

Tuesday, October 16, 2018
Board of Selectmen's Meeting Agenda
Foxborough Town Hall
Andrew Gala Meeting Room
7:00 p.m.

Members present: Mark Elfman, Vice Chairman
Leah Gibson, Clerk
James DeVellis
David Feldman

Members absent: Chris Mitchell, Chairman

Others present: William Keegan, Jr., Town Manager
Mary Beth Bernard, Assistant Town Manager
Michael Johns, Veterans Services Director
Amanda Smith, Community Information Specialist

Minutes generated by Amanda Smith

Meeting called to order at 6:58pm by Vice Chairman Mark Elfman

1. Citizen's Input

Mark Kelleher, 53 Elm Street, came before the Board to inquire why there isn't Town drainage on the street. B. Keegan said he is happy to talk to him separately about this matter and work with the Public Works Department to address this matter. Mr. Kelleher said he brought this to the attention of the Town Manager's office two years ago and received a letter about the adjacent property to his home. J. DeVellis asked why Mr. Kelleher wants Town drainage on the road; Mr. Kelleher said the damage from the running water has ruined portions of his property, including his new lawn. He said he has been in Town for 38 years and would like to know why drainage in this area has not been installed on this street.

2. Paige Duncan and Deputy Fire Chief Tom Buckley - Grant for Foxborough Hazard Mitigation Plan Update - BOS to Accept Grant for \$14,625 for Update on Hazard Mitigation Plan

Paige Duncan and Deputy Fire Chief Tom Buckley came before the Board to request the Board to accept the grant funding awarded to the Town for the purposes of updating the Town Hazard Mitigation Plan. T. Buckley recalled the first plan was done in 2007 following the Taunton Dam failure; the plan was updated in 2010 and included infrastructure issues in addition to the dams. T. Buckley said the update to the 2010 plan would include looking back at storms and damage caused by storms, gearing more toward response efforts needed to address impacts in Foxborough. T. Buckley said after the plan is updated, the Town status could be updated to Municipal Vulnerability Preparedness status that would open the Town up to additional grant funding. T. Buckley said the match of this grant would be \$4,875 for the Town to provide.

J. DeVellis asked how the 2010 plan was used from then to now; what is the benefit for updating the plan. R. Hill said there have been improvements to the areas around the dams and there is work currently going on to improve infrastructures surrounding dams. J. DeVellis asked how the work being done relates to the 2010 plan; R. Hill said the newly awarded grants were the result of previous work to identify the dams and adding them to the hazard mitigation list. D. Feldman recalled a dam identified by MassDEP as needing immediate attention; R. Hill confirmed this and said work is being done to address the dam. P. Duncan said the increased need to deal with hazards on a national and local level makes the grant process competitive and having all past reports completed and ready for update put Foxborough in a qualifying position to be awarded the funds. T. Buckley said using this funding to work with professionals to update and improve the plan would only benefit the

community as seen in past storms and damage as a result. M. Elfman asked for clarification on the grant and the money to be used to update the plan. J. DeVellis asked why the Neponset Reservoir Dam is not listed in the 2010 plan; R. Hill said it was acquired around that time and is in good shape. R. Hill said the location of the dam leave it less impacted than others. R. Hill said the work at the Neponset Reservoir Dam is ongoing currently, including controlling water levels. P. Duncan said it would be included in the inventory of the updated plan. M. Elfman agreed with J. DeVellis that the cadmium hazard might need to be included in the updated plan. J. DeVellis said the 2010 plan did not include language about updates or how long the plan is valid and suggested including a recommendation to estimate the duration of the plan.

Motion to Accept Grant for \$14,625 for Update on Hazard Mitigation Plan made by L. Gibson, motion made second by D. Feldman

No further discussion

Final Resolution: Motion Carries 4-0-0

3. Roger Hill - Intermunicipal Sewer Agreement with Town of Sharon - BOS to Approve Intermunicipal Agreement with Town of Sharon for sewer maintenance in the Sharon portion of the Cannon Forge Development

Roger Hill came before the Board to describe the agreement to the Board. R. Hill spoke about the Town's purchase of the unused capacity previously purchased at the Canon Forge property. R. Hill said the property was developed for less than it was designed and the Town would like buy back the unused capacity and a big portion of the capacity is in the Town of Sharon. R. Hill explained the Intermunicipal Agreement would allow the Town of Foxborough to work on the system in the Town of Sharon; drafted by representative attorneys for the Towns. J. DeVellis recalled the past purchase of the capacity and asked for more information about the Town taking over the maintenance of the system in Sharon. R. Hill said tests were completed of the entire system and that the alternative of paying a private contractor to do the maintenance would cost the Town more. J. DeVellis asked if there is anything in writing that shows the work has been done to verify the status and condition of the system as presented. B. Keegan said this agreement is before the BOS because the BOS is the only Board who can enter into an Intermunicipal Agreement. R. Hill said he would provide the data and reports to the BOS for their review and to back-up their decision. B. Keegan said the analysis of the data and reports was done by the Water and Sewer Commission and D. Feldman said the enterprise fund is paid by the rate payers, not the taxpayers. J. DeVellis expressed concern for potential future costs that the Town would have to pay. L. Gibson clarified that repairs down the road do not come from the taxpayers, it comes from the rate payers. B. Keegan asked if the agreement needs to be signed tonight or if it can be pushed to the next BOS meeting. J. DeVellis requested a copy of the report prepared by the consultant, BETA, about the condition of the system that was presented to the Water and Sewer Commission prior to the purchase of this system. M. Elfman said he is ready to go forward with a vote tonight and review the report after the fact as it was the responsibility of the Water and Sewer Commission to do their due diligence for the purchase. D. Feldman suggested to vote to approve pending the satisfactory review of the report prepared by BETA.

Motion to Approve the Intermunicipal Agreement pending satisfactory review of the BETA report made by L. Gibson, motion made second by D. Feldman

No further discussion

Final Resolution: Motion Carries 3-1-0

4. Settlement Agreement with NPS LLC re: Optum Field Lounge - BOS to Accept Settlement Agreement with NPS LLC

Pat Costello, Town Counsel, came before the Board to discuss the settlement agreement. B. Keegan recalled the creation of the Optum Field Lounge construction that removed a number of seats. P. Costello said the lease as drafted and negotiated in 1999-2000 did not address the removal/alteration of seating within the stadium; revenue stream to the Town is based on ticket sales. P. Costello said the Town became aware of this in 2015

when construction began on the Optum Field Lounge and felt the Town was entitled to the compensation based on revenue generated at the Stadium per the underlying premise of the lease. P. Costello said this updated agreement, after approximately two and half years of negotiations, states any fee charge or assessment for admittance to any area of the stadium that at one point contained seats and charge an admittance fee, as in this case, the Town will continue receive a ticket fee based on the ticket charge. P. Costello stated that the model for large-scale stadium facilities is changing to reflect demographics and said the Town felt it was entitled to admittance fees for areas that had previously contained seats. He said this agreement applies to the Optum Field Lounge, in addition to future areas that may be altered in a similar manner. P. Costello said the agreement would implement this arrangement and the parties would mutually agree to waive any and all claims pertaining to this dispute.

L. Gibson asked if any changes in the future had been discussed that would fall under this agreement; B. Keegan said he is not aware of any major changes at this time. M. Elfman asked how many seats were removed for the Optum Field Lounge; P. Costello said it was between 1800-2000 seats. P. Costello said the number of seats in the agreement now reflects the number allowed in the developed lounge; less than if it were still just seats without the buildout. J. DeVellis asked who from the Board was part of discussions; B. Keegan said D. Feldman was part of the discussion.

Motion to Accept Settlement Agreement with NPS LLC made by L. Gibson, motion made second by D. Feldman

No further discussion

Final Resolution: Motion Carries: 4-0-0

5. Neponset Reservoir/NRRC Update and Discussion

Robert Boette, Rick Lewis, Paul McManus, Kim Mellen and Mary Peterson came before the Board.

Kim Mellen thanked the Board and everyone for their efforts to get involved in this work to date. K. Mellen thanked the 590 people who signed their online petition. Paul McManus said he reviewed the Town Manager's letter and suggested the Board consider taking more of a direct tone; less diplomatic. P. McManus said the Draft PSS as currently written does not demonstrate "No Significant Risk" as required by the MCP for public welfare; there is no analysis, just a conclusion. P. McManus suggested the Board should directly state in their letter to MassDEP that the Draft PSS does not address the risk to public welfare as required by the MCP. P. McManus suggested using terms in the MCP, such as "reasonably foreseeable", to more strongly express the opinion of the Board.

J. DeVellis suggested clarifying in the Board's letter that the LSP works for both the NRRC and the Town. P. McManus said the interest of the Town does not require the work of an LSP as the major issue in the PSS is that the requirement to address the risk to public welfare was not addressed. M. Elfman said the letter is in draft format for the purpose of discussion at the meeting tonight. D. Feldman suggested to hammer home that the PSS does not address all of the requirements within the MCP; point it out more clearly in the letter from the BOS. J. DeVellis asked if a paragraph about the personal side to the Reservoir should be included in the letter to MassDEP. P. McManus said the Conceptual Site Model within the PSS indicates the sediment accumulation rate of 1 inch per year means that dredging will happen to ensure continued use of the reservoir. He added that no matter the accumulation rate, the cadmium remains in the top layer of the sediment as shown by the data in the Draft PSS. R. Lewis said MassDEP failed to say that the background level of cadmium in the Reservoir has far exceeded the MassDEP background level of 2 ppm. P. McManus reiterated that the Draft PSS does not show analysis for the risk to public welfare and the potential for dredging. D. Feldman asked where the measurements for cadmium are taken; R. Lewis said 2 foot cores were taken and the cadmium was tested for at multiple levels and said all cores showed the highest concentration of cadmium in the top three inches. R. Lewis said the 2014 data show some areas that have increased cadmium levels. B. Keegan said an analysis is missing to show how to get the current levels to the acceptable background levels. M. Elfman asked

if P. McManus has seen heavy metals in a mill pond and how it was mitigated; if there is a comparison elsewhere in the State. P. McManus said he has seen smaller mill ponds that don't have the recreation component or shallow areas that would be suitable for dredging. He said he has seen ponds when dredging was contemplated and the contaminated sediments have halted all of those plans. R. Lewis said he worked on a project for Wellesley College that included ponds that received discharge from a paint factory. He said the sediments were dredged and the sediment with highest concentrations were removed and disposed of offsite; approximately \$30 million project. R. Boette said the Conservation Commission relies on the expertise of the NRRC for the scientific comments but the Conservation Commission fully supports the efforts of the NRRC. M. Elfman said the Town will go back to the letter and update with the edits discussed at the meeting tonight. B. Keegan suggested M. Elfman and a member of the NRRC come together to draft the letter to present at the October 30th meeting. Kerry Snyder of the Neponset River Watershed Association (NRWA) came to the table to echo support for the NRRC and to advocate on behalf of the NRWA that plans to submit a letter to the MassDEP prior the November 2nd public comment deadline. P. McManus said data shows that the cadmium has moved downstream to the Neponset River. D. Feldman asked if the NRWA has any data for cadmium; K. Snyder said she will look back for historic data to provide to the Board.

6. Selectmen's Update

M. Elfman said he represented the BOS at the 175th Anniversary of the Universalist Church and it was a great event. He said the Church is doing a time capsule to commemorate the anniversary. L. Gibson said she went to the Jaycees Fall Vendor Fair; a great turnout. L. Gibson said she spoke with the Jaycees about the sign who said there was additional damage not anticipated to the Sign but a plan is in place to address the damage.

M. Elfman requested a Town Proclamation be made for the 175th Universalist Anniversary.

7. Town Manager's Update

B. Keegan attended the groundbreaking event for the New England Revolution training facility and said it is nice to see the team putting down more roots in Foxborough.

B. Keegan said preliminary budget discussions will begin this week, followed by more formal process to begin in November. He said a follow-up meeting to discuss the budget requirements under the charter as written.

8. Assistant Town Manager's Update

M. Bernard expressed thanks to Val Green, recently retired administrator in the Inspections Department and welcomed Lisa Barry who has taken her place. M. Bernard thanked M. Johns and A. Smith for their efforts to plan and execute the Town Employee Health Fair. She thanked the School Department for their efforts to host and feed attendees. M. Bernard said the Town is in the process of completing the Code of Conduct Training; over 170 people trained.

M. Bernard said the Town is in the process of reviewing vendors for an assessment center to replace the Fire Chief when he retires in January.

M. Bernard said the Town is well in the process of hiring a new Veteran Services Officer.

M. Johns added that the Town has hired a new IT Business Analyst. He said this role will increase efficiency across all departments. M. Johns said Sandra DeAndrade has been hired and comes to the Town with fifteen years of experience; anticipating her start at the end of the month. J. DeVellis asked if this was a new position or a combining of positions; M. Johns said it is a renaming of a prior position that was not previously filled and now crosses more departments than originally anticipated. M. Bernard said the previous position was the Financial Analyst and was not filled after the previous employee left the position.

B. Keegan added that he, M. Johns. P. Duncan and N. Riccio have completed the second session of the Leadership Matters Program; a tremendous learning experience for all. M. Johns said it speaks to the community and leadership that Foxborough was invited to attend the training.

9. Action Items

9.01 Recreation - Public Event Application - Halloween Parade from the Igo School to Town Common with trick or treating on both sides of Central Street on 10/27/18 from 2:30 p.m. to 4:00 p.m.

Motion to Approve Public Event Application for Halloween Parade and Trick or Treating on 10/27/18 from 2:30 p.m. to 4:00 p.m. made by L. Gibson, motion made second by D. Feldman

No further discussion

Final Resolution: Motion Carries 4-0-0

9.02 Approve BOS minutes from 9/11/18 and 9/18/18

Motion to Approve the Board of Selectmen minutes from September 11, 2018 made by L. Gibson, motion made second by D. Feldman

No further discussion

Final Resolution: Motion Carries 4-0-0

Motion to Approve the Board of Selectmen minutes from September 18, 2018 made by L. Gibson, motion made second by D. Feldman

No further discussion

Final Resolution: Motion Carries 3-0-1 (D. Feldman recused himself)

10. Adjourn

Motion to close the public hearing at 8:43 p.m. made by L. Gibson, motion made second by D. Feldman

No further discussion

Final Resolution: Motion Carries 4-0-0