

Tuesday, March 15, 2022
Board of Selectmen Meeting Minutes
Gala Room, Town Hall
7:00 p.m.

Members Present: Leah Gibson, Chair
Stephanie McGowan, Vice Chair
Seth Ferguson, Clerk
Mark Elfman

Also Present:
William Keegan Jr., Town Manager
Michael Johns, Asst. Town Manager
Christina Metcalf, Communications Specialist
Katie Lang*, Executive Assistant
*Attended remotely

1.6:00pm Executive Session

1.1 Union negotiation and strategy discussion regarding contracts for United Steelworkers Unit A & Unit B, DPW Union Local 1702 AFSCME, Police Union Local 379-MCOP AFL-CIO, Firefighter Union Local 2522 FPFA and Boyden Library Employee Association

Motion to enter into executive session to Conduct Strategy Sessions in Preparation for union negotiation and strategy discussion regarding contracts for the Local 379-MCOP AFL-CIO, Local 2522 FPFA, United Steelworkers Unit A and Unit B, Local 1702 AFSCME - DPW, and Boyden Library Employee Association; and then to reconvene in Open Session by M. Elfman 2nd by S. McGowan.

Roll call vote: ME – Yes, LG – Yes, SM – Yes. Approved, 3-0.

2. 7:00pm Citizen's Input – Arthur Muldoon, 112 Cocasset Unit 7

I'm here to congratulate the people who ran the CIP meeting. It was a very informative meeting. During that session Bill Yukna said he supervised 100 million of work. Hats off to him. Also for DPW to get people to their work done. What is your definition of community center? I'm only for a senior center in the senior center. I've seen it only for seniors. I don't feel this town should have recreation and senior together.

BK – The traditional community center includes recreation senior center and recreation. The library is not part of the reorganization that was discussed.

3. 7:05pm Common Victualler Application - Tropical Smoothie Cafe - Shahil Patel*

3.1 Approval of a Common Victualler License for Mahant Management LLC d/b/a Tropical Smoothie Café

SP – Tropical smoothie is a franchise. We serve smoothies, sandwiches and wraps. We are located in Patriot Place, and I am one of the owners of the Café.

LG – Everything is order with everyone but this license is coming after you opened last Friday and was done out of order.

SP – I apologize, other towns I've opened a store I haven't had to have it, I did get it done within the hour that I received that I needed it.

Motion to approve a Common Victualler License for Mahant Management LLC d/b/a Tropical Smoothie Café by S. Ferguson, 2nd by M. Elfman. Approved, 4-0.

4.7:10pm Public Event Application - Foxboro Youth Baseball & Softball - Vin Calio

4.1 Foxboro Youth Baseball & Softball - Approval of Public Event Application for Foxboro Youth Baseball Softball Opening Day Parade on April 16 beginning at 9:30am

VC – I am the new president of FYB&S and have been on that board for 7 years. We will have our opening day ceremony on April 16th, a local FHS student sings the national anthem, first pitch ceremony, and we've done it every year except for the past few years because of Covid. Looking forward to getting back to holding this event. We've got some high school baseball players marching with us as well.

Motion to approve the Public Event Application for Foxboro Youth Baseball & Softball Opening Day Parade on April 16 starting at 9:30am by S. Ferguson, 2nd by M. Elfman. Approved, 4-0.

5.7:15 Statement of Interest(SOI) submission to MSBA – BOS - Bill Yukna

5.1 Authorization of Statement of Interest to Massachusetts School Building Authority for the Taylor School to be submitted by the Superintendent

BY – As previously talked about, after we did a study the Taylor School is that last school that needs a renovation. It was determined the high school needed work first because of curriculum then the Burrell School, and now the Taylor School. We are the very end stages with the Burrell School and we know that is a multi-year process to get the Taylor. The SOI is an exploratory thing with MSBA and documenting the hopes for the school. It says we are coming forward for them to review it and no commitment on either side (Town/MSBA). This is the formal vote to put the submission together and start this process. This SOI will say that we are looking to renovate and potentially expand but not to tear down.

Resolved: Having convened in an open meeting on March 15, 2022, prior to the SOI submission closing date, the Board of Selectmen of the Town of Foxborough, in accordance with its charter, by-laws, and ordinances, has voted to authorize the Superintendent to submit to the Massachusetts School Building Authority the Statement of Interest Form to be submitted by April 29th for the Taylor Elementary School located at 196 South Street which describes and explains the following deficiencies and the priority category(s) for which an application may be submitted to the Massachusetts School Building Authority in the future: Replacement, renovation or modernization of school facility systems, such as roofs, windows, boilers, heating and ventilating systems, to increase energy conservation and decrease energy related cost in a school facility. Replacement of or addition to obsolete building in order to provide for a full range of programs consistent with state and approved local requirements by S. Ferguson, 2nd by M. Elfman. Approved, 4-0.

6. 7:20pm Collective Bargaining Agreement Vote

6.1 Possible votes on Collective Bargaining Agreements for DPW Union Local 1702 AFSCME, Police Union Local 379-MCOP AFL-CIO, and Firefighter Union Local 2522 FPFA for FY23-FY25

Motion to approve the MOA between the Town and Firefighter Union Local 2522 FPFA from July 1, 2022 through June 30, 2025 by M. Elfman, 2nd by S. McGowan. Approved, 3-0-1. S. Ferguson abstained.

7.7:30pm FY23 CIP Request Review & Approval - BOS

7.1 Board of Selectmen to review and vote on the FY23 Capital Improvement Planning(CIP) Committee Requests

BK – We hold CIP meeting every March for capital needs that are \$25k or more and used for purchases not including day to day items for operations. The Committee reviewed those requests that you have in front of you. We were able to confirm all the requests that were being made were clear and critical needs. We were able to use ARPA funds that we received on the local level (~\$1.9million) which was along with Water and Sewer and the Ambulance account. We were able to fund all of those with ARPA funds with \$160k of Free Cash and it's the lowest we've used for Capital Projects in history. We met Monday morning and voted to approve the funding sources. It was about \$5.3 million. This also included Chapter 90 funding about \$1.2 million which is a significant

increase. It is usually use \$600k, this year the Governor proposed doubling that funding this year. We have a CIP plan before you a total of amount \$5,352,271. I want to thank the CIP committee for their work on this.

SF – The Chapter 90 is explicitly pavement and sidewalk? [Yes]. Are there projects already identified?

BK – There is a pavement management program that we are bit behind on. Chris Gallagher is working on the sidewalk plan and should have him in to present that to you soon.

SF – I'm glad to hear that. If the South Street sidewalk Citizen's Petition doesn't pass, it's still a viable need and something that could be considered in the planning for this sidewalk plan.

BK – We need to have a plan and we are going to do the same thing for sidewalks.

SM – One thing worth mentioning is that Chris is that they are trying to maintain existing sidewalks. Does that \$1.8 mil includes the OPEB payment?

BK – We paid OPEB payment out of Free Cash last year and we're using \$1million for the budget this year. This means you have net out about \$1.7 million. The next money the recertification in the fall this year.

SM – It was good that we were able to take advantage of it and a lot of this wouldn't have been funded without ARPA and hopefully the recharge will give us a bump back up after this year.

BK - There is still money in county funds and were waiting. We have replacing water meters as well as replacing the dam in town. We've left some money behind in doing some uptown projects. We were able to make the pool repairs as well. We did start at \$1.8 million this year and had \$1.6 last year.

SM – What do we do with ARPA?

BK – ARPA monies do not have to be approved by Town meeting. The other do have to be approved at Town Meeting. It is appropriate for you to review all the items even if it is ARPA funded.

SF – I would urge Chris and group to consider the voice for the voter with South Street when doing the plans for the sidewalk management plan.

BK – The way the article is written limits the expenditure to \$75,000.

SF – I'm speaking of more to the substance of the article.

Motion to approve the FY23 Capital Improvement Planning Committee requests as presented by S. Ferguson, 2nd by M. Elfman.

Discussion: SF – We've had an article last year about the CIP committee. This year the process worked and anyone was able to come and voice concerns. I would like to point out that the process works for the town.

SM – I wouldn't use this year as the example to hold up. Because we had money this year we didn't need to vote on.

LG – This year we did the long term plan and did the bylaw clean up.

Approved, 4-0.

8:7:45pm 2022 Annual Town Meeting Warrant Articles Review – Town Counsel Pat Costello*

8.1 Review of Updated Marijuana Article

LG – The changes from the first draft changed the overlay district, we took out the licensing pieces and it would the point to the host community agreement being one of the first things that is executed. The question came up of who should be LLA, could be the Board or could it be a special group.

BK – Speaking with Town Moderator Frank Spillane, it would make sense to combine the two articles for marijuana into one. Town counsel believes this is possible.

LG – This does require a 2/3 vote and public hearings. The draft bylaw has been improved over the last two weeks. Do we have anything that we need to further adjust?

SF – I'd be surprised if folks wanted a store at Fox Field plaza. My questions is around 7.3 - labelling marijuana as a narcotic drug. Is it accurate the marijuana is illegal on a federal level.

PC – I don't believe marijuana is not classified as narcotic in federal law but is classified as a Class D substance. That language is a catchall to state that it doesn't supersede any federal or state laws.

ME – I think it's is a Class 1 narcotic

LG – With Fox Field the thought was it would be near the industrial park area.

ME – 7.62 Why would there be an authorized designee on behalf of the Board, why wouldn't we review it?

LG – I think that was the spirit in case we wanted to have a group to review the host community agreement and then come to us with a recommendation as the local licensing authority.

BK – It would be like the CIP committee recommending to Board for final action.

ME – I read it as they are the ones who are going to approve the licenses.

PC – The host community agreement is a legal contract. It would have to be the Selectmen or Town Manager to have the authority to bind the town and execute the agreement. Some towns appoint a committee the initial task of vetting and reviewing applicants and making recommendations.

ME – I would have it be just review not execute in 7.61.

[Planning board to call their meeting to order to enter this discussion.]

Jeff Peterson – I would put this question to counsel, it seems explicit in, that we would need ballot approval.

Is just rescinding the ballot vote okay, it seems

PC – I don't believe a ballot vote is required. There are certain things that could go to town meeting. The language in section 7.6.12.1 It would be for retailers not establishments. In order for us to impose those uses we wouldn't need a ballot questions. I believe we can adopt the bylaws as presented with 2/3 vote at Town Meeting.

LG – This vote would give us one retail and one cultivate.

PC – Keep in mind, it only limits retailers, but we can't limit cultivating or processing.

BK – Could we include in bylaw?

PC – The licensing requirements are such that we can limit by not approving agreements with the Cannabis Control Commission with the Town. The town isn't mandated to executive limitless host community agreement. We can't unreasonably prohibit but we would be cable to have several reason to justify to be able to refuse a host a community agreement. We can only adopt bylaws for retail and in certain sections. To go beyond one retailer would require ballot vote.

LG – Does the overlay map lie with the Planning Board?

JP – With this way you are able to be more selective with an overlay.

LG – It is a starting point by what the Planning Board seems fit. It is by special permit as well.

ME – Did we only allow for marijuana facilities on the Route 1 district?

JP – It was for medical use only.

ME – Marijuana is a schedule 1 under the DEA.

PC – That was part of the redraft and was already approved and we can look into that in more detail.

Ron Bresse- We wanted to make sure the overlay district didn't go too far into residential.

LG – We were able to have a little ad hoc meeting and clear up a few things. The next step would be for us to continue to finalize this. Counsel and staff should review and then we'll have Planning and BOS to review one more time.

Kevin Weinfeld – It should go back to Planning Board and BOS with Town Counsel review as well.

LG – So after that review and final language is set then we would then have it all set.

[Planning Board closed their meeting by roll call vote]

8.2 Review of Updated Sign Bylaw Amendment Article Robert Burr, Frank Spillane, Barney Ovrut* Lorraine Brue*
BO – At the last meeting we discussed how many billboards could be in that area. Thanks to GIS Analyst Ryan Norton helped us map the number of billboards to be allowed. We discussed to eliminate static billboards and we increased from 1,000 feet to 1,500 feet. We could have locations for 5 billboards. On Route 95 we could potentially have 6 billboards.

LG- I thought we were looking at 3-5 billboards

BO – That was guess, after doing an analysis we came to those numbers.

LG - These could go only in limited industrial?

BO – Yes.

ME – Could we as a town limit the number?

BO – The answer is yes, but I'm reluctant to do that and it's not appropriate to limit that in a bylaw.

FS – I'm not sure where he got 6 with the restrictions in place, I think the number is possibly room for four.

Robert Burr – I agree to not limit the number, but you can achieve this with the expanding of the radii. I agree with Frank that there is at most 4 places for billboards. There are limitations with federal law and conservation concerns.

SM – I support the article and what it could bring us in revenue. Some residents are not happy with it. They do not like the look for our town. If we allow too many I think it won't pass.

LG – This is a 50/50 vote.

BK – It seems to be the collective feeling that few is better and fewer is more in terms of value. That is what went into the discussion. I think a couple is good and good from a revenue perspective.

RB – I agree that 5 or 6 could be concerning. There are two steps here, one is to get the town to approve this and then be up to the applicant to the Zoning Board to go through a public hearing and get the permit from the ZBA that could then have further restrictions.

SM – You are saying that Zoning Board decided how many and I think that is where it doesn't pass.

BK – Barney and Lorraine have the experience with the sign bylaw, which is why they were able to help write the bylaw.

ME – I understand not having a limitation in the bylaw but can we have a limitation in the policies?

FS – I think it's up for discussion to determine the final number.

LB – Should we go back to Ryan and do the radius for the others and get definite clarification around the restrictions?

BO – We could increase radii to 2,000 feet and that wouldn't impact the DPW.

LB – Could we also confirm the restriction around the clover leaf?

BO - We can always add to remove the clover leaf from the equations as well.

LB – In the discussion with Advisory Committee we did discuss 3-4 billboards.

FS – We could review and make sure the language is written to narrow down the amount of billboards that could be constructed.

SF – So we could limit the billboards with the radii?

BO – To limit the possible billboards south of the DPW property we could have the radius be 2,000 feet.

LG - The general spirit is 3-4 and understanding that we can't limit in bylaw but with the radii limiting the number of possible billboards.

BK – I understand Barney not want to limit it to a point for it to be legally indefensible.

LG – Ideally we'd have the final article wording and for both until March 29th BOS meeting.

SF – If an article is on the warrant when the warrant closes, then all the articles go to town meeting?

BK – You could.

SF – Advisory Committee makes recommendations, when does the Board have the opportunity to pull an article?

LG – We would be able to pull it right before we sign it.

FS – I would expect this article to not be pulled as we were working with the Town.

LG – I don't see us taking off any of the articles.

SM – The nature of our Board is to be moving the warrant forward and deciding to let it go forward to Town Meeting.

ME – We did say that we would push this forward instead of a citizen petition.

BK – If changes were made and the Boards couldn't agree on the changes then you could pull it off.

8.3 Review of any remaining Annual Town Meeting Warrant Article and/or procedural questions

LG – Are we good to have the final issues done for March 29th?

MJ – Would the final date for the contracts be the March 29 or April 12?

LG – We would just need the Advisory Committee to have enough time to review.

FS – You can leave them on and if there isn't enough time then there could be a no action vote.

MJ – I asked to get because is there a lot of them and they are complex and I want to know if there is a drop dead date.

BK – That wasn't defined. It is fair for the Ad Comm to say they need time to review it. It's fair for them to say we need time to review it but the Ad Comm can say they have no recommendation.

FS – If Selectmen/BOS want to bring forward a contract that the Ad Comm doesn't have time to vet they mostly like would vote against it.

ME – Are we going to bring the Citizens Petition articles presentation in?

LG – No one has reached out and I have enough with the presentation at Ad Comm.

SM – I felt comfortable.

ME – I thought with Mr. Chlebek's there was a solution. Coming out of that discussion, it was sending out the warrant to all the town's people

LG – I think it was a great idea, but do we want to limit it to planning issues

ME – I think what really pulls everything together is putting out a notice of the warrant to every town's person.

BK – We're open to any idea to pay attention to the warrant.

LG – I think we can be more frequent in our notifications.

SM – I hear a lot after the fact, but there is the responsibility of knowing what's going on in the Town.

BK – I think it's a fair discussion to have but I'm not sure this is the right vehicle for this conversation.

LG – Moving forward, I would like to see a plan of when we are going to put information out there.

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

9.1 Update on recruitments and new hires – We hired 3 new paramedics that replaced retirees, Harrison MacComb, Anthony McCauley, and Jeffery Eszlari. We are in the process of hiring the regional housing and food inspectors. We also have summer recreations positions open as well.

10:8:25pm Town Manager's Update

10.1 General update on Town business and operations

Working on finalizing budget the budget, meeting with Ad Comm tomorrow night, and finalizing CIP and getting everything ready for Town Meeting.

10.2 Use of Town Property Permits

-Annual Jaycees Easter Egg Hunt April 9, 10:00am to 11:00am

-Jaycees Concerts on the Common - Thursdays at 7:00pm - June 9, 16, 23, July 14, 21, 28, August 4 and 11

11.8:35pm - Selectmen's Update

11.1 New Business - Mass. Housing Choice/MBTA Community Presentation on April 12 and that information is on the Planning webpage. There is video to watch before that meeting we have on April 12th.

11.2 Old Business - Save the Date for Town Elections May 2 and Town Meeting May 9 – there is a contested School Committee race.

-Excise tax bills are due next week as well.

12. Action Items

12.1 Playing Fields Committee - Appointment of 3 new members to fill resigned/retired positions, Renee Tocci, James Caffin and Jenna Strickland for a term to end 5/31/22

Motion to appoint Renee Tocci, James Caffin and Jenna Strickland to the Playing Fields Committee in the Recreation Division Director, Tree & Park Supervisor and Foxboro Youth Lacrosse vacancies with a term to end 5/31/22 by S. Ferguson, 2nd by M. Elfman. Approved, 4-0.

12.2 BOS - Approval of BOS Minutes from 2/15/22 meeting

Motion to approve the February 15, 2022 Board of Selectmen Meeting Minutes by S. Ferguson, 2nd by M. Elfman. Approved, 4-0.

12.3 BOS - Approval of Donations from Schneider Electric

Motion to approve donations from Schneider electric by S. Ferguson, 2nd by M. Elfman. Approved, 4-0.

13. Adjourn – 9:07pm

Motion to adjourn by S. Ferguson, 2nd by M. Elfman. Approved, 4-0.