

**MINUTES OF THE SELECTMEN'S MEETING
SPECIAL MEETING
FEBRUARY 26, 2013 (amended March 18, 2013)**

PRESENT: Gregory M. Hanley (Chairman), Lewis W. Stone (Vice Chair), Willard J. Boulter, Jr. (Clerk), Arthur P. Boyle, Jr. (Selectman), Daniel Trabucco (Selectman), Edwin J. Thorne (Town Administrator), MaryAnn Smith (Town Clerk), Eugene Fulmine (DPW Director), Ben Bastianelli (DPW Commissioner), Tom Irving (DPW Commissioner), Paul Whitman (DPW Commissioner), Scott Manning, Kay Doyle (Town Counsel), Sabrina Chilcott (Executive Assistant), Michael Melanson (Pembroke Mariner Express), Charlie Mathewson (WATD), and others.

TOWN CLERK MARYANN SMITH: DISCUSSION OF TOWN & STATE PRIMARY ELECTIONS

Town Clerk MaryAnn Smith was present before the Board to explain the finances and logistics of combining the two elections or keeping them separated; the Town election is scheduled for Saturday, April 27th and the State Primary election is scheduled for Tuesday, April 30th. Ms. Smith's recommendation is to keep the two election dates; the single negative is the \$5919 cost differential but there is the potential of financial reimbursement from the state. Ms. Smith stated there is the potential for voter and poll worker confusion with four check in and four check out tables, four different ballots, tallying from one voting machine and wardens performing hand counts. Additionally, with the elections combined, she would have to hire approximately twenty new workers for the election. Mr. Stone stated his concern for getting the process right; he asked Ms. Smith if there was a downside to not combining the elections other than financial considerations. Ms. Smith stated not to her knowledge. Mr. Trabucco concurred with Ms. Smith's recommendation and stated that Town elections are the Saturday after Town Meeting by By-Law and the Tuesday State Primary will be state wide and well advertised as such. Mr. Hanley inquired as to how many voters Ms. Smith anticipates; she stated Pembroke can expect 700-800 for the Town election with more for the Primary. Mr. Boulter moved to accept the recommendation of the Town Clerk for two separate election dates in the Town of Pembroke; Mr. Stone seconded the motion. The vote was unanimously in favor.
6:45 pm MaryAnn Smith exited the meeting.

DPW COMMISSIONERS: REQUEST FOR 2008 VOTED EQUIPMENT BORROWING APPROVAL

DPW Commissioner Mr. Tom Irving explained that there was a list of equipment voted at 2008 Town Meeting for the DPW that the Commissioners are present tonight to request that the BOS authorize borrowing to acquire. The seven items include (1) one ton dump truck for \$50,000, (1) tree department chipper for ~~\$30,000~~ \$65,000 (1) six wheel dump truck with sander for \$170,000, (1) air compressor for \$30,000, (1) Ford F350 pickup truck for \$40,000, (1) six ton dump truck for \$60,000 and \$10,000 for the Mill Street Culvert. Mr. Irving explained that the DPW needs the equipment. Mr. Hanley clarified that the money was authorized but not encumbered; Mr. Thorne confirmed this to be true. Mr. Boulter recalled that in 2008 this vote was to provide funding in the event that equipment failed and needed to be replaced; the Town Meeting vote would have allowed for the Selectmen to individually borrow for each item. Mr. Hanley asked if the February 9th storm debriefing has taken place yet; Mr. Thorne stated that the meeting is Wednesday at 2:00 pm. Mr. Hanley voiced concerns that arose from the storm with failing equipment and inquired about the specific items listed; the 2008 needs may not be relevant today, (and the list contains a \$65,000 chipper) where generators proved to be necessary. Mr. Thorne stated that these items were voted therefore they are the items up for discussion, but the Special warrant within the Annual warrant is due to open for necessary requests. Mr. Hanley voiced concerns with borrowing; Mr. Thorns stated the Town is well under its debt limit. Mr. Bastianelli stated the DPW has a need for each of these items and cited the chipper as an example; the DPW cannot move or chip brush adequately or effectively and while they can get to a location, they cannot respond properly or quickly enough. Mr. Fulmine stated that the chipper and dump truck with sander are vital. Mr. Boulter stated that 2008 saw many wish lists from various departments; the votes weren't intended to purchase everything on the lists submitted. Mr.

Bastianelli stated that the equipment is rapidly depreciating and some equipment, while not broken, is breaking down.

Mr. Hanley asked Mr. Fulmine to prioritize the seven items listed; Mr. Fulmine stated that the chipper will increase in price by \$10,000 next year due to emission standards, the last six wheeler that the DPW received was in 2000, and his sanders are twenty-two years old. Mr. Fulmine stated that he will have an article for the Special for the DPW generator that he will submit with the Fire and Police Chief. Mr. Boulter moved to immediately authorize borrowing for a tree department chipper and for a six wheel dump truck with sander. Mr. Stone seconded the motion. Mr. Trabucco voiced his concerns about the Commissioners approach to requesting funding for all items on this list when they were intended for emergency replacement but he stated he has no objection to this motion. The vote was unanimously in favor.

7:05 pm Eugene Fulmine, Ben Bastianelli, Tom Irving, Paul Whitman and Scott Manning exited the meeting.

PERTINENT DISCUSSION OF ARTICLE ON WARRANT

Ms. Kay Doyle from Kopelman and Paige was present before the Board to clarify that MGL c48 s5 prevents Town Meeting from taking a vote on Article 3 in light of the lack of a recommendation from the Planning Board. The Article can be discussed if the Moderator chooses to allow such discussion, but there may be no vote. Discussion ensued; Ms. Doyle explained that two e-blasts were sent to clients. The first explained the law and advised communities to review their Zoning by-laws to determine whether or not they are prohibitive, meaning "if a use is not authorized, then it is deemed prohibited". Ms. Doyle stated that Pembroke's Zoning By-Laws are prohibitive. Further, Ms. Doyle stated that, if the by-laws are prohibitive, is there anything in the by-laws that could be interpreted to authorize medical marijuana. Ms. Doyle stated a second memorandum was distributed regarding temporary moratorium, as the Department of Public Health is struggling, under a very tight deadline, in the language of the law to come up with regulations by May 1st. Ms. Doyle stated that they have given indications that they will not meet the deadline. Ms. Doyle confirmed that, without DPH regulations, no dispensary called Medical Marijuana Treatment Centers under the law will be able to get licensed because they have to be licensed by DPH before they can open up as a treatment center. What can go on now is Hardship Cultivation; even after the DPH issues its regulations, there will be some individuals who cannot get to a treatment center due to physical capabilities or physical distance. They will be allowed to be registered to grow their own in a locked, closed facility where they can grow their own marijuana to be used for medical purposes. Until the regulations are issued by DPH, the only requirement will be a doctor's note. Ms. Doyle advised that communities look at whether or not they would like to enact a moratorium on dispensary licensing because that is considered a more obtrusive use to the community. That will give communities an opportunity to study what has happened in other states surrounding dispensaries how it has had an impact on law enforcement, health, fire and public safety issues. This research will aid in deciding where to locate them down the road. Mr. Hanley inquired if 1500 linear feet is too prohibitive; Ms. Doyle stated that the Attorney General's office is reviewing moratorium by-laws now to see if they will stand or be overturned. Mr. Trabucco asked about Town's that have chosen to be alcohol free and inquired why the same option is not viable for marijuana; Ms. Doyle explained that the concern is the legal requirement imposed by the law of one treatment center per county. If other towns in a county ban them, the remaining town will be required to license the treatment center. Ms. Doyle stated the Attorney General is concerned with towns undermining the premise of the law; the ruling should be coming out soon. Mr. Hanley asked if the Board would like to see a draft of a moratorium article; the Board concurred. Mr. Hanley inquired as to the process of enacting a moratorium; Ms. Doyle stated it goes through the Planning Board with a Public Hearing. Mr. Stone had concerns doctors writing prescriptions for individuals to grow their own marijuana at home and the lack of regulation. Ms. Doyle stated there has been discussion about possible Board of Health or Electrical permitting without disclosing it to the public through the Special Permitting process to protect individuals from potential theft or crime. Mr. Stone inquired about the definition of a sixty day supply limit; Ms. Doyle stated that has yet to be defined and the DPH is holding listening sessions to assist in drafting language. Discussion ensued on the question of state versus federal legalities.

7:30 pm Mike Melanson and Charlie Mathewson exited the meeting.

Mr. Stone moved, seconded by Mr. Boyle, to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares. Mr. Hanley declared it to be so.

Roll call vote: Stone, yes - Boyle, yes - Trabucco, yes – Boulter, yes - Hanley, yes.