

# MINUTES OF THE SELECTMEN'S MEETING FEBRUARY 6, 2017

**PRESENT:** Lewis W. Stone (Chairman), Willard J. Boulter, Jr. (Vice-Chairman), Arthur P. Boyle, Jr. (Clerk), Daniel Trabucco (Selectman), Matthew J. Furlong (Selectman), Edwin J. Thorne (Town Administrator), Kathleen McCarthy (Treasurer/Collector), Michael Buckley (Town Accountant), William Hart (Animal Control Officer), Erin Obey (School Superintendent), Christopher Peltier, Dean Cavicchi, Scott Lally, Shannon Wilson, George Howe, Marty Cournan, Jen Johnson, Charles Mathewson (WATD), Bonnie Pajick, Sabrina Chilcott (Executive Assistant), and others.

At 7:00 pm, Mr. Stone opened the meeting and advised that this meeting is being made available to the public through a live video and audio broadcast on Comcast Government Access Channel 15 and is also being recorded for airing on the channel at future dates. Comments made in open session will be recorded.

## ANNOUNCEMENTS

The Open Space Committee is working with the Conway Graduate School of Landscape Design to complete Pembroke's Open Space Plan and have compiled a survey to assist them in updating the needs of the Town of Pembroke. The survey is available on the town's website and Facebook page. There will be a presentation at a public forum/community meeting to be held on March 2<sup>nd</sup> at 7:00 p.m. at the Pembroke Public Library. Mr. Stone advised that the results of textile recycling at the six town receptacles in January of 2017 yielded \$338.25 to the Pembroke PTOs.

## 7:00 TREASURER/COLLECTOR KATHLEEN MCCARTHY: AWARD OF BOND SALE

Ms. McCarthy was present before the Board to announce that the town had 19 issues that were awarded in a bond in the form of a ten year note to Morgan Stanley & Company at 1.84% total interest cost; all of the items had been approved at Town Meeting. Further, Ms. McCarthy stated that Standard and Poor has just affirmed the Town of Pembroke's AA stable outlook. Mr. Trabucco moved to appoint Willard J. Boulter temporary Clerk this evening in Mr. Boyle's absence; Mr. Furlong seconded the motion. The vote was unanimously in favor. Mr. Boulter moved that that the sale of the \$2,853,000 General Obligation Municipal Purpose Loan of 2017 Bonds of the Town dated (the "Bonds"), to Morgan Stanley & Co., LLC at the price of \$2,998,029.44 and accrued interest, if any, is hereby approved and confirmed. The Bonds shall be payable on February 1 of the years and in the principal amounts and bear interest at the respective rates, as follows:

| <u>Year</u> | <u>Amount</u> | <u>Interest<br/>Rate</u> | <u>Year</u> | <u>Amount</u> | <u>Interest<br/>Rate</u> |
|-------------|---------------|--------------------------|-------------|---------------|--------------------------|
| 2018        | \$418,000     | 4.00%                    | 2023        | \$230,000     | 3.00%                    |
| 2019        | 395,000       | 4.00                     | 2024        | 225,000       | 2.00                     |
| 2020        | 385,000       | 4.00                     | 2025        | 190,000       | 2.00                     |
| 2021        | 385,000       | 4.00                     | 2026        | 180,000       | 2.25                     |
| 2022        | 355,000       | 4.00                     | 2027        | 90,000        | 2.25                     |

and further, that in connection with the marketing and sale of the Bonds, the preparation and distribution of a Notice of Sale and Preliminary Official Statement dated January 26, 2017, and a final Official Statement dated February 2, 2017, each in such form as may be approved by the Town Treasurer, be and hereby are ratified, confirmed, approved and adopted; and further, that the Town Treasurer and the Board of Selectmen be, and hereby are, authorized to execute and deliver a continuing disclosure undertaking in compliance with SEC Rule 15c2-12 in such form as may be approved by bond counsel to the Town, which undertaking shall be incorporated by reference in the Bonds for the benefit of the holders of the Bonds from time to time; and further, that we authorize and direct the Treasurer to establish post issuance federal tax compliance procedures in such form as the Treasurer and bond counsel deem sufficient, or if such procedures are currently in place, to review and update said procedures, in order to monitor and maintain the tax-exempt status of the Bonds; and that each member of the Board of Selectmen, the Town Clerk and the Town Treasurer be and hereby are, authorized to take any and all such actions, and execute and deliver such certificates, receipts or other documents as may be determined by them, or any of them, to be necessary or

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convenient to carry into effect the provisions of the foregoing votes. Mr. Trabucco seconded the motion. The vote was unanimously in favor, 4/0.

### **7:10 CHRISTOPHER PELTIER, 99 RESTAURANTS OF BOSTON, LLC: CHANGE OF MANAGER CVAA LICENSE # 00051-RS-0960 (0960 00051) AT 166 CHURCH STREET**

Mr. Stone advised the Board that 99 Restaurants of Boston, LLC d/b/a 99 Restaurant & Pub at 166 Church Street is requesting a change of manager from Stephen Showstead to Christopher Peltier. The corporate office has submitted all required paperwork to proceed with this transaction. New manager Christopher Peltier is present before the Board. Mr. Trabucco moved to grant the request of the 99 Restaurants of Boston, LLC d/b/a 99 Restaurant & Pub for a change of manager for Common Victualer All Alcohol License# 00051-RS-0960 (aka 0960 00051) exercised at the 166 Church Street, Pembroke location from Stephen Showstead to Christopher Peltier; Mr. Furlong seconded the motion. The vote was unanimously in favor.

### **DISCUSSION: REVIEW OF MINUTES POSTING TO TOWN WEBSITE, BOS EXECUTIVE SESSION MINUTES OF JANUARY 12, 2015**

Mr. Stone stated that the percentage of minutes posted to the website (versus agendas) remains under 60% and will never be at 100% because agendas must necessarily outpace minutes. However, Mr. Stone stated that the Board is seeking an improvement from the 56% as it stands now. Discussion ensued. Mr. Stone stated that he would put together a letter to the boards, committees and commissions regarding this issue. Mr. Stone stated that he wanted to clarify an issue raised by the Advisory Committee regarding the Selectmen's executive session minutes of January 12, 2015. They stated that they were unhappy with the content. Mr. Stone stated that the office works closely with town counsel and executive session minutes have been reviewed by town counsel; their opinion as stated on January 6, 2017 whereby they "have reviewed the minutes provided to the Advisory Committee. In my opinion, the substance of the executive session meeting minutes complies with the Open Meeting Law's requirements. Specifically, the meetings provide details regarding the meeting, the members present, votes taken and a summary of the Board's discussion on the topics under review." Mr. Stone stated the name of the individual responsible for the production of the minutes and stated that the board has full confidence in this employee and their work product.

### **REQUEST FROM RAGNAR EVENTS, MIKE DIONNE, RAGNAR CAPE COD RELAY RACE'S USE OF THE TOWN'S ROADS ON FRIDAY, MAY 12, 2017: OLD OAK STREET, UNION STREET, CHURCH STREET (EXCHANGE #3)**

Mike Dionne, Race Director of the Ragnar Relay Series, has requested to use the Town's roads during the course of the 200 mile Cape Cod Relay from Nantasket Beach to Provincetown. Police Chief Richard Wall is extensively reviewing this request now; attached please find the race details, specifically as they relate to "Exchange 3" which is the North River Community Church on Old Oak Street. They seek to enter the town of Pembroke (briefly) running against traffic on Union Street in Marshfield, where it turns into Old Oak Street. They will hire, at their own expense, a police detail stationed at the Old Oak Street entrance to the North River Community Church, which has offered their facility for the day to be an exchange location where relay running teams switch off their runners. After the exchange, the runners exit the parking lot and take a right to continue on Old Oak Street, take a left onto Route 139, take a left onto School Street and continue back into Marshfield. The date and time that the runners will begin entering Pembroke is Friday, May 12<sup>th</sup> from 7:30 am and could continue throughout the day until 6:30 pm. Mr. Boulter moved to grant the use of the Town's roads for the Cape Cod Relay Road Race held by Ragnar Events on Old Oak Street, Union Street and Church Street on Friday, May 12<sup>th</sup> from 7:30 am to 6:30 pm conditionally upon the approval of the Chief of Police. Mr. Furlong seconded the motion. The vote was unanimously in favor.

### **VOTE TO SET A DATE, MINIMUM BID: SURPLUS PROPERTY AUCTION, BARTLETT STREET, ASSESORS PARCEL ID B2-3115**

Mr. Stone stated that previously the Board heard a request for a surplus real property auction for the auction of a parcel on Bartlett Street, Assessor's map and parcel B2-3115. Anticipated hard costs associated with advertising, legal costs and the assessed value of parcel B2-3115 is \$1,200.00 with soft costs of the same amount. Mr. Trabucco inquired as to whether there were other parcels eligible for surplus auction at this

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time; Mr. Thorne stated that a review of those parcels revealed other factors that make the ineligible at this time. Mr. Boulter recommended postponing this item until Mr. Boyle arrived. Mr. Stone declared it so. Item was postponed until later in the meeting.

### **MINUTES OF JANUARY 30, 2017**

Mr. Trabucco moved to accept the minutes of January 30, 2017 as presented; Mr. Furlong seconded the motion. The vote was unanimously in favor.

### **OLD BUSINESS**

Update on Application for Site Eligibility under MGL c.40B to MassHousing: 274 Water Street  
Mr. Stone advised that the Board heard a presentation from the developer and the concerns of the abutting residents on January 30<sup>th</sup>. North River Commission Representative and Selectman Mr. Boulter updated the Board; the Commission has not yet seen an application or heard from the developer, so there is no project to assess. Mr. Boulter has issued a letter regarding the project and his concerns as the NRC Representative to be included in the town's response. Primarily, Mr. Boulter is concerned with the inaccuracy of the project data as submitted, as the "existing conditions" map is over 14 years old with wetlands flagging that was never certified and appears inaccurate, rendering the project plans faulty. Mr. Trabucco expanded on the errors in the wetlands delineation as they appear on the map and submitted for site plan approval, and explained that they do not take the updated FEMA maps into consideration. While the developer is putting forth the largest possible project with a hope to meet in the middle, the Board has made it clear that they will fight this project location to the fullest extent possible. Conservation Agent Robert Clarke was present to share his observations from the site walk; Mr. Clarke stated that he was forced to view the site from 60' away in a driveway and could see nothing; the entire parcel appears wet when viewing from the highest point. Mr. Clarke stated that the flagging under the older wetlands delineation manner has no value today as the markers have not been verified. Mr. Clarke stated that the wetlands is much higher than in 2002; wetlands have a 50' allowance around them for building and the required wetlands crossing will have major issues. The highest point is 20' above sea level and it drops to 6'. Mr. Clarke explained that the requirement of creating a wetlands crossing, or using /converting a piece of wetland, is to replicate the piece used; Pembroke requires that 2½ feet be converted for every 1 foot used. Mr. Clarke additionally pointed out that the waste treatment plant will be on the other side of the crossing, requiring sewerage lines to pass through the wetlands which are very problematic. Ms. Wilson of 248 Water Street stated that two feet from her property line is a trench that the developer dug to perc test the area and it is constantly full of water; she states that the uplands is nowhere near the amount that the developer has depicted on the map. Mr. Clarke confirmed that there are numerous test pits dug and most show the holding of water. Mr. Clarke explained that the process will require the developer to hire professionals to survey the wetlands delineation line and bring to the Conservation Commission; the town can hire a professional, at the developer's expense, to go and determine the line, then the two parties must agree to the line.

At 7:50 p, Mr. Boyle arrived.

Mr. Boyle recapped the Boards position and stated that the town needs to work with the North River Commission, North South Rivers Watershed Association and other environmental groups to stop what is a terrible plan. Mr. Howe of 285 Water Street stated that he has done research that shows the majority of projects get approved to some extent and inevitably get built. Mr. Howe asked on what criteria the projects are evaluated. Mr. Trabucco explained that 40B projects usurp local permitting controls and zoning regulations; if a town is under 10% there is no avenue for debate. Mr. Howe asked if the 10% figure is a rolling number, and Mr. Trabucco explained that the percentage changes with new building figures. Mr. Trabucco stated that other projects may not be the best projects, but can be accommodated; this location will not support the project, the roadways are too narrow and this creates a public safety issue. Mr. Cournan asked if the Assessors have completed the land mass calculations as of yet; Mr. Stone advised no. Mr. Cournan asked if the Police and Fire Chiefs will provide feedback for the response, and he was advised that they will. Mr. Thorne stated that there are several state agencies that the town has enlisted to provide aid, and their comments are forthcoming. Mr. Cournan asked how long MassHousing takes to respond once the town has submitted their response; Mr. Thorne stated that the town has previously experienced a four to six week

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period. Mr. Boyle suggested establishing an email distribution list for notification to abutters of significant events as the process goes forward.

At 8:20 pm, the Water Street abutters exited the meeting.

### **VOTE TO SET A DATE, MINIMUM BID: SURPLUS PROPERTY AUCTION, BARTLETT STREET, ASSESORS PARCEL ID B2-3115**

Mr. Boyle stated that minimum bid to cover both hard and soft costs must be set, and proposed \$2500. Discussion ensued on the quantity and type of bidders that could be anticipated on this sliver of land. Mr. Boulter moved to set a minimum bid of \$2500. Mr. Boyle seconded the motion. The vote was unanimously in favor. Stone stated that previously the Board heard a request for a surplus real property auction for the auction of a parcel on Bartlett Street, Assessor's map and parcel B2-3115. Anticipated hard costs associated with advertising, legal costs and the assessed value of parcel B2-3115 is \$1,200.00 with soft costs of the same amount.

### **OLD BUSINESS**

Mr. Hart was present before the Board regarding the dog hearing held on March 14, 2016, whereby the Board voted to hold owner of American Bulldog mix "Abram", Arthur Lally, responsible for certain conditions and to remove the animal if those conditions were violated. Mr. Lally agreed and signed an Order stipulating those conditions. The dog, "Abram", was not declared a dangerous dog; the Order was to address animal ownership challenges of Arthur Lally. On June 18, 2016, the Order was violated and the removal order for Abram was reinstated automatically per the terms of the Order. Mr. Lally immediately re-homed the dog out of town that same day. On Saturday, February 4, 2017 at 6:00 pm, Animal Control Officer Bill Hart seized Abram at 215 Pelham Street. Abram remains at the Pembroke Animal Pound. Mr. Lally's son Scott Lally has requested that the Board consider voting to release Abram for the express purpose of being transported into the care and custody of Last Hope K9 Rescue, a no-kill animal adoption center (who specialize in this type of animal) to be fostered and ultimately re-homed professionally outside the Town of Pembroke. Mr. Hart stated that he is in agreement and recommended that the Board require Mr. Scott Lally to sign an agreement to the effect that the animal is released and that Abram will not return to Pembroke. Mr. Boulter moved to allow the ACO to release Abram at Scott Lally's request to certified third party agent Last Chance K9 Rescue or other suitable agency outside of Pembroke with the approval of Animal Control Officer Bill Hart; Mr. Trabucco seconded the motion with the friendly amendment of establishing a date certain of two weeks. The vote was unanimously in favor.

### **TOWN ADMINISTRATOR'S REPORT**

Mr. Thorne stated that he is ready to submit the application to the Department of Public Utilities for the net meeting agreement at the landfill but will require a vote to authorize him to sign it. Mr. Trabucco moved to authorize the Town Administrator to execute the net metering agreement for the solar project at the landfill; Mr. Boyle seconded the motion. The vote was unanimously in favor.

Mr. Thorne updated the Board on the Department Head meeting held Friday regarding the FY18 budget; he explained local receipts were maximized by budgeting what was collected last year. Mr. Thorne stated that the town is seeing a marked increase in fixed costs for FY18; Mayflower Health Group is proposing to blend the rate and increase all participants 19%, instead of apportioning the costs. The cost increases were attributed 7% to GIC look-a-like subscribers, 11% to rate-saver subscribers (Pembroke) and 24% to those communities still offering the legacy plan. Mr. Thorne stated that Hingham, Scituate, Abington, Rockland and the Abington-Rockland Water District announced that they were leaving MHG in July. Mr. Thorne stated that, based on a projected 19% increase plus the cost of 24 additional subscribers, bring total enrollment to 660, he is allocating 21% to this increase, or an increase of \$1.5million over last year. Mr. Thorne will be presenting a balanced budget to the Advisory Committee on Monday, February 13<sup>th</sup>. Mr. Stone asked if this will affect free cash, and Mr. Thorne stated that it does but does not affect stabilization. Discussion ensued on alternatives to Mayflower Health Group and the possible management issues. Mr. Thorne again explained the absence of a weighted vote and its effect. Mr. Trabucco inquired as to the management of MIIA (Massachusetts Interlocal Insurance Association) and Mr. Thorne stated it is through the MMA, and the towns rates are based on their own experience, not blended with other towns. Mr. Thorne

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stated that the town will be researching alternatives and he will report back to the Board. Superintendent Erin Obey was present to advise that level funded budgets do not fund the collective bargaining agreements in place for the School Department, as they fund their CBAs outside of the operating budget. The School Committee will meet tomorrow night to finalize their budget. Mr. Thorne assured the Board that he will work closely with the School department.

Mr. Stone read the upcoming issues from the agenda.

At 9:05 pm, Mr. Boulter moved to adjourn. Mr. Furlong seconded the motion. The vote was unanimously in favor.

### **MATERIALS & EXHIBITS**

Motion for Award of Bond Sale, Treasurer/Collector K. McCarthy (Treas/BOS/TA Office)

Application, related Documents: 99 Restaurants of Pembroke, LLC re: Change of Mgr (BOS/TA Office)

Public Records Request & Response (Exec. Session Minutes): Advisory Committee (Adv/(BOS/TA Office)

Email from KP Law, E. Thorne re: Public Records Response (BOS/TA Office)

Email, M. Dionne Ragnar Relay: Cape Cod Relay Race App for Use of Town's Roads (BOS/TA Office)

Assessors Records, ZBA Decision, Letter, D. Cavicchi re: Bartlett Street B2-3115 (BOS/TA Office)

Draft Minutes of January 30, 2017 (BOS/TA Office)

40B Application Excerpts: TA memorandum to Town Depts Regarding 40B Receipts (BOS/TA Off/website)

Letter of Receipt from MassHousing (BOS/TA Off/website)

Cover Letter to MassHousing from River Marsh LLC (BOS/TA Off/website)

Three Area Maps (BOS/TA Off/website)

Application Section 1.0 through 1.3 (BOS/TA Office)

Town's Response to MassHousing RE: Copperwood (BOS/TA Office)

Letter, B. Boulter NRC Rep, Regarding 40B Proposed Project

Police Reports, Correspondence to A.Lally, Order of Conditions re: Abram (BOS/TA Office)