

Tuesday, March 29, 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
Mike Johns, Assistant Town Manager
Christina Metcalf, Community Info. Specialist
Katie Lang*, Executive Assistant
*Attended remotely

1. 6:00pm Executive Session

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

Executive Session Cancelled

2. 7:00pm - Citizen's Input – None

*Application for a Common Victualler License – Lovely Pizza, Owner Taib Golby

TG – Plan on opening a pizza restaurant on 29 Bird Street. We plan open tomorrow if possible

BK – The license will be approved tomorrow pending the insurance.

LG – There seems to be a need for some improvement to the process for new business owners in town

ME – This is the first time seeing the new forms and it looks good.

Motion to approve a Common Victualler License for PJ-M Food Inc. d/b/a Lovely Pizza pending assurance approval by S. Ferguson 2nd by M. Elfman. Approved, 4-0.

3. 7:05pm Collective Bargaining Agreement Vote - Possible votes on Collective Bargaining Agreements for DPW Local 1702 AFSCME, Police Union Local 379-MCOP AFL CIO, United Steelworkers Unit A and Unit B and Boyden Library Employee Association

No action taken.

4. 7:10pm Warrant Discussion – BOS – Town Counsel Pat Costello*

4.1 Review of Updated Marijuana Article

LG – We won't be taking action tonight but are here to finalize the language in the article. We are looking at this now because it is less new and in our other neighboring communities. Someone did approach us as well and thought about doing it as a Citizen's Petition but that didn't make sense because they could bring it forward but not get the license, this keeps the process more fair. We did some research with Brookline, one of the first to adopt this by-law, also spoke with Town Counsel Pat Costello, we had different meetings with boards and departments to create the warrant article and get feedback. There will be a public hearing on April 14th. There are financial benefits to allowing the sale and cultivation of marijuana.

SF – Is the 6% representative of 3% that is temporary?

BK – There was a chart from the state had a column for revenue and the column for mitigation impact for the first 3 years.

PD – None of the other communities had two columns, I took the column on the left to be the taxes and the column on the right (one town only) to be a one-time payment.

SF – I would be interested to know if that was what we could expect every year.

BK – This is information that we had from the end of 2021.

PG – It is revenue for fiscal year 2021. We don't have an adequate breakdown of the 3% and 3%, most of this would be the highest amount.

BK – The left was the 3% and the other was either the 3% additional or lump sum.

PD – There were big numbers in cities, but I didn't want to put cities in there for that reason it's not comparable

SF – I'd like to know what the specific numbers represent on the chart.

BK – We will update the local financial benefits.

LG – Our role as a town is that we can adopt the license and by-laws for marijuana. The Cannabis Control Commission (CCC) does have a heavy hand in it. Concerns and considerations: we didn't want it around Uptown or residential areas and schools. A question came up on planning board about the ice rink on Belcher Road. We do have the discretion and by special permit to allow it. Updates since last meeting: since we have 10 packages stores we could have 2 marijuana retailers. We had talked about not allowing delivery drivers/couriers but if they are licensed by the CCC we cannot prohibit them from delivering in Town, we can only prohibit Foxborough establishment from delivering in Town.

ME – What about the cultivation discussion?

PC – In order to prohibit we'd have to go to a ballot question that would restrict any particular type of licensee from operating in town.

ME - Is the cultivation the same as retailer?

PC – It is not, but it is considered a marijuana establishment which is licensed by the Commonwealth. In order to prohibit it would have to go on the ballot.

ME – They would apply for a license from us as what?

PC – The only license that is issued is by the CCC. The CCC bears the primary responsibility of vetting operators if they are well suited. At the local level we can adopt a bylaw to regulate the time place and manner. The Board will not issue licenses, the BOS will approve and execute the host community agreement. The Selectmen will have the opportunity to vet and approve the host community agreement that establishes the operation. Then they go in front of the Planning Board to get a special permit along with Building to get the other permits to operate.

LG – How many cultivators could we have in town?

PC – You could have as many as you believe the town is capable of hosting. If you decided not to approve the host community then they are dead in the water. The CCC declared the Local Licensing Authority able to determine whether or not they want to execute a host community agreement. You have to be reasonable, fair, and equitable with the host community agreement. What I suggest we do is to set criteria and a process for the host community agreement and standards that would be applicable when considering a host agreement have this protocol will be improvement and this will allow the Board to rebut anyone who isn't approved.

ME – If someone wants to cultivate a 1,000 sq. ft. would there be anything extra income if the sell to a retailers?

PC – Correct, they would be taxed on percentage of gross sales and community impact fee. That has been most controversial topic currently and being consider at the state level and could affect those practices

SF – It looks like the language around supersede federal law has been removed?

PC – Yes it has been. The bottom line is, if there is a federal or state law that addresses the certain area or subject matter, we cannot adopt local bylaw that supersedes or interferes with that law.

SF – If there is a marijuana retailer, are they limited to just buying marijuana or are there edibles?

PC – They can sell marijuana in any form.

SM – There is no equation for cultivation in terms of liquor licenses.

LG – You don't have to allow cultivation the retail we have to allow at least two without a ballot question.

PC – Cultivation facilities generally require a lot of space and are very secure. In Central/Western Massachusetts have a lot of open land want cultivators in their community. In a community like Foxborough, you would have to vet with the cultivation applicant on the specific location they intended to utilize and their plans for mitigation on sound, odors, noise, etc. Only when the Board is satisfied that it wouldn't negatively impact the town then you would execute the host community agreement.

LG – It would be about a year from start to finish. Proposal slide: 2 retail establishments, no limit on cultivation, social consumption is not allowed and delivery is permitted because we cannot prohibit that. Proposed overlay map: The Planning Board hasn't approved the overlay map but it generally runs along our 2 commercial areas and there are state guidelines of 200 ft. It is a special permit. Next steps will be a Planning Board hearing, then Town meeting vote. If it passes we'll need to adopt regulations. Chief Grace wants to add a bylaw to prohibit the public smoking of marijuana that would be at the Fall Town meeting if this were to go through. To remain competitive we could issue Request for Proposals seeking best financial packages and locations for the community.

PC – There is something on the books, General bylaw Section 162-1 that prohibits consumption of marijuana products on public property that could be enhanced.

LG – Chief Grace has some concerns and wants to discuss that. I think we are in a good place and all boards and counsel has weighed in. Do we want to create a sub-committee to look over the host agreements and then bring it to?

ME – I think we have plenty of time to discuss this.

LG – We still have the last meeting before we take our positions.

ME – Everyone has done a great job handling this.

4.2 Review of Updated Sign Bylaw Amendment Article – Barney Ovrut, Lorraine Brue, Robert Burr

BK – This will allow electronic billboards along Route 95. The concern was number of billboards that could be allowed. We increased the radii which will limit the number of billboards that could be constructed. Based on the input from the Board from this was fewer is better and that has been achieved with the updated plan.

LG – This will get us to a total of 3, which as whole Board we are the most comfortable.

BO – There were 5 potential locations and we put in language that would prohibit a billboard within 1,000 feet of an interchange. We've eliminated a bill board location on 495 and limited it only ones on 95.

RB – When this conversation started. Barney did a good job coming up with language that achieved that.

BO - One interesting aspect, is that there are no billboards on 495 near here. By elimination that we are being consistent with 495.

SF – Where would these signs be?

BO – The Rounds would be where East Belcher and Springbrook come together. It would be where there DPW would be off of Elm where 95 crosses over Cocasset.

SM – Where would the billboard be on Elm Street?

BO – I was told there was no home within 300 feet of where the billboard would be. Ultimately, the application would have to go to the ZBA to get the special permit and that would be taken into consideration.

SM – Is 300 feet enough distance and adequate to be far away from some?

BO – The sign will have to face the highway. The technology will prevent any light. There is no way to get out

LG – None of the structures will be put up in residential areas.

RB – This tells me that this is no issue and adding language has taken into consideration. It is required to notify anyone within 500 feet and to date there have not been any issues at any public hearings. They are 90 feet in the air and minimal non-nuisance noise. This allows them to be considered, but is still subject to a public hearing and special permit process.

BO – We will consider all neighbors' concerns and questions when it comes to permitting.

LG – These bylaws will open the door but not the flood gates.

ME – There will be a new building updates to the DPW.

BK – The point of the 300 feet is consideration was given to give a buffer.

RB – The real focus is to advertise to the highway and get as close to the highway.

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

LG – Where are we at on the articles that we might be removing?

BK – This Thursday, the 21st, is the deadline for that to be determined whether or not those articles will remain.

KL – The submission to the state would be tomorrow and would be there were not residents concerns.

LG – Those will be removed?

BK – Yes.

LG- Are we comfortable with the rest of the articles?

BK – The AdComm has reviewed the articles and is still reviewing the marijuana and billboard, and a Citizen's Petition. The budget was approved except for 2 dissenting votes for the Library budget.

LG – We have not posted the warrant in the Foxborough reporter and probably won't get back to that. The most reasonable option is to put a notice in the paper.

SM – Did we get options for double sided?

BK – Yes and for 32 pages it was quite expensive.

LG – I'm in favor of putting an ad in the paper about Annual Meeting.

SM – Was the Citizen Petition by John Cheblek approve by AdComm?

BK – That wasn't approved and the budget for the library was there were 2 dissenting votes for Library.

ME – I would put the ad out and where you can get the Town Meeting Warrant information.

LG – It think we get the ad out and I think it should be all articles and information. When are we signing and taking our positions.

CM – You sign on April 12th and you can take positions this or next meeting.

SF – Approving it is closing it?

BK – It's closed but you are approving it to move forward.

SM – I'm away for 3 weeks but will try to Zoom in.

5. 7:40pm Final FY23 Budget Review & Recommendations - BOS

5.1 BOS to discuss and give final recommendations on proposed FY23 Budget

BK – A few changes that have occurred since last discussing the budget. We were waiting on health insurance and risk management numbers which we have received. We will have to change both those numbers to the request column because that's the way it's preferred here in Foxborough.

SF – What was the total impact?

BK – It was about .2% but I don't have that number.

GS – I don't have the previous number but it would be .2% about \$160,000.

BK – This is the health insurance which is creating the increase.

ME – We knew that would change from the beginning.

BK –The request number cannot exceed the budget number.

SM – What is your position on the library position?

BK – I included with my proposal, the Ad Comm debated it and ultimately approved it with 2 dissenting votes.

SM – I wouldn't support that because we gave you direction for no new position. I'm also not in favor for the reorganization because it will increase a position.

BK – There are no new positions.

SM – It doesn't matter. The Board said not to add any new positions. I had people ask if there were communities doing this and they said they haven't seen it in years.

BK – I can give you multiple examples of communities that have done this.

SM – We reorganized and created a new position and I felt that not what the Board gave you.

LG – My definition of a new position is an add, a reorg is not in conflict with the direction that was given.

ME – I don't disagree about the library, but I do with the reorg because it's making the departments more efficient.

SM – Now we've taken the overseeing away from Bill and were adding dollars to the position is why I'm opposed.

BK – The library positions is under a separately elected board. The board gives direction, although you are entitled.

LG – the library did come in under budget and there could be questions of why couldn't you find the money before for this position.

ME – My thought is because it's a separately voted board, I would accept Bill's budget as approved with any line item.

SM – We gave all the departments the direction to not have a new position and they didn't follow that principle.

Motion to approve the FY23 Budget as amended by S. Ferguson 2nd by M. Elfman.

Approved, 3-1. S. McGowan opposed.

6. 8:10pm Assistant Town Manager's Update

6.1 Preview and Discussion of Town Manager Review Process and Schedule

MJ – The steps for the evaluation process are TM Self-evaluation to Board, BOS meets individually meetings with TM, Board member evaluations to online portal, summary evaluation by the Chair and Chair presents summary on 6/21/22. As the HR Director I would guide the process but not influence.

LG – I'm comfortable doing this as I've done this before and I would put together the summary to present to the Board. I don't think we would be able to get into 360 but you could reach out to staff and talk to them and have it influence your evaluation.

SM – I thought it was strange that we would look at Bills self-evaluation before doing our own, because it could skew our evaluation.

MJ – The standard practice is to have a self-evaluation then move on the supervisor evaluation. It should inform a supervisor but not influence a supervisor.

LG – Bill added the meetings with individual board members to the process.

BK – The meetings give the opportunity to clarify anything that might be misunderstood.

LG – This aligns with the contract.

MJ – This is the same process used by the Town Manager to evaluate supervisors and department.

BK – Since he is HR and the Assistant Town Manager as well.

LG – I would like the goals as we have them and I don't want it to be a fire drill with this new tool.

Due dates: Self Eval to Portal 5/24/22. Meetings with Manager by 6/6/2022. Individual evaluations to portal 6/7/2022. Summary Eval presentation 6/21/2022. Evaluations based on the 4 Town Manager Goals.

7. 8:20pm Town Manager's Update

7.1 Update on ARPA conversation with Congressman Auchincloss: We met with Congressman Auchincloss last week to discuss project being funded by the state and looking that we could submit for on a regional basis. Looking at the Walnut Street light as well sewer project on Route 1 (\$25 million estimate) this is a unique opportunity to ask to get these projects funded. We also discussed getting the storm water program in Foxborough as well. The project we initially discuss was the walnut street. It is not on the state transportation inmpo program. We've initiated the process to get that on the list. As soon as that is on the list we can get that funded. The second part of the ARPA issue with Norfolk County. I didn't get the answer I was hoping for and how Massachusetts operations is misunderstood on the federal level thorough county. We are trying to take our existing projects funded through county funds and see if we can fit them into the existing buckets of funding. I'm in the process of doing that now but I'm not certain the guidance is sustainable.

7.2 Use of Town Property Approvals – Review of 3 approvals

BK – Mike and I will be attending the ICMA regional conference next week, Wednesday through Friday.

LG – We took a walk through Central Street last, week which the town owns and the layout is not great. I would love to be able to use some of the ARPA funds for that project.

BK – I listed that project and it might work with the ARPA funds. The take away was laying it out the way we want to see it and figure out the issues as they go on.

MJ – We didn't have contracts for tonight but we will have them for next meeting and notified the unions that this would be last night to get those contracts.

8. 8:30pm - Selectmen's Update

8.1 New Business - Rabies Clinic, April 2, DPW 8-10am Cats, 10-12pm Dogs, \$10/vaccination

8.2 Old Business - MBTA Communities/Housing Choice Presentation April 12 BOS meeting

Normandy Farms was the Tri-Town Chamber of Commerce Business of the Year.

ME – I represented the board at Congressman Auchincloss' Town Hall meeting on Saturday.

9. Action Items

9.1 COA - Accept \$300 anonymous donation

Motion to approve a \$300 anonymous donation to the Council on Aging and Human Services Department by S. Ferguson 2nd by M. Elfman. Approved, 4-0.

9.2 Design Review Board - Appointment of Linda Shea to the Design Review Board for a term to end 5/31/23

Motion to appoint Linda Shea to the Design Review Board for a term to end 5/31/23 by S. Ferguson 2nd by M. Elfman.

Discussion LG – Great to have a new property owner on the Design Review Board

Approved, 4-0.

10. Adjourn – 9:00pm

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