



Board of Selectmen
Board of Selectmen Meeting Minutes
September 13, 2022

The Yarmouth Board of Selectmen entered into an open session. This session was conducted in person in the Yarmouth Town Hall Hearing Room.

The open session was called to order by Chairman Michael Stone at approximately 5:45 p.m. In attendance were Selectmen Daniel Horgan, Mark Forest, Dorcus McGurrin, Peter Q. Smith, Town Administrator Robert Whritenour, and Assistant Town Administrator William Scott.

1. Executive Session

A motion was moved by Mr. Smith, and seconded by Ms. McGurrin, that the Board of Selectmen go into Executive Session under MGL 30A section 21(A) to consider the purchase of real property on Higgins Crowell Road.

It was so voted: Mr. Forest, yes; Mr. Horgan, yes; Mr. Stone, yes; Ms. McGurrin, yes; Mr. Smith, yes.

Open session adjourned at approximately 5:50 p.m.

Respectfully Submitted,

Dakota Prue

Dakota Prue



Board of Selectmen Board of Selectmen Meeting Minutes September 13, 2022

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

Chairman Michael Stone 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. Announcements

Mary Maslowski, Town Clerk, stated official results from the State Primary Election were in. A total of 6,129 residents voted, which was just shy of 29%. Ms. Maslowski also stated that the State was sending new cards for vote by mail. Chairman Stone asked the Board if they had any questions. Mark Forest wanted to thank all of the staff that assisted with the election. He stated it was smooth and efficient. Chairman Stone stated it was a large help that Ms. Maslowski announced all the changes prior to the election date. Chairman Stone and Ms. Maslowski also discussed the vault issues that happened in Barnstable.

2. Public Comments

Spyro Mitrokostas, Appointee of the Wastewater Advisory Committee, invited the public to the information sessions regarding the Wastewater Plan and progress. He mentioned these sessions were question and answer sessions. The sessions would happen the third Monday for the next four months. The sessions would be broken down by water sheds. September 19, 5 p.m. was the first session held at Cape & Islands Realtors Association. Mr. Mitrokostas also stated that the Town website had more information regarding these sessions and updates. Chairman Stone addressed the Press Release from August 31. He stated the second session would be October 17 at 5 p.m., held at the Cultural Center for the Bass River Watershed. The third session would be November 21 at 5 p.m. at Yarmouth Senior Center regarding the Parkers River Watershed. The fourth session would be December 19 at 5 p.m. at Fire Station #2.

Tom Nickinello, South Yarmouth, discussed the wayfinding agenda item and he stated that it was great to help identify the Town. He also discussed the change of the Town seal. He discussed section 3.2, design, and development, and he hoped that the Chamber of Commerce was invited to be a part of this process to help with identifying the Town. He also discussed the peak season of the water demand.

Joe Glynn, West Yarmouth, suggested that the Lewis Bay meetings should be held at the hospital or the Steamship Authority rather than the Cape and Islands Realtors Association. He also congratulated the Town Clerk and staff for the successful election. He stated that he expected an increase in voters for the next election. He also thanked and congratulated Christopher Ruell and Philip Simonian on their retirement. He stated they both represented and protected our Town, and they would be difficult to replace.

3. Recognition of Retiree: Christopher Ruell, Fire Department

Jon Sawyer, Acting Fire Chief, stated Christopher Ruell, FAO/EMT, served the Town of Yarmouth Fire Department for 29 years. Mr. Ruell started in Dispatch on August 21, 1993. Acting Chief Sawyer stated that once you met Mr. Ruell you instantly became his friend. Acting Fire Chief Sawyer invited the public to Head Quarters on September 14, 2022, from 9 a.m. to 11 a.m. to say goodbye and congratulations. There would be a small ceremony starting at 10 a.m. Chairman Stone asked Mr. Ruell to step forward to be presented with an official citation presented on behalf of the Board of Selectmen. Chairman Stone thanked Mr. Ruell for his 29 years of dedicated service and congratulated him on his retirement.

4. Discussion: Possible Representative to the Tony Kent Arena Board

Judge John Julian and Louis Alberti, President of the Mid Cape Ice Arena came before the Board to discuss a representative to the Tony Kent Arena Board. Mr. Julian stated that the Town of Yarmouth and the Town of Dennis were instrumental in getting the current building that holds the ice arena. He stated their bylaws call for user groups and members. The Town of Yarmouth and Town of Dennis Board of Selectmen appoint the representative, and the appointment runs April 1 to March 31. Mr. Julian stated that he had been representing the Town of Dennis for the last four years. Mr. Julian mentioned that there were major renovations upcoming and wanted the Town of Yarmouth to have a voice on the Tony Kent Board. Mr. Alberti discussed the relations between the Town and the ice rink. He stated that in 2018, Selectman Erik Tolley and the Recreation Department worked with the ice rink to obtain funding. He also stated that the Town deserved a voice in what went on with the rink.

Chairman Stone stated HAC wanted someone to be appointed as a representative. He raised the question of how the Board of Selectmen would obtain the authority to appoint a representative for a non-Yarmouth entity. He also stated that this matter had been sent to Town Counsel. He stated they were looking for the authority and he was not opposed to the appointment itself. He stated Town Counsel responded that they did not see concern in appointing a representative. Town Administrator Whritenour stated there was a history of appointments by the Board of Selectmen and a series of articles that had been presented at Town Meetings. He stated that Town Counsel had no problem with the appointment or any liability doing so. Selectman Forest readdressed the authority conversation. Selectman Daniel Horgan stated he thought Yarmouth should be involved. Selectwoman McGurrin had no questions, however thought by having a representative it would give the Town merit. Selectman Peter Smith stated he was unsure about the authority to appoint and thought nominating and endorsing the nomination would be best. Chairman Stone stated he was not concerned about the appointment if Town Counsel was not concerned.

MOTION: To nominate an individual to the Tony Kent Arena Board to represent the Town of Yarmouth.

Motion by: Mark Forest Seconded by: Daniel Horgan
Vote: 5 ayes; 0 nays. The motion passed unanimously.

After the motion passed, Chairmen Stone stated he thought that this matter should still go before Town Meeting to implement an appointment.

5. Route 28 Commercial Group

Jamie Veara came before the Board to discuss wastewater/sewer. He stated there were two issues that would affect the long-term sustainability of Yarmouth, the first being the Canal Bridge Replacement. He stated that this was out of our control as it was regulated by State and Federal government. The second issue was the development of a municipal wastewater system in Yarmouth. He mentioned that this was in our control as the Town could make this initiative happen. Over 30 different property and business owners had met to discuss the efforts and the needs in order to see this development through. Phase 1 created a Futures group to help with the implantation. A letter was sent to the Board on September 1, 2022, advising the Board of the formation of this group. Within the letter it outlined the group's missions, statements, and visions of sewerage within the Town. Phase 1 would begin with an approval at the 2023 Town Meeting. This group would offer the help necessary to create this solution. He stated that clean water was instrumental to the Town, working, travel, and living.

Selectman Forest focused his questions about the group. He wanted to know who comprised the group. Mr. Veara stated that there were over 30 different businesses and property owners making up the group. Mr. Forest read the names of the people listed on the letter provided to the Board. He thanked everyone who was part of the group. He stated that the Board was well aware of the problem at hand. He stated it was a daunting challenge. He stated it was a huge opportunity to take advantage of the group's assistance. Selectman Horgan addressed the failed attempt years ago. He stated he was concerned about the impacts on businesses along Route 28. He also asked how the Board could assist and what the group would need from the Board. Selectwoman McGurrian stated it was amazing that all of these people stood up to address this problem and wanted to find a solution together. She stated that she was appreciative of everyone being here and offering the assistance. Selectman Smith said that in the past this issue had been turned down. He stated that this would help the businesses as well as the residents. He also thanked everyone for coming and being a part of this group. Chairman Stone wanted to highlight a few things. He believed that the worst thing you could have from any group was fragmented information. He stated that continuity was important. He stated this affected everyone, residents, businesses, and tourists. He thanked everyone for coming in and he said he was looking forward to working with everyone on this issue.

6. Water Supply Update

Jeff Colby, DPW Director, and Laurie Ruzsala, Water/ Wastewater Supervisor, presented an update on the drought. They stated that we received less than 1 inch of rain in July and 1 inch in August. They stated it was a very dry summer. Ms. Ruzsala then presented the PowerPoint presentation. She discussed the background and the need for the Yarmouth drought declarations. She stated we were still in a critical drought. She stated there was a decrease in water use after a level two drought was announced. She discussed the water conservation policy and potential revisions, which would be addressed at a later hearing. She also discussed water conservation

bylaw revisions, PFAS and SRF updates. It was also announced that there would be a rain barrel program available for the public.

Selectman Forest asked about the volume of calls that the Water Department had been receiving. Ms. Ruzala stated it was about 10 calls per day. Selectman Forest then asked if there was anything the Board needed to do for the PFAS. Ms. Ruzala stated the article needed to be approved. Selectman Horgan stated the Board was unaware of the August 24 change and asked to be notified in the future. Mr. Colby stated they were trying to get a handle on how many irrigation systems there were in the Town. Mr. Horgan asked if they could see the waterflow to determine the answer. Mr. Colby stated there were hints in the data but conclusively it was not valuable. Ms. Ruzala stated that it was hard to pull a list from 16,000 customers. Selectman Horgan asked if this was something we should try to figure out, and if there was a permit that should be required, or a database composed. Selectwoman McGurrin wanted to compare 2021 versus 2022 and asked if this information was available. She also stated that there should be public signage posted as a lot of residents did not know that there was a drought. Selectman Smith posed the question of how much was left in the underground aquifers. Ms. Ruzala stated that ground water was slightly lower. Chairman Stone asked how far was supply exceeding demand. Ms. Ruzala stated capacity was 10.2 million a day where the demand was 6 million a day.

7. Wayfinding Update

Kyle Pedicini, Economic Development Coordinator, stated the Town recently received a grant of \$45,000 from the Massachusetts Office of Travel and Tourism that would be utilized toward a Wayfinding Design Master Plan. The Community and Economic Development Committee (CEDC) supplied \$55,000 from the Tourism Revenue Preservation Fund for the project. He stated the total budget was \$100,000. He stated they recently released a request for proposals looking for consulting firms to help create the Master Plan. He stated the RFP was out and had a due date of September 26. He also mentioned a couple of CEDC projects that had been completed, including roadway banners in Town and utilities box wraps.

Selectman Smith stated there was a public comment regarding the Town Seal Change and wanted to ensure it would be apart of this signage update. Chairman Stone asked Mr. Pedicini to give more of a sense of the purpose of the sign design and uniformity of signs. Mr. Pedicini stated it was to direct people to the business districts in Town and the areas of interest. He also stated that the CEDC wanted to update signage as the current signs were outdated.

8. Public Hearing: Special One Day Alcohol/Entertainment License-Bass River Multi-Cultural Food Festival- Cultural Center of Cape Cod/Family Table Collaborative, 307 Old Main St., South Yarmouth

Chairman Michael Stone began the hearing by reading into the record the legal ads. There were two, one for the Cultural Center of Cape Cod and one for Family Table Collaborative. Chairman Stone then asked Molly Demeulenaere, from the Cultural Center of Cape Cod, and Jeni Wheeler, from Family Table Collaborative, for an overview of the event. Chairman Stone clarified that this one event was happening at two locations at the same time, between the Cultural Center and Family Table Collaborative. Ms. Demeulenaere stated they wanted to host a multi-cultural food festival to go between the two locations to highlight the culture, art, and food. Ms. Wheeler stated

they wanted to highlight the diversity through foods and spices. They wanted to honor local restaurants and they had 10 food vendors, 5 at Family Table and 5 at the Cultural Center. There would be two food trucks in between the two locations to keep the diversity flow between the two locations. There would be a check in station at both locations. They would be ID'ing guests. If the guest was over 21 years of age, they would get a designated color wrist band. If they were under 21 years of age, they would receive a different designated color wrist band. This wrist band would allow access at both locations. Ms. Wheeler stated there would be a radio station at both locations. She discussed that the purchase price of the ticket included all the food to sample. There would be a cash bar at both locations.

Chairman Stone had additional questions on the wristbands. He asked what the distinct colors of wristbands would be. Ms. Wheeler stated they had not decided on the colors at this time. She stated it was the one-use wrist bands that were not able to come off. Chairman Stone also stated that if there were any questions, they could card anyone. Chairman Stone discussed the potential violations they could see if they overserved or served minors.

Selectman Forest had no questions and stated he supported the event. Selectman Horgan stated it sounded like a great model and an event that could grow. Selectwoman McGurrian had no questions but stated this sounded like a fantastic event. Selectman Smith hoped for success for the event. Chairman Stone asked if there were any public comments submitted. He read the one public comment from Laura Kelley into the record. The public comment was in support of the event.

MOTION: To approve the Cultural Center Special One Day Alcohol License.

Motion by: Peter Smith

Seconded by: Dorcus McGurrian

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

MOTION: To approve the Family Table Collaborative Special One Day Alcohol and Entertainment Licenses.

Motion by: Peter Smith

Seconded by: Dorcus McGurrian

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

Chairman Stone initiated a five-minute break.

9. Show Cause Hearing: Oliver's, 960 Route 6A, Yarmouth Port

Chairman Michael Stone started the hearing by asking those that were testifying to come forward to be sworn in. Chairman Stone then read the legal ad into the record. Officer Jefferson Willis stepped to the podium. Chairman Stone asked him to state his name, position, and length of service for the record. Officer Willis stated his name and said he had been with the Yarmouth Police Department for three years. Chairman Stone asked Officer Willis if he recently responded to a complaint on July 7, 2022, at Oliver's for unlicensed entertainment. Officer Willis stated he did. Chairman Stone asked at whose request did he investigate the request. Officer Willis stated the complaint came from Tiffany Marino-Sterge. Chairman Stone asked what happened in terms of the investigation. Officer Willis then began to narrate his report from the investigation. Chairman Stone then asked Mr. Dale Ormon to step forward. Chairman Stone asked Mr. Ormon to clarify when the business ownership changed. Mr. Ormon stated it was August 1. Mr. Ormon stated Oliver's was operating under his licenses at the time of the complaint. Chairman Stone asked if Mr. Ormon had an outdoor entertainment license. Mr. Ormon stated he did not and did not know he needed one. Chairman Stone asked if he knew that there was not supposed to be any amplification outside. Mr. Ormon stated he did know that for the new entity and the new license. Chairman Stone discussed

the evidence for the closing statement, to show the transfer. Chairman Stone asked if the new licenses were issued on July 21, 2022. Mr. Ormon replied yes, however, they were not issued to him. Chairman Stone asked Tiffany Marino-Sterge if she would like to say anything. Ms. Marino-Sterge stated that on June 21, 2022, Mr. Ormon and Mr. Michael Carvalho stated that in the past the police department never responded to any noise complaints. However, Ms. Marino-Sterge showed the police logs where they did respond. Ms. Marino-Sterge stated there was never an outdoor entertainment license prior to the license that was issued on July 21, 2022. Ms. Marino-Sterge stated that she had been dealing with the noise issue for years. She stated they had negatively impacted her life. Chairman Stone asked if anyone was present for the new ownership. Attorney Adam Sloane presented himself, as well as Wanderson Coelho, new owner, and Patrick Coelho, new owner, who were present via Zoom. Attorney Sloane introduced himself for the record. He represented Oliver's & Planck's Inc. Attorney Sloane stated the business had not changed ownership at the time of the complaint. Attorney Sloane posed his argument that the closing on the business had not happened, therefore the business was still operating under old ownership and licenses. He stated Mr. Ormon had been hosting outdoor entertainment for years unaware it was never licensed. During the June 21 hearing for the new ownership's entertainment licenses, they had done some compromising to get the outdoor entertainment. Chairman Stone asked Attorney Sloane if he wanted to call any witnesses.

Selectman Smith posed a question to the Licensing Administrator, Dakota Prue. He asked if a business could have two different licenses to different owners. He asked about entertainment and alcohol. Ms. Prue stated a licensed premise cannot have two of the same licenses at the same time. Selectman Smith stated, in his opinion, the new owners were responsible for this as they were the ones who had the licenses. Chairman Stone asked Officer Willis if he had anything further. Officer Willis continued on reading his report with his observations.

Chairman Stone addressed the potential alcohol violation, a manager not being listed as an assistant manager. Mr. Ormon stated that the Town was notified on March 17, and at that point, the manager was listed. Attorney Sloane stated he did have one witness who wanted to be addressed. Mr. Wanderson Coelho was sworn in at this time. He stated that until the sale was finalized, he felt his brother and himself had no power as the new ownership. Chairman Stone asked if there had been any violations since the finalization of the sale. Officer Willis replied that there had not been any to his knowledge. Ms. Marino-Sterge stated that it did not matter who was operating the business, but it was the new owners' licenses that were effective when the business was operating. Ms. Marino-Sterge asked that the outdoor entertainment license be revoked. Chairman Stone then placed multiple exhibits into the record.

Selectman Smith stated that he believed there was a violation on the entertainment license. Selectwoman McGurrin stated that she agreed with Selectman Smith. Selectman Horgan stated this was disappointing. He stated there was a clear violation, however it was unclear who was responsible. He asked when a license would become effective, on transfer or issuance. Town Administrator Whritenour stated it was upon issuance. Selectman Forest stated he agreed with Selectman Horgan.

MOTION: To find a violation on the Entertainment License by reason of amplification on the Outdoor License.

Motion by: Peter Smith Seconded by: Dorcus McGurrin

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

Chairman Stone asked Officer Willis if he had a recommendation. Officer Willis stated the Rules and Regulations state first offense was a warning to six-day suspension. Chairman Stone opened the discussion to the disciplinary resolution. Selectman Forest stated he followed the progressive policy. Selectman Horgan stated he agreed and issuing a warning was appropriate. Selectwoman McGurrin agreed with a warning issuance. Selectman Smith stated he agreed with a warning. Chairman Stone addressed again the progressive disciplinary actions.

MOTION: To issue a warning on the violation the Board found.
Motion by: Dorcus McGurrin Seconded by: Daniel Horgan
Vote: 5 ayes; 0 nays. The motion passed unanimously.

10. Board and Committee Actions

1. Committee Resignation

There was a discussion that Curtis F. Sears, Jr. submitted his resignation from the Water Resources Advisory Committee. He then notified the Board on Monday, September 12, 2022, that he wanted to rescind the resignation. The Board chose to nullify it and pass on it.

2. Approval Of Minutes

The minutes from March 15, 2022 were presented to the Board for approval.

MOTION: To approve the March 15, 2022 minutes.
Motion by: Mark Forest Seconded by: Peter Smith
Vote: 3 ayes; 0 nays; 2 abstentions (Dorcus McGurrin and Daniel Horgan). The motion passed.

3. Upcoming Agenda Review

Selectman Forest asked if MassDOT was still on the September 27 agenda. Town Administrator Whritenour stated he received an email stating they were not ready, as their recommendations were preliminary, and they had asked to be removed from the September 27 agenda. Chairman Stone added the Town Administrator's Annual Review to the September 27 agenda. The Board discussed that on October 4, they would be discussing the Special Town Meeting articles. Chairman Stone asked to put an article in to allow an appointment for the Tony Kent Arena. Chairman Forest asked to put the bylaw review on the September 27 agenda.

4. Individual Items

Selectman Forest wanted to thank the Town Clerk's Office once again for the election. He stated he was skeptical of having everyone vote at the Senior Center, however, he stated it was well organized and he was impressed. Selectwoman McGurrin agreed that it went very well, however, she had some concerns about parking. She stated that the Senior Center should postpone their activities on the November election day. Selectman Horgan stated he noticed the workers' cars were parked in prime locations and said that it may be advisable to have the workers park farther away to free up the prime spaces.

11. Town Administrator Items

1. Consent Agenda

Town Administrator Whritenour listed the consent agenda item, which included a Special Entertainment License for the Seaside Festival and Bonfire Permit, Commercial Shellfish Regulations Changes effective September 1, and Recreation and Commercial Scallop Season Regulations effective August 30.

MOTION: To approve the Yarmouth Seaside Festival Entertainment License and Bonfire Permit.

Motion by: Peter Smith Seconded by: Daniel Horgan

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

MOTION: To approve the two Shellfish Regulation changes effective September 1 and August 30.

Motion by: Peter Smith Seconded by: Dorcus McGurrian

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

2. Town Administrator Updates

Town Administrator Whritenour discussed again the wastewater neighborhood meetings. He also readdressed the MassDOT project and recent communications. He stated there was a department head meeting on September 12 which would unveil the Board of Selectmen goals, and he felt that everyone was going to be 100% engaged. He also stated the Board would be seeing the Capital Improvement Program Reviews soon. He also wanted to recognize the Town Accountant Mariya Ruseva and Finance Director Ed Senteio, as they already had gotten the Free Cash for the Town certified and the tax rates set.

9. Adjourn

MOTION: To adjourn the meeting.

Motion by: Daniel Horgan Seconded by: Dorcus McGurrian

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

Meeting adjourned at approximately 10:30 p.m.

Respectfully Submitted,

Dakota Prue

Dakota Prue

AGENDA PACKET
Board of Selectmen
September 13, 2022

- Town of Yarmouth Official Citation for Christopher Ruell
- By-Laws of Mid-Cape Ice Arena Inc. (Tony Kent Arena)
- November 13, 2013 Letter from Yvonne Lackenby, Business Manger, Tony Kent Arena, regarding Capital Funds Request
- 2013 Emails from Sandra Fife, Dennis Assistant Town Administrator, Pat Folcik, Dennis Legal/Benefits Administrator, and John W. Giorgio, Esq., Kopenlman and Paige, P.C., regarding Mid-Cape Ice Area, Inc. (Tony Kent Arena)
- September 1, 2022 Letter from the Phase One – Futures Group Commercial Property Owners and Businesses
- September 13, 2022 Drought Update, Yarmouth Water Department, PowerPoint Presentation
- June 16, 2022 Letter from Keiko Matsudo Orrall, Executive Director, Massachusetts Office of Travel & Tourism, regarding Destination Development Capital Grant Award
- Town of Yarmouth, MA Request for Proposals for Wayfinding Signage Master Plan and Design
- Public Hearing Packet: Special One Day Alcohol/Entertainment License – Bass River Multi-Cultural Food Festival – Cultural Center of Cape Cod/Family Table Collaborative, 307 Old Main Street, South Yarmouth
- Show Cause Hearing Packet: Oliver’s, 960 Route 6A, Yarmouth Port
- August 16, 2022 Letter from Curtis F. Sears, Jr., regarding Resignation from the Water Resource Advisory Committee
- March 15, 2022 Board of Selectmen Meeting Minutes
- Board of Selectmen Projected 2022 Agenda Items