to an existing provision in chief's contract. The Chief asks for monthly stipend instead of hourly detail payment for work at stadium. Previously, the BOS had concerns if this was a pensionable item and the Norfolk County retirement board indicated it is not pensionable. D. Feldman told the Board this was added as an agenda item instead of an action item in case there were questions.

Motion to Approve amendment.

Motion made by M. Elfman, second by C. Mitchell.

No further discussion.

Final Resolution: Motion Carries 5-0-0

6.00 Board of Selectmen's Update

D. Feldman congratulated the Foxborough High School Girls' basketball team for winning the State Championship Title. The Town is bracing for the fourth Nor'easter in the last 3 weeks; anticipating heavy wet snow again. Urged everyone to be diligent and prepared and to continue to look out for neighbors.

J. DeVellis added that 'Confikids' put on a talent show at the Orpheum Theatre. They hope to do it every year and it was very successful.

J. DeVellis asked if the Town could have a representative from National Grid come to a BOS meeting for a Q&A with them directly. B. Keegan said National Grid has been very good about reaching out to the Town and posted a person in Town during outage events. D. Feldman asked if they can come in to give an update on some maintenance work they've done as the last storms have been unique, with unique damage with more widespread power outages. Chief Hatfield added that compared to neighboring towns, Foxborough does not clear as other towns do. There is a great pruning program through National Grid. The real dilemmas are full trees falling not branches. There is a need to revisit the pruning program as in other communities that go from "ground-to-sky". There was only 1% outage this last time. At about 7pm tonight, the forecast updated the Town to get about 6-8 inches and everyone is on alert. National Grid is outstanding to work with and is by the Town's side from beginning to end. They had a fast response time and restoration in last storm. B. Keegan suggested bringing National Grid in to show the great relationship and how closely they work with the Town. Both are more proactive now than in past and reiterates the "ground to sky" clearing approach. C. Mitchell asked if putting Foxborough storm presentation together, to put together statistics about the storm where ~90% outages occurred for reference. The presentation should also include the "why" and examples. B. Keegan added the majority of power loss in first storm was restored within 48 hours. J. DeVellis added this meeting with National Grid will not be a bashing session; it will be an informational session with Q&A.

J. DeVellis told the Board he would like to design a "Home of Foxborough Warriors" sign, price it out and find locations to place them. He specified this would be a metal sign on a metal stand with the school logo. B. Keegan suggested adding the Jazz Ensemble to the sign to celebrate the Gold Medal they won at States over the weekend.

7.00 Town Manager's Update

A grant has been awarded to the Town for downtown wayfinding; congratulations to Paige and the Economic Development committee. Appreciative of Baker Administration and thanks to Paige.

The Town received word from the Attorney General's office regarding Articles 7, 9, 11 12, and 13 that were approved during Special Town Meeting in December 2017 for Bylaw amendments. These articles required approval from the Attorney General and all have been approved.

B. Keegan indicated to the Board the Affordable Housing Trust Committee will be coming back to a future meeting to request the use of \$50,000 for due diligence funding. The group presented at a previous meeting and the Board did not take action. The Chair of the group wanted the BOS to know that the need still exists. How does the BOS want to proceed with that? J. DeVellis stated that he remembered they made a presentation but the BOS was told they do not have authority to award funds, then read about it in the paper that they do. B. Keegan indicated this confusion has been clarified and the BOS does have authority regarding funds. He will get the bylaw to the BOS prior to the board coming back to the meeting.

B. Keegan told the Board that Rob of SEMRECC should come back to present updates to the Board. There has been some talk about using a building in Foxborough and that SEMRECC is working on a report of viability of that building. Rob will be back to the BOS with the final report for final determination.

8.00 Assistant Town Manager's Update

A new law is coming out April 1st, 2018 called the Pregnant Workers Fairness Act. She is working on giving information in the BOS packet for the April 3rd meeting, including a Q&A. The Town must provide notification to all employees to be compliance with law but the Town does not need a policy. The new law makes a pregnant woman a protected class. Notification will be sent to all employees by April 1st.

Working hard on getting clarity on collective bargaining agreements. This information will be written up and given to the Board next week. She is meeting regularly with dispatch.

The Town did kick-off a customer service program throughout Town Hall and all departments in Town. She continues to encourage residents to fill out the brief survey as we value your feedback.

9.00 Action Items

9.01 Bay Colony Group Inc. / Briarwood Construction Inc. London Estates Phase 2 - Approval to name roadway Crocker Way

Included documents: Street name request letter and site plan

Motion to Approve the naming of London Estates Phase 2 roadway as Crocker Way Motion

made by M. Elfman, second by C. Mitchell.

No further discussion.

Final Resolution: Motion carries

Yes: C. Mitchell, D. Feldman, M. Elfman, J. DeVellis, V. Coppola

9.02 Approve Public Event Application / Norfolk Associates for Children 5k Road Race 4/29/18 from 9:00 a.m. to 12:00 p.m.

Included documents: Public event application

Motion to Approve Norfolk Associates for Children 5k Road Race on 4/29/18 from 9:00 a.m. to 12:00 p.m.

Motion made by M. Elfman, second by C. Mitchell.

V. Coppola requests to add language that all signs for the event must be removed after the completion of the race.

Final Resolution: Motion carries

Yes: C. Mitchell, D. Feldman, M. Elfman, J. DeVellis, V. Coppola

9.03 Foxborough Historical Commission - Acceptance of Gift Donation of \$105.00 from book sales

Included documents: Gift donation form

Motion to Approve a Gift Donation of \$105.00 to the Foxborough Historical Commission from book sales

Motion made by M. Elfman, second by C. Mitchell.

No further discussion.

Final Resolution: Motion carries

Yes: C. Mitchell, D. Feldman, M. Elfman, V. Coppola Abstain:
J. DeVellis.

9.04 Foxborough Council on Aging - Acceptance of Gift Donation of \$20 Gift Certificate in Memory of Ray Mosher from Tim Farmer
Included documents: Gift donation form

Motion to Approve a Gift Donation of a \$20 Gift Certificate to the Foxborough Council on Aging in Memory of Ray Mosher from Tim Farmer

Motion made by M. Elfman, second by C. Mitchell.

Final Resolution: Motion carries

Yes: C. Mitchell, D. Feldman, M. Elfman, V. Coppola Abstain:
J. DeVellis.

9.05 Foxborough Council on Aging - Acceptance of Gift Donation of \$100 for Programs and Services at the Senior Center from John Fuller
Included documents: Gift donation form

Motion to Approve a Gift Donation of \$100 for Programs and Services at the Senior Center from John Fuller

Motion made by M. Elfman, second by C. Mitchell.

No further discussion.

Final Resolution: Motion carries

Yes: C. Mitchell, D. Feldman, M. Elfman, J. DeVellis, V. Coppola

9.06 Boyden Library - Acceptance of Gift Donation of \$48.26 for a stepstool at the Boyden Library for the Friends from the Friends of Boyden Library Foundation
Included documents: Gift donation form

Motion to Approve a Gift Donation of \$48.26 for a stepstool at the Boyden Library for the Friends from the Friends of Boyden Library Foundation Motion made by M. Elfman, second by C. Mitchell.

No further discussion.

Final Resolution: Motion carries

Yes: C. Mitchell, D. Feldman, M. Elfman, J. DeVellis, V. Coppola

9.07 BOS - Approval of BOS meeting minutes from 2/6/18 and 2/20/18
Included documents: Draft versions of meeting minutes

Motion to approve the 2/6/18 Board of Selectmen meeting minutes.

Motion made by M. Elfman, second by C. Mitchell.

Final Resolution: Motion carries

Yes: C. Mitchell, D. Feldman, M. Elfman, J. DeVellis, V. Coppola

Motion to approve the 2/6/18 Board of Selectmen meeting minutes.

Motion made by M. Elfman, second by C. Mitchell.

Final Resolution: Motion carries

Yes: C. Mitchell, D. Feldman, M. Elfman, J. DeVellis, V. Coppola

Motion made to enter executive session and to not return to open session for the purposes of to Discuss Strategy Relative to Collective Bargaining for Firefighter Negotiations and to Conduct Strategy Sessions in Preparation for Negotiations for Contract Renewal with Non Union Personnel- Finance Director Randy Scollins.

Motion made by M. Elfman, second by C. Mitchell.

Final Resolution: Motion carries

Yes: C. Mitchell, D. Feldman, M. Elfman, J. DeVellis, V. Coppola

Roll Call: Virginia Coppola – yes, James DeVellis – yes, David Feldman – yes, Christopher Mitchell – yes, Mark Elfman – yes