

Tuesday, January 8, 2019
Board of Selectmen's Meeting Minutes
Foxborough Town Hall
Andrew Gala Meeting Room
6:00pm

Members present: Chris Mitchell, Chair
Mark Elfman, Vice Chair
Leah Gibson, Clerk
James DeVellis
David Feldman

Others present: William Keegan, Jr., Town Manager
Michael Johns, Veterans Services Director
Attorney Kathleen Connolly, Town Counsel
Amanda Smith, Community Information Specialist

Minutes generated by Amanda Smith

Chairman Mitchell called the meeting to order at 6:00 p.m. and read the agenda into the record. C. Mitchell opened the public session and stated the Board would enter into executive session to return to open session at 7:30 p.m.

Lynda Walsh came before the Board prior to entering into executive session with questions about the agenda item for executive session as written. L. Walsh said it did not seem appropriate to enter into executive session to discuss threats that she and other Child Sexual Abuse Awareness Committee (CSAAC) members are not aware of and she indicated no members of the CSAAC were invited to attend. C. Mitchell said the CSAAC is a committee appointed by the Board of Selectmen and this discussion is for the Board of Selectmen to discuss as the appointing board. K. Connolly responded and said the language used in the posted agenda was amended to indicate members of the CSAAC came to the Town with concerns outside of the committee. J. DeVellis said the Board was not provided documentation for this executive session and questioned if the motion to enter into executive session listed satisfied the requirements under the Open Meeting Law. K. Connolly confirmed the reason for holding executive session is for pending litigation. B. Keegan said he communicated with the CSAAC directly that they were not required to attend. K. Connolly said the initial intent was to hold a joint meeting with the CSAAC and was later changed to a meeting with just the Board of Selectmen and they will determine how to proceed.

Motion to enter Executive Session to reconvene in open session on or about 7:30 pm for the purpose of discussing litigation strategy with respect to threatened litigation of which members of the Child Sexual Abuse Awareness Committee have been informed and to reenter open session made by L. Gibson, motion made second by M. Elfman

No further discussion

Final Resolution: Motion Carries 5-0-0

Roll Call – L. Gibson – Yes; J. DeVellis – Yes; C. Mitchell – Yes; M. Elfman – Yes; D. Feldman - Yes

Motion close executive session at 7:24 p.m. and enter open session at 7:30 p.m. made by L. Gibson, motion made second by M. Elfman

No further discussion

Final Resolution: Motion Carries 5-0-0

Roll Call – L. Gibson – Yes; J. DeVellis – Yes; C. Mitchell – Yes; M. Elfman – Yes; D. Feldman - Yes

C. Mitchell reopened the public session at 7:31pm and updated the public that the Board is reconvening from Executive Session and reread the agenda into the record.

2. Citizen's Input

No one presented during Citizen's Input.

3. Economic Development Committee (EDC) - Discussion re: Revised RFP for Funeral Home/Fire Station Property

L. Gibson recused herself from the table and discussion.

Paige Duncan and Steve Coote came before the Board to present another draft of the RFP for the Fire Station/Funeral Home property in Town. P. Duncan said the Town received one application for the previous RFP but it was not applicable as it did not meet all of the requirements. C. Mitchell asked what the major changes were from the previous RFP to the current; P. Duncan said the price was lowered and the application process was streamlined. M. Elfman asked why they believe the Town got such a poor response to the previous RFP; P. Duncan said the reserve price was too high based on feedback. P. Duncan said the Town has also done more research into the hazardous conditions of the site as there were questions; site is compliant with MassDEP regulations. C. Mitchell asked if the entire EDC met and approved the new reserve prices; P. Duncan confirmed and said the EDC wanted P. Duncan and S. Coote to get this done. S. Coote said he is a construction manager and estimator and has experience with private sector development projects; has worked with restaurants and residential projects. S. Coote said he has been on the EDC for two years and is also a resident of Foxborough. J. DeVellis said he is concerned with the schedule as outlined; P. Duncan said the schedule is aggressive but their goal is to get a bidder in place early enough into this year's construction schedule. P. Duncan said there is language in the RFP that allows the Town to adjust the schedule as needed. J. DeVellis asked if S. Coote had experience with this schedule; S. Coote said the schedule is set to attract the bidder now while developers are out seeking their next project and do not want to miss them. P. Duncan reiterated that the language shows the Town is trying to adhere to a tight schedule but does not hold anyone to a definite schedule. M. Elfman asked if there have been people reaching out asking when the next RFP will be going out; P. Duncan confirmed. C. Mitchell asked if it made sense to issue the RFP on the 10th instead. B. Keegan said there is potential to extend the bid process by a couple weeks if there are numerous bids submitted. S. Coote said they have already performed some of the due diligence for the developer as it pertains to going before other Town committees and Boards and getting answers to questions that will likely arise. C. Mitchell asked if all who have reached out are ready to act; P. Duncan said all are ready to go and some architects have come in to measure. B. Keegan said this is a good time to start putting money into the area around the Common. J. DeVellis asked if there are provisions in place that allow designs for either ground to sky or renovation; P. Duncan confirmed.

Motion to issue the RFP made by M. Elfman, motion made second by D. Feldman

No further discussion

4-0-1 (L. Gibson abstained)

4. Tree Trimming Program Update/Discussion, Roger Hill and David Laliberte

Roger Hill and Dave Laliberte came before the Board to provide an update on the Town's tree trimming program. C. Mitchell said he asked Chief Hatfield to also attend to discuss communications with National Grid and how to handle power outages. B. Keegan recalled this discussion at past meetings and updated the Board that National Grid is no longer on strike. D. Laliberte, Tree & Park Supervisor, welcomed all to 2019 and said he is hopeful for positive feedback on the program. D. Laliberte said since 2012, National Grid has trimmed the entire circuit in Town. D. Laliberte summarized the hazardous tree mitigation program along their circuit and how he has accompanied National Grid crews to identify Town trees vs. private trees and the process followed to get those trees trimmed. D. Laliberte said in the past two years, this program resulted in 205 trees taken down with 3 crane jobs; National Grid trimmed 70 miles of circuit in Foxborough from 2016 to 2018 and intend to trim 56 miles of circuit between 2019 and 2020. C. Mitchell asked if there is program in place

that allows people to call and report a pole in poor condition; D. Laliberte said National Grid handles all customer calls. R. Hatfield said one issue is more than 50% of the poles in Town are owned by Verizon; National Grid is working on a program with Verizon that would allow National Grid to fix a pole instead of waiting for Verizon to address it. R. Hatfield said this discussion has been going on since 2010.

D. Laliberte said the problem with the white oak trees caused by gypsy moths has been surveyed and National Grid has been made aware so they can take the trees down. R. Hill said a lot of the white oaks are not on public property and there are numerous 100-year old and older pine trees that are brittle now and also on private property; the Town cannot take down a tree on private property and they do not work over or under the wires for safety reasons. D. Laliberte said the Tree & Park Division has removed over 200 trees in the past two years, not counting trees damaged by storm; 72 trees so far this winter; over 100 tree issues last winter and 20 % of the trees were Town trees. D. Laliberte said almost all of the trees they take down are dead or severely damaged. D. Laliberte suggested for homeowners to check to see if the tree is dead, if the base is decaying, if there are holes, if it is leaning over wires and then take action to address it; the Town cannot consult on private trees. C. Mitchell asked for definition of Town trees; D. Laliberte said it depends on the roadway and they research trees all the time. R. Hill said the road layouts give dimensions but not all roads have dimensions for measuring. C. Mitchell agreed it is a good idea to educate the public about how to identify when a tree may cause an issue and that the Town and National Grid can only trim so much. D. Laliberte said this Town is no different than other Towns in New England with regards to outages from trees. R. Hatfield urged everyone to not continue to compare to last winter as it was unique and called out the recent outages in the last months and that they just happened. R. Hatfield said if people want to know what is meant by the ground-to-sky clearing, to drive down Route 106 as that has been completed by National Grid. C. Mitchell said he has heard complaints about how the trimming is done that leaves some of the tree still hanging; D. Laliberte said National Grid does as much they can do with the budget they have at the time. C. Mitchell asked how the Town can point out decaying and old infrastructure and B. Keegan said the Town can appeal to them but should review their Capital Plan for future improvements. R. Hatfield reiterated the great relationship the Town has with National Grid and D. Laliberte said it is helpful that now National Grid has a crew in Town to repair and address issues that may arise. B. Keegan said they have become more responsive in recent years. J. DeVellis said he agreed with D. Laliberte that their response time has improved tremendously and commended Dave for his hard work and diligence here in Town.

5. 8:05pm - FY20 Budget Discussion - Town Manager to update Board on FY20 Budget Schedule

B. Keegan told the Board the internal budget reviews were completed yesterday and he and M. Johns will meet with the budget team tomorrow to review for changes. C. Mitchell asked when the Board can expect the documents; B. Keegan said aiming for early next week. C. Mitchell asked for at least a week to review the documents. B. Keegan said the Board will be discussing only those under their purview.

6. 8:20pm - Pine Street Parking/Alicia Santos - New Commercial Parking License - 28-30 Pine Street

Alicia Santos and Attorney Raymond Sayeg came before the Board. Atty. Sayeg said they are before the Board following the approval of a special permit by the Planning Board for 50 parking spaces on Pine Street at the rear of the property. Atty. Sayeg said he spoke with N. Riccio, Building Commissioner, that with the special conditions he added that there was no opposition from the Planning Board; asking the BOS to approve her application for a 3-year commercial parking license.

J. DeVellis said he has been made aware of this property in the past for parking without a license and had concerns. J. DeVellis said the BOS have requirements separate from the Planning Board and said the presentation did not address the requirements outlined in the BOS policy. Atty. Sayeg shared photographs with the Board that show the area in question and outlined the space on the site that have been used in the past as a walkway/sidewalk; the intent is for there to be a safe place for people to walk out of harm's way and said some that park at 23 Pine Street already use this as a walkway. C. Mitchell said the BOS regulations call out the

requirement for a sidewalk for safe access; Atty. Sayeg said the regulations do not specify that it has to be paved. J. DeVellis said this walking area does not qualify as a sidewalk; Atty. Sayeg stated there is a walkway there that is regularly used. D. Feldman said the sidewalk definition is clear in the policy that it is to be paved. C. Mitchell said the BOS has to rely on the policy as it was intended; J. DeVellis said this was brought up by the Planning Board and the Planning Board said this is a requirement of the BOS to address. Atty. Sayeg said his client plows the grassy area used for walking access. C. Mitchell said it is not clear that this area in question is a sidewalk and this is a safety concern. A. Santos said Boston Business does not have sidewalk access; L. Gibson asked for clarification of the location. Atty. Sayeg said he read the requirement each must have access to a sidewalk to use. C. Mitchell said the BOS policy clearly states that sidewalk access is required; B. Keegan added that the policy does not include language that allows them to waive a provision in the regulation. Atty. Sayeg asked if the BOS would consider a police detail in the area as a condition of approval. C. Mitchell said the policy was approved at Town Meeting and amended by the BOS in public session. D. Feldman said the BOS has the ability to amend the policy; C. Mitchell said the Board would have to amend the policy in public hearing.

C. Mitchell asked if other lot owners would like to address the Board. Greg Spier, owner of 124 Washington Street, stated 23 Pine Street and Lafayette are both owned by Ron Young and it is contiguous for access. Mr. Spier said the BOS regulation for the sidewalk dated back a long time and recalled a legal case that the Town lost and added that Pine Street is a dark street with limited lighting.

Motion to deny commercial parking license due to the fact that the application does not apply with the requirements outlined in the BOS commercial parking policy that cannot be waived made by L. Gibson, motion made second by M. Elfman

Discussion: L. Gibson said it is clear a lot of work went into this and she hopes call can come to a resolution that is safe for everyone.

Final Result: Motion to Deny Carries 5-0-0

7. 8:35pm - Selectmen's Update

C. Mitchell said Happy New Year and stated this was Chief Hatfield's final BOS meeting prior to his retirement.

8. 8:40pm - Town Manager's Update

B. Keegan said Happy New Year and said the Annual Town Meeting Warrant will close on February 15, 2019. The Warrant is currently open.

B. Keegan said there is an opening on the Conservation Commission and applications are available on the Town website.

Annual MMA Trade Show will take place next week and the Health Dept. will be receiving an Innovation Award for their event known as "Hauler Day".

9. 8:45pm - Assistant Town Manager's Update

M. Johns said the Town is wrapping up negotiations with the Police Department and have been underway with the Fire Department Union negotiations; wrapping up recruitments for Assistant Assessor Positions and will begin Treasurer/Collector recruitment.

10. Action Items

10.01 Officer Charles Gallagher - Approval of \$3,420.00 for Tuition Reimbursement

Motion to approve made by L. Gibson, motion made second by M. Elfman

No further discussion

Final Resolution: Motion carries 5-0-0

10.02 Officer Scott Dion - Approval of \$1,644.00 for Tuition Reimbursement

Motion to approve made by L. Gibson, motion made second by M. Elfman

No further discussion

Final Resolution: Motion carries 5-0-0

10.03 Officer Kenneth Fitzgerald - Approval of \$1,644.00 for Tuition Reimbursement

Motion to approve made by L. Gibson, motion made second by M. Elfman

No further discussion

Final Resolution: Motion carries 5-0-0

10.04 Saga Steakhouse - Approval of early liquor license extension request of 11:00 a.m. on Sunday, January 13, 2019 and potential additional playoff games

Motion to approve made by L. Gibson, motion made second by M. Elfman

No further discussion

Final Resolution: Motion carries 5-0-0

10.05 Fred Smerlas/All Pro Tailgates d/b/a First & Goal - Approval of (2) 1-day All Alcohol Licenses for January 13, 2019 and January 20, 2019 from 10:00 a.m. to 10:30 p.m.

Motion to approve made by L. Gibson, motion made second by M. Elfman

No further discussion

Final Resolution: Motion carries 5-0-0

10.06 Library - Acceptance of Gift Donation of \$300.00 to the Boyden Library from the Foxboro Lions Club for museum passes

Motion to approve made by L. Gibson, motion made second by M. Elfman

No further discussion

Final Resolution: Motion carries 5-0-0

10.07 BOS Approve Meeting Minutes

Motion to approve 11/13/18 minutes made by L. Gibson, motion made second by M. Elfman

No further discussion

Final Resolution: Motion carries 5-0-0

Motion to approve 11/27/18 minutes made by L. Gibson, motion made second by M. Elfman

No further discussion

Final Resolution: Motion carries 5-0-0

Motion to approve 12/11/18 minutes made by L. Gibson, motion made second by M. Elfman

Discussion: L. Gibson abstained as she was not in attendance at the 12/11/18 meeting
Final Resolution: Motion carries 4-0-1

Motion to approve 12/18/18 minutes made by L. Gibson, motion made second by M. Elfman
No further discussion
Final Resolution: Motion carries 5-0-0

11. Executive Session - To Conduct Strategy Sessions in Preparation for Contract Negotiations with Non-Union Personnel - Fire Chief Contract

Motion to enter Executive Session at 9:04pm not to reconvene in open session to Conduct Strategy Sessions in Preparation for Contract Negotiations with Non-Union Personnel - Fire Chief Contract made by L. Gibson, motion made second by M. Elfman
No further discussion
Final Resolution: Motion Carries 5-0-0
Roll Call – L. Gibson – Yes; J. DeVellis – Yes; C. Mitchell – Yes; M. Elfman – Yes; D. Feldman - Yes

12. Adjourn

Motion to adjourn at 9:21pm and close executive session made by L. Gibson, motion made second by M. Elfman
No further discussion
Final Resolution: Motion Carries 5-0-0
Roll Call – L. Gibson – Yes; J. DeVellis – Yes; C. Mitchell – Yes; M. Elfman – Yes; D. Feldman - Yes