



Board of Selectmen
Board of Selectmen Meeting Minutes
March 1, 2022

The regular meeting was called to order at approximately 6:00 p.m. by Chairman Mark Forest. Selectmen present: Mark Forest, Michael Stone, Tracy Post, and Dan Horgan. Peter Q. Smith attended remotely. Also attending: Town Administrator Robert Whritenour, and Assistant Town Administrator William Scott.

Chairman Mark 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. Recognition of Retiree:
 Thomas Egan, Building and Grounds Craftsman II**

Jeff Colby, Director of DPW, thanked Thomas Egan for his 28 plus years of service. Mr. Egan did a lot for the Town from building beach shacks, repairing roofs, rebuilding marina floats, etc. He stated that Mr. Egan was an experienced carpenter, and his knowledge would be missed. Mr. Colby thanked Mr. Egan for his extensive service.

Chairman Forest thanked Mr. Egan on behalf of the Board and the Town of Yarmouth. He stated his service was highly regarded and that he would be missed. Selectman Horgan stated that men like Mr. Egan are the backbone of the Town. He thanked Mr. Egan for his dedicated service. Selectman Stone stated that 28 years was a lot of years of service. He echoed that Mr. Egan was part of the backbone. Selectman Stone stated his service was appreciated. Selectwoman Post added to the thanks. She stated that she was grateful for all that he had done. Selectman Smith was having technical difficulties via Zoom. Chairman Forest then issued the official citation for Thomas Egan.

2. Public Comments

Irene Payne of Yarmouthport stated that voters submitted a petition for a non-binding resolution to be added to the May ballot as a yes or no question. She discussed Holtek's hopes, plans, and dreams to dump radioactive water into the Cape Cod Bay. She wanted voters to be educated and have a voice by adding it to the ballot.

Greg Bilezikian of Yarmouthport discussed the Yarmouthport Business Community safety parking. He would like the Board of Selectmen to advocate for a public meeting to discuss issues in the area, such as no parking signage, the impacts on businesses, sidewalk issues, and tree/brush issues.

Laurel Galvin of Yarmouthport expressed concerns over safety of driveways/sidewalks on Route 6A. She hoped to seek a solution and for all to be included in the process.

Tom Nickinello of Bass River discussed the Chamber Winter Carnival and thanked the volunteers and attendees. He stated the event was a success. He also mentioned the 17th Annual St. Patrick's Parade. He then addressed the Town Seal and the 250th Anniversary of Old Yarmouth.

Vida Morris made comments about Article 29 regarding the elimination of styrofoam. She asked if the petitioners were an entity of the Town in some way, a committee or subcommittee. She wanted more clarification on the procedure. Then she addressed the Town Seal.

A person by the name of Simon was trying to make a public comment, however, he had technical difficulties via Zoom.

Tom Sullivan had questions regarding a petitioned article that was submitted. First question was what the deadline for a petitioned article for the warrant was, and it was addressed to the Town Administrator. The second question was regarding the petitioners who submitted the article, asking if they had filed as a valid committee, as required by State Law. Chairmen Forest responded stating they could not engage in a discussion. Mr. Sullivan stated that the Town Administrator could respond. Town Administrator Robert Whritenour stated that the petition submitted for ballot questions did not apply to the deadline for Town Meeting warrant articles. The deadline for a ballot question would be when the ballot was finalized, which was 35 days prior to the election. He mentioned that he was not aware of a ballot committee. He also stated State Law procedures were that the Board of Selectmen could receive a petition and still require the vote of the Board of Selectmen. Mr. Sullivan then stated it was required by State Law that persons who were pushing for a ballot on a general vote must list a chairperson and treasurer by law. Chairman Forest stated they did not have the information in the moment, but they would get it. Mr. Sullivan said if it was not done at the Town Clerk's office that the petition might not be able to be accepted. Chairman Forest acknowledged the understanding.

Rebecca Pontibicano of Yarmouthport echoed the concerns that were raised at the prior night's meeting regarding the Yarmouthport parking. She was seeking a resolution to make all happy with no adverse impacts to the businesses.

Bruce Murphy, Director of the Health Division, stated that COVID numbers had dropped significantly. There were currently six active cases. He presented an informative slide show, highlighting daily covid cases and statistics. He stated that the Board of Health had removed the mask mandate, following State procedures.

3. Bass River Farmers Market Plan for the Coming Year

Carlene Veara presented the upcoming plans for the Bass River Farmers Market. Ms. Veara had overseen this event for the past ten years. The Farmers Market planned to run from June to September 2022. Applications had been sent in. The Bass River Farmers Market was the only one on the Cape that did Thursdays and Sundays. The Market would run from 9:00 a.m. to 1:30 p.m. Vendors included farm stands, special projects, breads, crafts, jams, and produce. There were twenty-three tents provided for the vendors. Fees for vendors were increasing due to the loss of thirteen tents in 2021. The increase in fees would help purchase the new tents for 2022. The fee

was \$20 per day for vendors, which included Board of Health fees and applications for food vendors.

Selectwoman Post had wanted to ensure that they were still an active non-profit. Ms. Veara stated the annual filings had been completed. Selectwoman Post then asked if they were insured through non-profit. Ms. Veara stated that they were covered. Selectman Horgan asked if the vendors and products were local from Yarmouth. Ms. Veara stated the produce was homegrown and local to Cape Cod.

MOTION: To approve the Bass River Famers Market.

Motion by: Dan Horgan

Seconded by: Peter Q. Smith

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

4. Committee Update: Substance Awareness Committee

Daniel Rodrigues, Co-Chair of the Yarmouth Substance Abuse Committee (YSAC) and Director of Substance Abuse Disorder Services at the Duffy Health Center, and Annie Catalano, Co-Chair of YSAC and the Civilian Service Advocate for the Yarmouth Police Department presented the update. They shared a PowerPoint presentation for the YSAC updates. They discussed the impact COVID had on the Committee. During the pandemic, the overall structure, mission statement, and bylaws were reviewed. They had resumed meetings to once a month. They discussed infusing new memberships in to YSAC and discussed open membership slots, which included a representative for the local Opioid Treatment Program (OTP - methadone clinic), a representative for the school system chamber, medical community, and a voice from a local student. They presented data of overdoses and alcohol use over the past several years. Overall, there was a decline, but with the pandemic they saw a slight spike. In December 2020, they applied for and received the SAPC-C Grant from the county. They used this grant for education and prevention with youth around alcohol use and addiction. August 31 was International Overdose Awareness Day. Dawn Roche lost her son to an opioid addiction and created this awareness event to help celebrate and grieve the loss of loved ones to addiction. September was Recovery Month. YSAC had hosted a series of events and trainings. There were four prerecorded trainings available. YSAC volunteers also attended Trunk-or-Treat. They passed out candy as well as created access points for those who were in need. They then discussed upcoming plans which included White Ribbon Day, which was an international campaign. This event was to discuss violence and gender violence. YSAC was a supporter of White Ribbon Day. The Recovery Support Navigator (RSN) Grant was also discussed. The Duffy Health Center and the Board of Health worked together to support Yarmouth. The RSN team provided 20 hours specifically to Yarmouth. Bruce Murphy, Director of the Yarmouth Health Division also discussed expansion of the Recovery Navigator and other programs in the future.

Chairman Forest then opened the discussion up to the Board to ask any questions. Selectman Horgan stated how grateful he was, and that dealing with this as a community was important. He asked if there were resources available for families that were struggling. Ms. Roche discussed the Parents Supporting Parents group, which was out of Mashpee. Learn to Cope, which was out of Yarmouth, was also available. Due to COVID, those meetings were still held via Zoom. Selectman Horgan then asked if the program was getting into the school system. Mr. Rodrigues stated that they were. He said at Duffy Health Center there was a program which was an alternative peer group that met two nights a week with a therapist, recovery coach, peer mentor, and a family therapist. This was six months long for ages 12-17 in Harwich and Falmouth currently.

Selectman Stone thanked and congratulated them on the work that was being done. He also shared personal stories of those he had lost. He asked if there was an effective way to engage in deterrents. How did it begin and why did it begin? Ms. Catalano stated that experiences of trauma was the main reason, such as experiencing extreme amounts of pain and not understanding how to cope with it. They would want to stop the pain as fast and as easily as possible, which was the “how” and “why” they started. Having discussions and prevention at an early age was the way to help deter.

Selectwoman Post shared a story on how she met Ms. Roche, and the importance of Ms. Roche sharing her son’s story. She asked three questions: (1) was there anyone available 24 hours per day that could help someone get into treatment; (2) what could we do; and (3) what were other towns doing that we were not doing yet? Mr. Rodrigues stated there were resources across Massachusetts that had 24-hour services. He also stated that the barriers and lack of access were issues. Creating better access was an area where they were open to proposals and ideas. He also mentioned that continuing to have the conversation about education and recovery was important. Ms. Catalano also mentioned that schools had evaluations that were positive from students and faculty.

Selectman Smith wanted to echo the comments of the other Board members and he wanted to get the information on the Town Website. He advised them to work with the Town Administrator.

Chairman Forest thanked them on behalf of the Board and urged them to ask the Board to do more. He stated that there was an open door.

5. Show Cause Hearing: Loyal Order of Moose Yarmouth Lodge #2270, 769 Route 28, South Yarmouth

Chairman Forest turned the meeting over to Selectman Stone, Licensing Chair. Selectman Stone asked the attendees to identify themselves for the record. Raymond Roy, Administrator for the Yarmouth Lodge, Bill McNamara, President of the Yarmouth Lodge, and Sergeant Tom Hennessey, of the Yarmouth Police Department, were present. Selectman Stone read the legal ad into record and swore in the above attendees.

Selectman Stone then began reviewing the report from Sgt. Hennessey. Mr. Roy stated they never received notice. Mr. McNamara stated they received a packet in the mail on the 24th. Selectman Stone addressed Town Administrator Whritenour about the licensing file for the mailings. The Town Administrator noted that on February 11 the packet was sent via certified mail. The Town had the receipt of mailing. After tracking through USPS, the report showed attempted delivery on February 14, and the Post Office left notice for pick up. The packet was sent First Class mail also. Selectman Stone then began reviewing the anonymous letter that was sent to the Board of Selectmen, and reviewed Sgt. Hennessey’s police report.

Selectman Stone began reviewing the possible violations, the first being the raffle. Selectman Stone asked Sgt. Hennessey if he read the report accurately. Sgt. Hennessey stated he did. Selectman Stone asked Mr. Roy if they had any disputes. Mr. Roy stated there were no disputes.

The second possible violation was read regarding the liquor being purchased at a package store and being brought from another establishment. Mr. Roy stated he brought unopened bottles

from his old establishment. Selectman Stone asked Sgt. Hennessey if he read the report accurately. Sgt. Hennessey stated he did. Selectman Stone asked Mr. Roy if they had any disputes. Mr. Roy stated there were no disputes, and he did bring alcohol from Salty's. Mr. Roy mentioned that he did not know he could not do that.

The third possible violation was then addressed regarding the compliance check where there was no binder, certifications, crowd management, etc. Selectman Stone asked Sgt. Hennessey if he read the report accurately. Sgt. Hennessey stated he did. Selectman Stone asked Mr. Roy if they had any disputes. Mr. Roy stated there were no disputes and agreed with this section of the report.

Sgt. Hennessey then discussed the follow-up portion of Sgt. Hennessey's report, stating they were able to provide the binder and necessary documentation. Sgt. Hennessey spoke with the Board at the Yarmouth Lodge to ensure future compliance. Selectman Stone asked Sgt. Hennessey if he read the report accurately. Sgt. Hennessey stated he did. Mr. Roy acknowledged they met on the 13th and provided the documents at that time.

The potential violations were then listed again from the report. Selectman Stone then finished reading Sgt. Hennessey's report. Selectman Stone stated the facts of the report were not contested. Selectman Stone also stated that potential violation number 2 would not be a violation because the raffle did not involve game or contest. If the raffle was found to be illegal, which it was, then it was a violation of number 3 of the ABCC regulations. Selectman Stone asked the Board if they had any questions.

Selectwoman Post did not have any specific questions. She had asked Selectman Stone if there were previous violations. Selectman Stone recalled a COVID violation and a failure to attend the Liquor Licensing Seminar. Mr. Roy explained the COVID violation regarding serving food, and they had to close for three days. They were then reinstated by the ABCC. Chairman Forest had no questions. Selectman Horgan asked if they were aware that raffling liquor was against the rules. Mr. Roy stated they were not aware. He stated the liquor was not provided by the establishment. Selectwoman Post asked if the Yarmouth Lodge was the recipient of the raffle. Mr. Roy stated the money was raised to send a child to Flax Pond. Selectman Horgan then asked Sgt. Hennessey if alcohol and raffles were covered in alcohol trainings. Sgt. Hennessey stated that it did fall under Chapter 155, Section 1.07 of the Yarmouth Rules and Regulations. Selectman Stone then asked Sgt. Hennessey if he had any recommendations. Sgt. Hennessey stated that, since this was his first hearing, he would not be recommending a penalty. He did ask the Board to keep in mind the level of cooperation he had received from the Yarmouth Lodge.

MOTION: To close the public hearing.

Motion by: Tracy Post

Seconded by: Dan Horgan

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

Selectman Stone then reviewed potential violations and deemed that they could find violations on number 1, 3, 4, and 5.

MOTION: To find violations on number 1 raffle, number 3 ABCC Regulation, number 4 Alcohol Transfer, and number 5 No binder/ rules and regulations, and to issue warnings on all counts.

Motion by: Tracy Post

Seconded by: Peter Smith

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

6. Review of Town Meeting Articles

1. Community & Economic Development Committee (CEDC)

Ken Smith, Chair, and Steve O'Neil, Vice Chair, discussed the history of the asks of the CEDC. In the past it had been one lump sum based on funding. They discussed the breakdown of the funds: Administration, \$40,000; Special Events, \$100,000; Marketing, \$180,000; Public Improvements, \$141,780; Economic Development Projects, \$105,342. The total appropriation that would be asked at Town Meeting was \$567,122.00.

Town Administrator Whritenour thanked the members of the CEDC. He was impressed by the operation of the Committee. He also stated that the breakdown of the funds was important to help see the bigger picture and have more transparency.

Chairman Forest asked the Board if they had any questions. Selectman Smith stated that the changes that were being received were for good purposes. He approved of what the CEDC was doing. Selectwoman Post had no questions. Selectman Stone agreed with Selectman Smith. Selectman Horgan had no questions.

2. Historic Commission

George Slama discussed the slides that he presented. He reviewed when the Commission had started and stated all research and finding are on the Town website. He then discussed the article to be presented at Town Meeting, Article 22, which was the Town Seal Change and Committee. On June 29, the Historic Commission made a recommendation to see if the seal should be changed. On January 13, the Historic Commission voted 5-0 to change the Town Seal, due to finding the current seal culturally inaccurate. Mr. Slama then discussed the next steps, which included having a community conversation to help address the change, creating a Town Seal Committee, and bringing this to Town Meeting. He stated that the benefits of proposing this at Town Meeting was for public education. The proposed Seal Committee would consist of 2-3 Town officials, 1 administration support, 1-2 Historic representatives, 1 Historic Commission member, potentially a Wampanoag Tribal member, an education/library representative, and a community arts/cultural representative.

Chairman Forest opened the discussion up for Board questions. Selectman Horgan had no questions. He agreed with the sentiments. Potential questions raised were the mechanics and cost of changing the seal. Selectman Stone thanked Mr. Slama for his work. He agreed that community involvement was important. He also stated that there should be an appropriation discussion. Selectwoman Post had concerns about the way the article was worded. She would like to see it be more fluid. Chairman Forest also thanked Mr. Slama. He stated that he appreciated the outreach and engagement with the Wampanoag Tribe. He supported the discussion at Town Meeting. He did ask if appropriation would be included. Selectwoman Post asked if the appropriation was needed at this time. Chairman Forest stated that there was a budget associated. He discussed variations of the seal and was looking for a discussion of how to manage the seal, as well as recommendations on how to protect it. He stated that they should modify the article to include an appropriation. Mr. Slama stated that funds were needed for graphic design and resources. Town Administrator Whritenour stated the article as submitted did not discuss budget and should be modified to include budget. Chairman Forest agreed that the appropriation needed to be added. Selectman Smith did

not think appropriation was needed as the committee had yet to be approved. He seconded the importance of maintaining the seal and any variations. Selectwoman Post suggested an amendment be made on the wording of the article.

3. Community Preservation Committee (CPC)

Gary Ellis, Chair, and Christine Marzigliano, Vice Chair, discussed Article 23's appropriation. Ten percent appropriation was to go to Community Housing (\$240,000), Historic Preservation (\$184,672), Open Space (\$184,672), and Operating Expenses (\$ 92,336). Selectman Horgan was curious as to why the Community Housing was higher than the others. Karen Greene, Director of Community Development, stated that the CPC felt 10% should be set aside for programmatic administration.

Mr. Ellis than began discussing Article 24 - Affordable Housing Project, where \$240,000 was for the housing reserve. The Board did not have any questions or comments.

Mr. Ellis discussed Article 25 - Historic Resource Projects. He mentioned there were currently two projects. The first was for Friends of Ancient Cemetery (\$17,685). The second was for Yarmouth Historical Committee (\$73,830). Selectman Horgan asked if the memorial arch was on private or public land. Mr. Ellis responded that it was on State land.

Mr. Ellis discussed Article 26 - Open Space Rec. - Bass River, which is for engineering and design for water shed restoration. The appropriation was \$102,500 which included permitting. Chairman Forest commended the Committee for the work that they were doing and planned to do.

4. Recreation

Assistant Town Administrator Scott discussed Article 16. He discussed the fund set up, which was a revolving fund, to help generate programs, run said programs, fees, and to pay workers. Selectwoman Post posed a question regarding fees. Town Administrator Whritenour stated this would allow the Town to set fees. Selectman Stone mentioned that he was once on the Recreation Commission and had tried in the past to get a revolving fund. He stated he was happy to hear that the Department of Revenue recommended it.

7. Town Counsel Search Discussion / Possible Vote

Chairman Forest opened the discussion and started with the process. He stated that they could enter a contract for a period of time. He discussed that currently there was a no-term contract. Selectman Stone stated that currently it was an at-will term of service. Chairman Forest posed the question if the Board was comfortable with continuing a no-term contract. Selectman Horgan made the comment that it would take a year or two to see if you liked the services you were receiving. He mentioned that reviewing it every three years was reasonable. Selectman Smith also stated that a one-year contract would not be beneficial and that you would often see 3-5 years. He also agreed with a 3-year review. Selectman Stone stated legal services was a personal service contract and that personal relationships were important. He stated he would not be in favor of anything less than 5 years, with an option of termination if they were not the right fit. Selectman Smith agreed with Selectman Stone and thought there should be an internal review.

Selectman Horgan recommended discussing general impressions of applicants before voting. He stated he had reservations on Talerman, and Associates and he was concerned about the timing of responses. He stated KP Law had an elevated level of experience, and Toomey was a close second. He ranked the applicants with KP Law being number one, Toomey number two, and Talerman number three. Selectman Stone stated he looked at the job Talerman had done versus what our needs were. Talerman's proposal was the only one with a set fee agreement. He was concerned about the spike in fees with the other two applicants. Selectwoman Post mentioned she had seen three town counsels. She felt that we had been represented well and Talerman had not put us in a predicament to lose money. She mentioned the other two firms did not offer anything different than Talerman. She saw no justification for a change. Selectman Smith ranked KP Law as number one as he was impressed, however, he mentioned they were more expensive. He ranked Talerman number two as they had great reviews from different departments. He ranked Toomey number three. Chairman Forest mentioned that they should be looking ahead as there was a lot of upcoming work that needed to be done. He ranked KP Law number one, Toomey number two, and Talerman number three. He stated that, in order to go forward, they would need a vote and he was open to motions.

MOTION: To continue using Talerman for Town Counsel services.

Motion by: Tracy Post

Seconded by:

Vote: There was no vote due to the motion not being seconded.

8. Board and Committee Actions

1. Committee Appointments

Selectman Smith stated that there was one re-appointment. Ms. Rachel Youngling was being recommended for a 3-year term for Mid-Cape Cultural Council.

MOTION: To re-appoint Ms. Rachel Youngling as a regular member to the Mid-Cape Cultural Council for a 3-year term running through February 2025.

Motion by: Mark Forest

Seconded by: Tracy Post

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

2. Approval Of Minutes

MOTION: To approve the December 14, 2021 and January 4, 2022 minutes.

Motion by: Dan Horgan

Seconded by: Peter Smith

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

MOTION: To approve the August 25, 2020 minutes.

Motion by: Tracy Post

Seconded by: Peter Smith

Vote: 4 ayes; 0 nays; 1 abstention. Dan Horgan abstained. The motion passed.

3. Upcoming Agenda Review

The Board and the Town Administrator discussed the upcoming agenda items for the March 15 meeting. There was an upcoming Public Hearing with the Budget and Capital Plan with Finance Committee, the Capital Budget Committee, and Dennis-Yarmouth School District. There was also a Public Hearing for Blue Rock. There would be a discussion on District Improvement

Financing (DIF). There would also be a Hearing on Demolition Fees. Due to the meeting agenda being so full, a discussion took place about starting the meeting earlier at 5:30 p.m.

4. Individual Items

No individual items were discussed.

11. Town Administrator Items

1. Consent Agenda

The Town Administrator announced that there was a significant donation for the Fire Department from Stephen and Margaret Lovelett, in the memory of Kathleen Lovelett, in the amount of \$10,000.

MOTION: To move the consent agenda.

Motion by: Tracy Post Seconded by: Dan Horgan

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

2. Town Administrator Updates

Town Administrator Whritenour stated he had received all the financial numbers for the upcoming meeting, and everything looked good. He mentioned that overall money had been saved from the budgets. Mr. Whritenour discussed the non-binding ballot question. He said it did meet State guidelines and had ten signatures. He mentioned that the Board needed to vote to place it on the ballot. April 5 was the deadline for any ballot questions. Chairman Forest asked how they could pose the question whether the Yarmouth community opposed the dumping. Mr. Whritenour stated the Board could put the non-binding question on the ballot, but they need to decline the current question due to wording, and then let the Town Clerk know. Selectwoman Post stated they needed to look at this sentiment closely. She suggested finding a way to correct the problem and create a law to avoid the dumping. The Town Administrator also stated that he was working on a comprehensive public outreach program for this upcoming meeting. He mentioned the comprehensive wastewater information. He discussed the PFAS notice that was sent out by the Water Department. He mentioned that the water was completely safe.

9. Adjourn

MOTION: To adjourn the meeting.

Motion by: Dan Horgan Seconded by: Peter Smith

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

Meeting adjourned at approximately 10:15 p.m.

Respectfully Submitted,

Dakota Prue

Dakota Prue

March 1, 2022 Minutes

Approved September 27, 2022

AGENDA PACKET
Board of Selectmen
March 1, 2022

- Town of Yarmouth Official Citation for Thomas Egan
- Bass River Farmers Market Information Packet, including 2022 Vendor Applications and Guidelines
- Yarmouth Substance Awareness Committee PowerPoint Presentation
- Show Cause Hearing Packet: Yarmouth Lodge, 769 Route 28, South Yarmouth
- Draft 2022 Annual Town Meeting Warrant – dated February 25, 2022
- February 23, 2022 Memo from Community and Economic Development Committee (CEDC), regarding FY23 Tourism Revenue Preservation Fund Allocation
- February 24, 2022 Memo from Julie Mockabee, Chair, Yarmouth Historical Commission, regarding March 1, 2022 Board of Selectmen Meeting – Town Seal Review, with attachments
- January 19, 2022 Memo from Gary Ellis, Chair, Community Preservation Committee, regarding Community Preservation Act (CPA) Application Review and Recommendations
- Committee Reappointment – Mid-Cape Cultural Council (1 regular position)
- Board of Selectmen Meeting Minutes – August 25, 2020
- Board of Selectmen Meeting Minutes – December 14, 2021
- Board of Selectmen Meeting Minutes – January 4, 2022
- Board of Selectmen Projected 2022 Agenda Items