



Board of Selectmen Board of Selectmen Meeting Minutes January 25, 2022

The regular meeting was called to order at approximately 5:30 p.m. by Chairman Mark Forest. Selectmen present: Mark Forest, Tracy Post, Michael Stone, and Dan Horgan. Peter Q. Smith arrived approximate 10 minutes after the meeting began. Also attending: Town Administrator Robert Whritenour, and Assistant Town Administrator William Scott.

Chairman Forest read the advisory as required by Massachusetts General Laws, Chapter 30, Section 18-25, and pursuant to Chapter 20 of the Acts of 2021, an Act relative to extending certain COVID-19 measures adopted during the State of Emergency, signed into law on June 16, 2021, that the public was welcome to attend the meeting either in person or via the alternative public access. The Chairman then led everyone in the Pledge of Allegiance.

1. Town Counsel Interview: KP Law, P.C.

Attorneys Lauren Goldberg, Greg Corbo and Brian Mazer from KP Law, P.C. came before the Selectmen. Atty. Goldberg apologized for the firm's absence at the previous meeting, due to one of the partners being diagnosed with COVID-19. She provided a brief history of the firm, and she stated that the firm represented clients across Massachusetts. The firm currently employs 44 lawyers. If the firm was chosen as Town Counsel, Atty. Corbo would act as Yarmouth's lead attorney, and Atty. Mazer would act as his backup and primary contact for labor and employment services. She stated that the firm also provides a very strong bench, with legal specialists in every area of municipal law. Atty. Corbo introduced himself, and then talked about his and his colleagues' connections with the Cape Cod area. He told the Board that the firm now had an office in Hyannis. He acknowledged that, while every town faced issues that were similar, the Cape and other coastal communities had unique concerns, such as regarding wastewater or having a sole source aquifer. Atty. Mazer then introduced himself and thanked the Board for the opportunity to interview.

Chairman Forest began the questioning, noting that KP Law was a very large firm representing numerous municipalities, and asked how they proposed to provide high quality personal service to Yarmouth in a way that the Town would not be "lost in the shuffle." Atty. Sorbo stated that the Town would be assigned a team of attorneys, allowing for personal connections to be made. There would not be a "revolving door" of attorneys or an attorney-of-the-day. He would be the lead attorney, so all contact would be through him, and he would provide responses within in the day or by the next. He said their system had been working for over twenty years. Atty. Mazer added that the number of municipalities which continue to remain as their clients speaks to the firm's responsiveness and attentiveness.

Selectman Stone asked them to describe the benefits of choosing a firm of their size and stature rather than a smaller firm. Atty. Goldberg stressed their access to specialized information, so hiring special counsels would not be necessary. She said they frequently meet and discuss new cases or new laws, arguing with each other about the best interpretation or the most reasonable way to look at issues. What results from these meetings, would be provided across the board to

their different clients. If you asked one attorney from the firm a specific question, and then another attorney from the firm that question, you would not get different answers.

Selectman Stone followed up asking if they represented the Town of Dennis, to which Atty. Goldberg replied affirmatively. Mr. Stone said that there had been past litigation with the Town of Dennis, as well as some money issues. He asked what the firm's position would be if the firm were to represent Yarmouth and a conflict arose with Dennis. He asked if they would disqualify themselves from representing both towns. Atty. Goldberg replied that it would depend on the situation. If the two communities see eye to eye on the topic, then the firm would do disclosures, get consent, and then represent both parties in the transaction. If conflicts ever did arise between the two towns, then the firm would recuse itself completely, and assist in finding successor counsel. She said that did not happen frequently. Atty. Corbo added that most issues between neighboring towns could be worked out amicably. Sometimes intermunicipal agreements can facilitate that. However, if disputes arose, the firm would not choose a side in that circumstance, nor pit one client against the other.

Selectman Stone then asked about quality control with respect to client relationships, in order to monitor performance in the delivery of legal services. Atty. Corbo reiterated how he acts as the primary contact or gatekeeper when it comes to services. If for whatever reason Yarmouth was dissatisfied with a product it received or with the service provided by one of the attorneys, he would address that with the Town. He would make sure all mistakes would be resolved to the Town's satisfaction. Atty. Mazer added that KP Law had a deep bench of attorneys to assist if necessary. Atty. Goldberg said that KP Law had formal and informal benchmarks in place to measure quality. She said that annual and semi-annual reviews are done from an administration perspective for both associates and shareholders. As performance is their reputation, they have a huge stake in being sure that everything that comes out of their office is well researched and correct.

Selectman Stone asked if they recommended strategies in assisting the Town in managing and containing legal costs so that Town would not be placed in legal jeopardy. Atty. Goldberg said that, for the most part, clients could reach agreements without going to trial. By reaching a settlement or an understanding that avoids litigation, huge expenses would be avoided, which would be the best outcome for both the Town and the firm. Atty. Corbo added that there were two primary ways they could help minimize legal fees for their clients. The first was through education on what the laws or rules are, by offering training. The other was due to their breadth of experience and knowledge, answers could be provided without hours of additional research. That level of efficiency ultimately saved the client money in the long run. Atty. Mazer said that they were also very good at being proactive versus reactive.

Selectman Horgan asked how many Massachusetts municipalities were represented by KP Law. Atty. Goldberg said that the number often changed, but most recently it was 133 municipalities. Mr. Horgan asked how many of those were on the Cape or were a seaside coastal community. Atty. Goldberg said that she had not counted, but KP Law had experience with many coastal communities, including Provincetown, Truro, Wellfleet, Eastham, Sandwich, Dennis, Harwich, Brewster, Nantucket, Tisbury, and others.

Selectman Horgan asked what some of the issues were that KP Law saw involving wastewater development in towns, particularly on the Cape, and asked how the firm was best equipped to represent Yarmouth. Atty. Corbo said that he had handled a number of wastewater issues and that it was a challenging situation to deal with, both from a regulatory standpoint and

from a practical standpoint. He said the Cape had its sole source aquifer, and there were limited opportunities to dispose of wastewater, so advanced treatment was essential. He said the firm had experience in the regulatory aspect of wastewater disposal, as well as experience in negotiating agreements between communities to regionalize their wastewater disposal. They also had experience in smaller wastewater issues in terms of onsite septic disposal, Title 5, and more stringent local regulations.

Selectman Horgan asked about office hours and how they interfaced with towns in terms of answering questions that came up. Atty. Goldberg said that it varied from community to community as each had different needs and personalities, but they offered office hours for those that wanted it, especially at the beginning meeting with key staff and board chairs. Some towns have a retainer agreement with formal office hours. She said in some instances it was just as easy to hop onto a Zoom meeting, to ensure that clients see them when they want to. Other times, such as when zoning plans need to be reviewed, in-person meetings are needed. Atty. Corbo added that in most towns, recommended policy is that any requests for access to Town Counsel first go through the Town Administrator so that costs would not get out of control.

Selectman Horgan said he was happy to see KP Law represent so many Cape towns, however, he was concerned about Town Meeting time, and the Town's desire to have Town Counsel available for the meeting. He asked what would be done if there were conflicts. Atty. Corbo said that they did everything they could to ensure that the primary contact would be the person attending the municipality's Town Meeting. If the primary contact could not be there, someone who was qualified and knowledgeable of the issues would be there so the Town would never be without counsel. Atty. Goldberg stated that planning schedules begin early, so that conflicts can be resolved in advance if possible.

Selectman Smith asked what they would do if the client chose to ignore their advice. Atty. Goldberg stated that frequently happened, and it was their role to inform their clients about options that existed under the law, explaining what would be risky or a longshot or explaining what would be positive. The client would make the decision on policy, so if a principle was important, even if a longshot, the firm would represent the client zealously.

Selectman Smith then asked about Chapter 91 issues, erosion, accretion, etc., asking if they had dealt with similar issues. Atty. Corbo said that the previous year he had represented the Town of Dennis in a dredging case with an abutter claiming the beach belonged to them. He said he handled that case up through the Appeals Court and was successful in defending Dennis against that claim. He said the firm had many people who dealt with similar issues regularly.

Selectman Post had no questions for the attorneys.

Selectman Stone noted that in response to the RFP, there was no specific monetary proposal in terms of anything other than an hourly rate, whereas Mead, Talerman, and Costa provided specific dollar amounts of what services would be covered by a retainer, and what hourly rate were charged for things that were not covered. He wondered why neither KP Law nor Murphy, Hesse, Toomey & Lehane did not respond to the RFP with that same specificity. Atty. Goldberg said that they do not provide a specific number for a retainer as they do not have any idea what services the Town would like the retainer to include initially.

In closing the attorneys thanked the Board for their time and their thoughtful consideration.

2. Public Comments

Vida Morris, resident, stated she found it fascinating, listening to the presentation, that KP Law did not acknowledge that they interacted with the Town of Yarmouth in the past in the case of Bay Colony Railway, with an original judgment of \$800,000. KP Law took over the case on appeal, and lost, resulting in the Town of Yarmouth having to pay over \$1.6 million. Ms. Morris also recounted a case involving the new district school building, in which KP Law represented the Town of Dennis. She said that she felt it would be an untenable situation to hire a firm which was involved with one town already.

Joe Glynn, resident, appeared via Zoom. He was trying to determine the Annual Town Meeting date as he could not find it on the website. The Town Administrator replied that it was on the 2023 budget schedule on the website. It was established by bylaw as the final Tuesday in April, which this year would be April 26, 2022. Mr. Glynn then stated, upon learning that only one person was interested in becoming a representative to the Cape Cod Commission, he was concerned that the Town's process in communicating information to the community was not sufficient. Mr. Glynn then commented about how he was not individually emailed about the Housing Summit, and how there was a conflict in timing with the Housing Authority meeting. He also noted that the Housing Summit, held at the Senior Center, was not televised although it was an important topic for the Town.

Christina Dunham, President of the Yarmouth Chamber of Commerce, announced to the Board that a new business, Fabulous Finds, had opened at Lighthouse Landing, which now was filled 100% to capacity. She said that Lighthouse Landing owner, Frank Mastromauro, has been an exemplary example in Yarmouth, holding a high standard of maintaining his property, and being a good neighbor to the adjacent businesses and residences.

Tom Sullivan, resident, wanted to follow up on Ms. Morris' statements regarding KP Law, providing history of their aggressive representation for Dennis during the lawsuit, with multiple motions dismissed or denied. He believed that the Board should consider these past actions when deliberating on the hiring of Town Counsel.

3. COVID-19 Update

Health Director Bruce Murphy thanked the Assistant Town Administrator for creating the new PowerPoint format for the COVID updates. He then proceeded to give the most recent statistics. As of January 23, there were 113 active cases. Daily cases decreased a little bit, but as of the previous day, notice of 74 new cases was received by the Health Office. Mr. Murphy said that the previous week Yarmouth had the largest number of new cases in Town (272), but over the week the numbers dropped to 113. Yarmouth's positivity rates increased to 22.91%. Mr. Murphy stated that according to criteria published by the World Health Organization in May, a positivity rate less than 5% is one indicator that the pandemic is under control. Several months ago, Yarmouth's positivity rate had been down to approximately 8%, however it has shot up recently again. The State's positivity rate is 20.61%. Hospitalization rates also increased per data from the County Health Department. According to the Department of Public Health, the percentage of Yarmouth's population vaccinated is 77%.

Selectmen Post and Smith questioned accuracy of some of the records, due to booster shots not necessarily being reported. Mr. Murphy said that clinic numbers go into the State's data base, but the reporting may be delayed.

Mr. Murphy announced the Booster Clinic that was to take place at the Senior Center on January 27, as well as noting the other upcoming clinics offered by the County Health Department on Wednesdays, and clinics held at Cape Cod Community College three days per week. Local pharmacies are also providing vaccinations. Mr. Murphy said that testing for the virus is available at Cape Cod Melody Tent three days per week and is also available at Cape Cod Healthcare testing sites by appointment. Test kits can be ordered through the United States Postal Service to be delivered to households by the end of January. The Phase 1 distribution of test kits through Community Development has been completed. Phase 2 is scheduled for February, with kits ordered, awaiting delivery.

Selectman Stone asked about days required for quarantines, and testing recommendations. Mr. Murphy said that testing should be done if symptomatic. Some may just assume that they are positive if they live in a household with someone diagnosed with COVID. He said people should wait four to five days after exposure to take a test, otherwise it may not give an accurate reading and show a false negative. Mr. Stone asked if there was guidance in how to take the tests. Mr. Murphy replied that the tests were "user friendly" and easy to administer with instructions.

Board of Health Chairman Hillard Boskey thanked the Health Director and Assistant Town Administrator for their work on the PowerPoint presentation, and said he was looking forward to seeing it active on the Town's website. He explained regarding quarantining that the CDC dropped the number of days to five, however, if the person is symptomatic, the person would need to stay home regardless the number of days. After five days the person should speak with a health professional. Dr. Boskey also stated that the Board of Health recommends the wearing of N95 masks.

Board of Health member Mary Craig commented on the importance of boosters. She said that the CDC published an analysis that showed the risk of hospitalization was decreased by 90% due to booster shots.

Vida Morris asked what the protocol was during the epidemic. Mr. Murphy said that the person should contact their primary care physician if they are diagnosed with COVID, since the severity can vary.

4. Public Hearing: Secondhand Dealer License: Fabulous Finds, 845 Route 28, Unit 5, South Yarmouth

The meeting was turned over to Selectman Stone as Licensing Chair. He invited Lauren Silva to identify herself for the record. Mr. Stone stated that Chapter 94 license applications did not often come before the Board. He confirmed that the legal ad for the Hearing was published, but he did not have a copy before him to read into the record. He reported that the CORI check went through fine, and that the Building Inspector reviewed the application and did not have any issues. Town Administrator Whritenour added that it was certified as an allowed use at the location.

Selectman Stone asked Ms. Silva to briefly describe the business operation. She said that it was a men's and women's consignment store, consisting of clothing, shoes, and accessories,

including scarves, jewelry, ties, hats, etc. She said that right now she planned to operate five days per week, being closed Mondays and Tuesdays. Hours would be 10 a.m. to 4 p.m. In the summer she planned to stay open until 6 p.m., and perhaps only be closed on Tuesdays.

The Town Administrator said that if the business is approved, there would be a fire inspection at the location the next day, and the use and occupancy certificate would be issued.

Frank Mastromauro, who owned the plaza, told the Board that he was really impressed with Ms. Silva, and that she had 25 years of experience in the business.

Selectman Horgan asked if there were any provisions in Ms. Silva's business model to check veracity of ownership, especially with the jewelry. He said there were issues across Cape Cod with people with addictions selling stolen items. She said that she had the person sign a contract and asked questions about the jewelry and the pricing of it. Mr. Horgan asked if IDs would be checked, and Ms. Silva replied, no. Mr. Horgan recommended that she touch base with the Police Department to check their policy that they have in place for pawn shops. He then welcomed Ms. Silva to Town.

MOTION: To close the public portion of the hearing.

Motion by: Mark Forest

Seconded by: Peter Smith

Vote: 5 ayes; 0 nays. The motion passed unanimously.

MOTION: To approve the application as presented.

Motion by: Tracy Post

Seconded by: Mark Forest

Discussion: Selectman Stone said that the motion should be amended to add "subject to any other approvals that are required," such as passing the Fire Department inspection. The Town Administrator added that the use and occupancy approval would be based on that approval.

AMENDED MOTION: To approve the application as presented, subject to any other approvals that are required.

Motion by: Tracy Post

Seconded by: Mark Forest

Vote: 5 ayes; 0 nays. The motion passed unanimously.

5. Update on Eversource Solar and Energy Storage Project

Ronit Goldstein, with Eversource Energy Community Relations, and Andy Belden, Vice President of Eversource's Solar Programs, came before the Board. Ms. Goldstein began by thanking Yarmouth's public safety officials on their assistance during the recent October nor'easter storm event, with its significant outages.

They then reviewed their PowerPoint presentation, giving some background on Eversource's ownership of 22 solar projects across the Commonwealth, and describing their proposed project located at 484 Willow Street at their area work center in Yarmouth. Mr. Belden stated that the projects provide significant tax revenues for the local governments, as well as climate benefits for those communities and the Commonwealth as a whole. He explained that every few years there is some substantial climate legislation in the Commonwealth, and another omnibus climate energy bill was recently passed in March 2021. It codified the commitment to achieve Net Zero emissions in Massachusetts by 2050 and set interim emissions targets. It also

allowed electric and gas distribution companies to own solar generation facilities paired with energy storage. Mr. Belden also briefly described some other major changes within the legislation.

Mr. Belden then reviewed the requirements which would allow utilities like Eversource to own solar. He said, first and foremost, the facility had to be sited on land that Eversource owned within the local municipality. Program goals would need to be created, and then solar projects would need to be promoted in environmental justice communities. The projects should also include energy storage systems. The projects should also be located in communities that are at high risk for climate change or face climate change challenges. Eversource would be required to work hand-in-hand with the local government for each project as it goes through the approval process with the Department of Public Utilities (DPU), and the projects would need to be developed at no cost to the municipality.

Mr. Belden stated that the area work center on Willow Street was a critical facility for Eversource, as many emergency operations were run out of that site. Backup power was currently available at the site, but developing a solar and storage project there would help reduce the use of diesel generators in the event of a long-term outage, as well as extend the time that the facility could operate independent of the grid. It would provide resilience benefits to Yarmouth, as well as to the whole Cape. The three elevated canopies would be located over existing parking lots at the site, so there would be no disturbance of any additional land. Benefits of this project would be that approximately 2.3 gigawatts of clean energy would be generated annually, resiliency of the facility would be enhanced, and peak loads would be reduced. Mr. Belden said that they would like to propose to the DPU that this system be operated as a low-income community shared solar project, where the revenue generated could help reduce the energy bills of low-income customers. It would need to be determined which customers are most in need, and how to allocate those credits. Mr. Belden said that they hoped to get the Board's support for the project.

Chairman Forest asked that they describe the permitting or reviews that would be necessary for the project. Mr. Belden said that there would be local permitting through the inspection services department, and zoning variances may be required. They had a conversation with the FAA related to the airport and the possibility of glare, but a glare study was done which dealt with those concerns ensuring glare would not be an issue. Ms. Goldstein said that once the application was submitted with the plans laid out, they would know more about what specific permitting would be required, but it was still very early on in the process. Chairman Forest said that before providing support, it would be helpful to get that information first.

Selectman Horgan asked for a photograph depicting the side view so that they would have an idea what it would look like when driving by. He also asked if there would be a buffer. Mr. Belden said that there would be setbacks from the road and vegetation planted as a buffer between the road and the facilities. Mr. Horgan then asked if there were any safety concerns with the storage of the large battery. Mr. Belden said that there were codes that needed to be followed concerning that. Mr. Horgan asked if there was consideration for some relief for middle-income households in addition to the low-income. Mr. Belden said that the estimated total revenue generated would be \$150,000, so a discussion with the Town would be welcome to best determine its allocation. He said that a survey of 10,000 customers had been done as part of another community's project, and a similar survey with public meetings around its results could be done in Yarmouth. Selectman Horgan was supportive of the project but wanted to see more finished plans prior to giving a recommendation.

Selectman Stone asked for an explanation about the provision in the legislation for payment in lieu of taxes for solar and storage. Mr. Belden responded that the provision was not specific to Eversource, but for all projects that were owned by utilities, intended to clarify some of the confusion with tax treatment of solar and storage projects. He was unable to give any more specifics, but he said it would not apply to this project.

Selectman Post asked about the height of the canopies and about the buffer. Mr. Belden said it would be at a minimum 12 feet high, so that the bucket trucks could fit underneath. Vegetation would be expected to grow over time. Selectman Post then asked if the revenue would remain in the Yarmouth community, and Mr. Belden replied, yes. Ms. Post said that she was glad that there was going to be a permitting process, and that conversations were begun with the airport. She believed it was a good use of land but would like to see more details prior to officially endorsing the project.

Selectman Smith said that he had seen prior projects, one being on White's Path, and the elevation of the canopies could be 12-15 feet. In most towns, there would be a building permit process, a site plan review, and sometimes variances required. He asked what "partner with local government for each project" meant. Mr. Belden said that there was not much in the legislation regarding specifics, but they would be working with boards, having conversations in the community, and the Town Administrator, and provide the DPU with a letter of support. Ms. Goldstein said that they had also reached out to Yarmouth's Energy Committee and would be meeting with them to discuss the project.

Selectman Smith then asked about how the system would reduce the electric load during peak demand periods. Mr. Belden said the system would generate the electricity versus obtaining it through other sources. With solar, the peak shifts to when it is dark out. The storage would allow for discharge during the peak, reducing the number of fossil fuel generators that need to run in order to meet that system peak. Mr. Smith then asked how much of the \$150,000 revenue would go to the Town. Mr. Belden replied that it would all be allocated to the Town in terms of the proposal. Eversource would make capital investments and receive a return on those investments, which would fund the project, but it did not generate any other revenues that are attributable to customers other than those energy revenues. Mr. Smith said that he was in favor of solar projects and that it was an excellent use of the property.

The Chairman thanked Ms. Goldstein and Mr. Belden and commended them on how they had conducted themselves with the Town so far in a collaborative way. He said that the project looked very favorable, and recognized its importance, but the Board was looking for more details.

6. Fire Chief Retirement Update and Discussion

Town Administrator Whritenour announced that the Town recently received correspondence from Fire Chief Philip Simonian about his upcoming retirement which was to take place in March. He acknowledged the Chief's amazing Fire Department career, beginning at the age of 16. It was now necessary to determine the process to fill the position. He noted that the Police Chief was also planning his retirement later in the year, so a similar process in recruitment would need to be followed. Mr. Whritenour reviewed the Town's Charter provisions, which stated that the Board of Selectmen appointed all department heads, including acting department heads. The process outline specified that the Town Administrator was to submit not less than three candidates to be interviewed by the Board of Selectmen unless the Board waived that requirement. Based on the

quality of the internal command staff that the Town had helped to nurture, Mr. Whritenour asked if the Town would move forward and conduct an internal posting or whether it would perform an external State/international search taking place in conjunction with the in-house posting. If an internal posting model was used, he asked whether the Board would like to see three candidates recommended or would the Board entertain waiving that requirement if it turned out there were not three with reasonably comparable qualifications. Mr. Whritenour recommended posting internally, and to conduct an assessment center process involving consultants who would conduct role-playing exercises simulating actual on-the-job-performance. In conjunction with the assessment center, Mr. Whritenour recommended having interviews before a panel, with members appointed by the Town Administrator, including representation from the Board selected by the Chairman. He also recommended waiving the minimum of three candidates given the potentially smaller pool that may be created by the internal posting.

Most of the Board voiced how they had an issue with waiving the requirement for three candidates, although they were willing to conduct an internal search. As for designating the Deputy Chief as Acting Chief, there was some discussion about the politicization of such an action if it was done too soon in the process. A few of the Board members had additional questions regarding the assessment center part of the process.

Chief Simonian was asked if there was a possibility of extended the retirement date. He responded that he would be willing to postpone it for a few months, for example until after Town Meeting. The Town Administrator said that the appointment of the Acting Chief would not have to be done right away. He just did not want the Town to be in a position where it did not have a leader of the Fire Department in place once the Chief retired.

Several Board members were against having a Board member as part of the panel interview process, however felt that being involved with a rating system or job description at the outset would be more favorable. The Chairman asked the Town Administrator who would be on the panel. Mr. Whritenour said that he envisioned himself, the Assistant Town Administrator, the Director of Human Resources, and potentially a senior department head to be on the panel.

MOTION: To accept the recommendations of the Town Administrator for the selection process for Fire Chief, with the following five modifications:

1. That the Board not waive the three candidate requirement unless necessary, which would require another action by the Board;
2. That there be no Select Board member on the evaluation committee;
3. That the Board approve the job description/job profile;
4. That the Chief be available to assist through Town Meeting;
5. To revisit the timing of the transition from Chief to Acting Chief.

Motion by: Mike Stone

Seconded by: Dan Horgan

Discussion: The Chairman stated that he was going to strike the Chief availability modification, so there would only be four total modifications

MOTION: To accept the recommendations of the Town Administrator for the selection process for Fire Chief, with the following four modifications:

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2. That there be no Select Board member on the evaluation committee;
3. That the Board approve the job description/job profile;
4. To revisit the timing of the transition from Chief to Acting Chief.

Motion by: Mike Stone

Seconded by: Tracy Post.

Vote: 5 ayes; 0 nays. The motion passed unanimously.

The Board thanked Chief Simonian and wished him well on his upcoming retirement. The Chief thanked them. He then told the Board that Deputy Chief Jon Sawyer would be graduating from the Chief Officer Program that Chief Simonian had taken in 2013 up in Stowe, so the Deputy would have his Chief Officer Certification.

7. Update on County and Yarmouth ARPA Funding Correspondence to Barnstable County

The Chairman told the Board that a draft letter from the Town Administrator to Barnstable County about American Rescue Plan Act (ARPA) funding was included in the packet.

Town Administrator Whritenour then described two items related to the ARPA funding. The Town was in receipt of \$3,155,779 as a direct allotment. In an earlier discussion by the Board, it was preliminarily decided that the initial allotment would be reserved for the wastewater pre-funding financial program. It would be subject to a vote by the Board, which had not taken place yet. The second critical issue, which was the reason for the draft letter, was tied to an outreach meeting held by Barnstable County officials on January 24 to discuss County priorities for the allotted ARPA money. The amount which was received by the County on behalf of the local communities totaled \$41.3 million. Yarmouth's administration, as well as other Cape communities' officials, had been invited to attend to express their views regarding distribution of the monies. The proportional share for Yarmouth, were these funds to be distributed based on population, would be \$4,499,500. Mr. Whritenour said that the Town had several massive debt infrastructure projects, so he strongly felt that distribution of funds should be made directly to the local governments for their use on existing projects, as opposed to new temporary projects developed at the County level. He said he was also surprised to learn that the County was entertaining a potential reworking of the distribution formula, which not be based on population but on a minimum amount going to each town. Proportional seasonal growth was directly related to the population of the communities. He added that Yarmouth had a relatively low-income community, which was much lower than some of the smaller communities which had relatively high property values and things of that nature. A big piece of ARPA was to stimulate the local economy. He felt that the Town's position should be to oppose any new distribution methodologies which could bypass and send less money to the bigger towns. There were discussions going on currently between the County Commissioners and the Assembly of Delegates, so the letter would be timely.

MOTION: That the Board of Selectmen support the memo.

Motion by: Tracy Post

Seconded by: Dan Horgan

Discussion: Both Selectmen Stone and Post voiced their support. Ms. Post added that she had been watching the process and thought this would be the most expeditious way to get the money to where it needed to go. Other counties had done this in the past, so she was hopeful that it would be supported, and she appreciated the Town Administrator for outlining it for the Board.

Vote: 5 ayes; 0 nays. The motion passed unanimously.

There was then a lengthy discussion about how much of the ARPA funds should be used for wastewater purposes versus other possible uses. Selectman Post was interested in getting more information on all the other eligible uses of funding. Selectman Horgan said it would be helpful to

know the status of the pre-funding. Selectman Smith said that it was a good idea to consider other uses, but the Board needed to know what the numbers would be, and wastewater was going to be a big number and had to be one of the Town's major priorities.

It was also noted that the Assembly of Delegates were categorizing the "funds" like other revenues, as opposed to "grants" like how the County Commissioners, the Treasury Department and the Department of Revenue categorized them.

The Chairman said that the Board should not get into a discussion of spending money until it was known how much money would be distributed. Town Administrator Whritenour said that he would try to gather some information and develop some general guidelines and parameters to help the Board in its evaluation.

8. Discussion & Vote on Draft Letter Opposing the Discharge of Radioactive Wastewater in Cape Cod Bay

The Chairman told the Board that in their packets was a draft letter addressed to the Governor by the Yarmouth Board of Selectmen, in opposition to the discharge of radioactive waste into Cape Cod Bay.

MOTION: That the Board of Selectmen approve this letter and for it to be forwarded to other elected officials as well.

Motion by: Peter Smith

Seconded by: Mike Stone

Discussion: The Town Administrator wanted to point out that the Association to Preserve Cape Cod (APCC) did a great job on the original letter, and a list of all the elected officials that it would be copied to was included in the packet.

Vote: 5 ayes; 0 nays. The motion passed unanimously.

9. Board and Committee Actions

1. Committee Appointments

MOTION: That the Board of Selectmen reappoint Curt Sears and Spyro Mitrokostas as regular members-at-large to the Water Resources Advisory Committee for a three-year term running through August 2024.

Motion by: Tracy Post

Seconded by: Mike Stone

Discussion: Selectman Horgan asked why the term ended in August as opposed to January 2025. The Chairman stated the dates often reflected when the person had been appointed to the committees originally.

Vote: 5 ayes; 0 nays. The motion passed unanimously.

Announcing the next appointment recommendations for the Disability Commission, Selectman Smith noted both applicants were highly recommended by the Chairman of the Disability Commission, and that Mary Vilbon was the president of the Yarmouth Chamber of Commerce. Selectman Post questioned whether Ms. Simmons, as a part-time resident, was available to attend the meetings. Mr. Smith said that Ms. Simmons told him that she would attend most of the meetings, and the Chairman of the Disability Commission confirmed that she would be there.

Chairman Forest added that Ms. Simmon's background was totally appropriate and helpful for that committee.

MOTION: That the Board of Selectmen appoint Mary Vilbon and Jessica Simmons as regular members to the Disability Commission for a three-year term running through January 2025.

Motion by: Dan Horgan Seconded by: Tracy Post

Vote: 5 ayes; 0 nays. The motion passed unanimously.

2. Approval of Minutes

MOTION: To approve the minutes of the December 7, 2021 and January 11, 2022 meetings.

Motion by: Tracy Post Seconded by: Dan Horgan

Vote: 5 ayes; 0 nays. The motion passed unanimously.

3. Upcoming Agenda Review

Selectman Post stated that the Town Meeting date on the projected schedule had to be corrected to the April 26 date.

The Chairman noted that the Goal Setting meeting was to be held on the upcoming Saturday, from 9 a.m. to 1 p.m., at Lorusso Lodge at Flax Pond Recreation Area. The Town Administrator noted that a snowstorm was forecast for that day, so the meeting could be canceled at the last minute.

Items that were listed for the February 1 meeting included an update on the wastewater project and a discussion and possible vote on the Owner's Project Manager (OPM). Town Administrator Whritenour informed the Board that materials and videos would be available for them to access.

Discussion of Town Counsel Services needed to be scheduled. Selectman Post said that she would not be available on the February 15, and there was no meeting on February 22 due to the holiday on February 21. There needed to be two meetings scheduled per month per Charter requirements. It was decided that a meeting would be added on February 8. The Vision Plan Presentation would be rescheduled to that date to give ample time for review. Mr. Whritenour said that he may want to have a first reading of the Annual Town Meeting Warrant on that date as well.

Selectman Stone noted that it was almost time for the Town Administrator's evaluation. Mr. Whritenour stated that he began his employment with the Town in April, so there was still some time to arrange it.

4. Individual Items

Selectman Stone had two items to discuss. The first had to do with the review of the potential change of Town Counsel. He said that he would like to have the Town Administrator obtain impressions of the current Town Counsel from the department heads and staff that had been dealing with the firm over recent years. He believed this type of assessment of work would be helpful in the evaluation.

Selectman Stone said the second topic had to do with Joe Glynn's earlier public comments. He agreed that it was critical for more information to be announced to the public, especially when it had to do with important upcoming events. In the past there had been an abundance of reporting from the press. Now there was a severe reduction in the coverage by local media and radio stations. He requested that messaging and outreach be improved. The Chairman agreed, saying that communication had to be enhanced. He said that the Board should commit to elevating communication as a priority.

11. Town Administrator Items

1. Consent Agenda

Town Administrator Whritenour briefly reviewed the items presented on the Consent Agenda, which included requests to waive the fee for a Town grave site for an unclaimed deceased person, to approve Commercial Shellfish Regulation changes, to approve the Bass River Farmers Market, and to accept donations.

Selectman Post said that the Bass River Farmers Market organization appeared to have changed over the years, and that she was not sure if it was a group or a single person running it. She also wanted to see a certificate of liability insurance to ensure proper coverage. It was agreed that the Bass River Farmers Market would be brought before the Board at a future meeting.

MOTION: To approve the Consent Agenda, except for the Bass River Farmers Market item.

Motion by: Dan Horgan

Seconded by: Mike Stone

Vote: 5 ayes; 0 nays. The motion passed unanimously.

2. Town Administrator Updates

Town Administrator Whritenour said he had several items about which to update the Board. The first was that plans for some non-structural alterations/additions to the MacArthur/BSU premises, which would accommodate the Cape Cod Collaborative's needs, were reviewed and approved by Community Development and the Building Department. Mr. Whritenour was happy to report that he was all set to approve the work as well, as it would enhance the use of the facility.

The second item had to do with temporary closures under the Alcohol Regulations. Mr. Whritenour said that he had recently found that, according to the regulations, the local licensing authority had authorized the Town Administrator to approve temporary closings of establishments with annual licenses. He said he still planned to update the Board about the requests. Chez Hospitality, located at the Bass River and Bayberry Hills Golf Courses, had recently requested to close for the off-season, and reopen again in April for the upcoming golf season. Selectman Post began a discussion on the delineation between a temporary closure versus having a seasonal license. She asked if Chez Hospitality would close every winter. Mr. Whritenour stated that a seasonal license would require the establishment to be closed for a specific period of time, however the letter that was submitted only requested a temporary closure for this current year.

Prior to adjourning, Dan Horgan asked if the Golf Fee Hearing was going to be on the schedule. Assistant Town Administrator Scott stated that he was working with the Golf Director on the financials, but until that was done, the current fees would continue to be charged. Mr. Whritenour added that more progress had to be made before bringing them back before the Board.

Mr. Whritenour noted that, according to the FY2023 budget schedule, the Town Meeting Warrant was closed as far as submittal of outside articles and petitioned articles, since the deadline date was published earlier as January 25, 2022.

Chairman Forest thanked the Town Administrator for including information regarding the Bass River Bridge Replacement Project in the packet as well as on the Town's website.

Town Administrator Whritenour announced that he planned on starting a "task force" to discuss possible issues with conducting the Town Meeting indoors due to COVID-19. It appeared that the virus was simmering down, so he expected that the April 26 meeting date would be okay. The group would consist of the Moderator, the Health Director, Administration and possibly the Selectmen Chair.

9. Adjourn

MOTION: To adjourn.

Motion by: Mike Stone

Seconded by: Tracy Post

Vote: 5 ayes; 0 nays. The motion passed unanimously.

Meeting adjourned at approximately 10:05 p.m.

Respectfully Submitted,



Mary Alice Florio

AGENDA PACKET
Board of Selectmen
January 25, 2022

- COVID-19 & Variants Update Presentation
- Public Hearing Packet: Secondhand Dealer License – Fabulous Finds, 845 Route 28, Unit 5, South Yarmouth
- Eversource Solar Projects Presentation and Draft Letter for Consideration
- January 25, 2022 Memo from Town Administrator Robert Whritenour, regarding Fire Chief Retirement – Options for Moving Forward
- December 30, 2021 Memo from Fire Chief Philip G. Simonian III, regarding Retirement
- January 25, 2022 Draft Letter to Barnstable County Commissioners and Assembly of Delegates from Town Administrator Robert Whritenour, regarding American Rescue Plan Act (ARPA) funds
- December 21, 2021 Letter to Barnstable County Commissioners and Assembly of Delegates from the Cape Cod Municipal Management Association, regarding ARPA funds
- January 25, 2022 Draft Letter to Governor Charlie Baker from Yarmouth Board of Selectmen, regarding Opposition to Holtec International’s Plan to Discharge Radioactive Water into Cape Cod Bay
- December 17, 2021 Letter from the Association to Preserve Cape Cod (APCC), regarding Opposition to Pilgrim Discharge of Radioactive Water into Cape Cod Bay
- Committee Reappointments – Water Resources Advisory Committee (2 regular positions)
- Committee Appointments – Disability Commission (2 regular positions)
- Board of Selectmen Meeting Minutes – December 7, 2021
- Board of Selectmen Meeting Minutes – Housing Summit, January 11, 2022
- Board of Selectmen Projected 2022 Agenda Items