Select Board Minutes
Tuesday, August 8, 2023
7:00pm

The Select Board Regular Meeting was held virtually in accordance with Chapter 2 of the Acts of 2023, An Act Making Appropriations for the Fiscal Year 2023 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects, and signed into law on March 29, 2023, this meeting was conducted via remote participation.

Select Board participants:
Rich Maiore, Erin McBee, Charles Oliver, Don Ludwig, Kara Minar
Town Department participants:
Town Administrator Tim Bragan, Assistant Town Administrator Marie Sobalvarro, Assistant Julie Doucet, Town Clerk Rose Miranda
Additional participants:
Conservation Commission Chair Don Ritchie, Dog Officer Paul Willard, Libby Levison, Kris, Cody and Jennifer Rulka, Tree Warden JC Ferguson

Introduction of Town Clerk
Newly hired Town Clerk Rose Miranda outlined her twenty-one-year background in municipal government and expressed her excitement being hired as the Town Clerk for Harvard. The board members welcomed her to Harvard.

Conservation Commission appointment
Commission Chair Don Ritchie explained long time member Paul Willard has decided to step down from the commission. He asked resident John Lee to be appointed as his replacement. This will be effective August 16, 2023. By a roll call vote, McBee – aye, Minar – aye, Ludwig – aye, Oliver – aye, Maiore – aye, the board voted unanimously to appoint John Lee as associate member on the Conservation Commission.

Public Communication
Stephanie Opalka, League of Women Votes, read a statement regarding the 4th of July parade. (Attachment A)

Pam Marston, 47 Madigan Lane and member of the Historic Commission, encouraged the Select Board to follow through with their intentions to sell the Bromfield House property once the lease with the Afghanistan family expires. She is aware they may vote to extend the lease through June of 2024.

Minutes
By a roll call vote, McBee – aye, Minar – aye, Ludwig – aye, Oliver – aye, Maiore – aye, the board voted unanimously to 7/14 and 7/18, as presented.

Staff Report/Updates (Attachment B)

Act on one-day liquor license - Lions Club Fall Festival
Executive Assistant Julie Doucet confirmed all requirements have been met and there have been no issues with the event in previous years. By a roll call vote, McBee – aye, Minar – aye, Ludwig – aye, Oliver – aye, Maiore – aye, the board voted unanimously to grant one day liquor license to the Lions Club.

Items for surplus
Assistant Town Administrator Marie Sobalvarro described the items for surplus from the DPW, Ambulance, and Park & Recreation departments. By a roll call vote, McBee – aye, Minar – aye, Ludwig - aye, Oliver – aye, Maiore – aye, the board voted unanimously to surplus items as outlined in the packet to be sold as surplus and disposition as needed.

Dog Hearing
Chair Rich Maiore opened the hearing being conducted under Chapter 140 of the MGL's at 7:30pm by outlining the hearing process and noted a decision is not required this evening.

Rich Maiore read aloud the victim's statement. He then swore in complainant Libby Levison of 15 Old Shirley Road that all information and statements are the whole truth and nothing but the truth.

Dog Officer Report
Paul Willard reported he spoke with the dog owners. They cooperated immediately by restraining the dogs to their property as he requested. Paul Willard was asked about the breed of dogs and if he has any prior occurrences with these dogs. Dog owner Cody Osgood responded the dogs are both hound mixes. Willard responded he had not heard of the dogs until now.

Charles Oliver asked the owners if the dogs have any history of biting or other incidents in any other community. Cody Osgood and Jennifer Rulka answered no. Kara Minar noticed a discrepancy in the dog records related to them both being neutered. Cody Osgood confirmed they both are and will send along the paperwork to corroborate that.

Rich Maiore asked if Libby Levison had anything to add. She stated she walks this roadway each morning

Testimony of complainant
Libby Levison stated she included relevant information in her written statement but was open to any additional questions. She did indicate she walks this roadway each morning and these dogs have barked in the past and run along the inside of the fence but this morning they began barking sooner and then they were suddenly in a different part of the yard. She never left the roadway.

Erin McBee asked if Levison has made a change in her walking route due to this incident. She has shortened her route to not go past this house. McBee asked if she had gotten stitches. Levison answered for punctures she learned no stitches but antibiotics, tetanus shot and lots of bandages. She was bit on both thighs and forearms. Charles Oliver asked about medical bills incurred due to this incident and if the dog owners have offered to pay for those. Levison has been speaking with owner Jennifer Rulka about this. Jennifer Rulka confirmed they will pay for all Levison's medical bills and had encouraged Levison to go to urgent care or the hospital that day to be treated properly. Levison said the big learn for her from this was regardless of how strong and steady on your feet a person is, it is extremely difficult to fight off two dogs at once. Rich Maiore asked for the weight of both dogs. Owner Cody Osgood said Milo is 35 lbs. and Otis is 65 lbs. Don Ludwig asked if typically, when she walks by if there is a fence/gate locked? She was not certain how the dogs got out, but she has never seen them out before. Owner Cody Osgood said one of the entrance/exits was unfortunately left open. He said after the incident that day they moved the fence back and installed an automatic gate. Erin McBee asked when Levison finally felt safe. She said not until the dogs were locked in the house. Kara Minar asked in the past when Levison walked by the home if the dogs bark was more of an excited/interested bark or an aggressive bark? Levison felt the barking was not a friendly, happy barking but more of a defending my territory bark

Dog owners' testimony
Dog owners Cody and Jennifer Rulka are temporarily living with Cody's father Kris Osgood. Cody Osgood began by expressing their sincere apologies for what happened. They are mortified and again committed to paying all medical costs Levison incurred from this incident. Jennifer Rulka was home when the attached happened. She ran over right away once she realized the dogs were not in the fenced in area. She said they have had the dogs for quite some time and have never experienced an incident like this. Cody added the dogs have been trained. They have now hired a specialized dog trainer to help determine why this may have happened since it is alarming to them as well. Jennifer wonders if due to their move maybe the change in location had something to do with why the dogs reacted the way they did. Jennifer confirmed Dog Officer Paul Willard along with his Assistant Ann Bamford came to the property to inspect the new fencing and automatic door locking system. Don Ludwig asked Dog Officer Paul Willard if he was satisfied with the enhanced fencing and gates. He said he was. Erin McBee asked about the fence height which is 4ft. Osgood and Rulka are confident they cannot jump the fence. McBee also asked if when Jennifer called for the dogs that day if they immediately responded. Jennifer said yes and they were ushered back to their cages in the house with help from Mrs. Osgood. Jennifer along with Kris Osgood went back outside to check on Levison. Jennifer explained she noticed the dogs were loose and started to run toward them and then realized what had happened. Kara Minar asked how long the dogs have been in town. Osgood and Rukla have been here since April. They are looking for a new home and are not planning to remain in Harvard permanently. Minar suggested an invisible (electric) fence as an additional method to secure the dogs. Jennifer said if this is required, they will comply. Cody and Jennifer are committed to doing whatever it takes to make the community feel safe in their neighborhood while they are here. Kara asked if there are any children living in their household and yes, they do have a one-year-old. Cody stated there have never been any issues with the dogs and the child.

Options outlined by Town Administrator
Town Administrator Tim Bragan explained options available to the Select Board related to this incident. He said the board has a wide range of options when it comes to dangerous dogs. They can require leashing, muzzling, restricting to property as well as fencing requirements amongst other options. They can also not allow the dogs back into town once they leave. He said the one option the board does not have is banishing the dogs from town.

Additional comments
Rich Maiore asked the owners if the dogs can be seen from the roadway. His concern is for people feeling intimidated or threatened when walking by. Don Ludwig would trust the set up as described before an electric fence. Erin McBee asked if the area in their yard for the dogs will be sufficient for them to get exercise/energy out and the owners believe it is. Kara Minar thought the invisible/electric fence maybe just be an extra level of protection. She recommends the dogs be leashed and muzzled when off the property and if remain in town after 6 months an invisible/electric fence be installed for extra protection. Minar did express concern over the level of aggression shown by the two dogs and if it can be cured. Charles Oliver shares concerns expressed by Minar regarding the level of aggression exhibited by the dogs. Rich Maiore also suggested fence screening, so the dogs are not able to see people walking by. Erin McBee added when off property always supervised.

Libby Levison is delighted with the steps taken thus far by the dog owners. She does not know how high a dog can jump or dig under a fence but leaves that to them to manage. She suggested when off property a 6 ft non-extendable leash with a muzzle and harness be required. In addition, she recommended with any dog training they include sensitize to high visible vests as this is the only variable, she can think of that may have been different from others walking by. Osgood and Rukla again expressed their sincere apologies for what occurred.

Chair Rich Maiore reiterated proposed restrictions:

- Dogs restricted to the property
- When off property dogs will be harnessed with a 6ft leash and muzzled
- Letter from trainer with specifics on the training

Jennifer said initially her response to run toward the dogs was fear they may be hit by a vehicle going by however once she saw Libby, she knew something more was happening.

Rich Maiore continued the dog hearing until August 22nd at which time they will render a decision. A draft decision will be distributed for consideration.

Request to remove diseased elm on small common

Tree Warden JC Ferguson requested permission to remove the diseased elm on the little common across from the old library. He gave an explanation as to why this is necessary. By a roll call vote, McBee -aye Minar – aye, Ludwig – aye, Oliver – aye, the board voted unanimously to approve the recommendation of disposing of the diseased elm and planting of a new tree.

Town election date

The board members discussed their options and decided on Tuesday, April 9th for the town election.

Bromfield House lease

The board members discussed extending the lease through the end of the next school year. By a roll call vote, McBee -aye, Minar – aye, Ludwig – aye, Oliver – aye, Maiore – aye, the board voted unanimously to extend the Bromfield House lease to June 30, 2024, for the Afghan refugees.

Discuss residency requirements for appointees to town committees and boards

The board members discussed allowing non-residents to serve on town committees and boards. Rich Maiore has been asked about this related to town employees being able to vote if they are serving on a board or committee already. Don Ludwig recommended this not be allowed for the Planning and Zoning boards. In addition, Charles Oliver mentioned the Finance and Capital Committees. Town Administrator Tim Bragan will work with Town Counsel on a draft policy for the board to consider at their next meeting.

Select Board Reports

Erin McBee reported the Planning Board continues work on their bylaws for the fall town meeting.
Kara Minar reported the Transportation Advisory Committee received a response from MART on the shuttle service about MBTA funds possibility to fund. Topic for discussion at an upcoming meeting.
Rich Maiore reported he is working with Board of Health Chair Chris Mitchell to finalize a Transfer Station charge.

Other items

Kara Minar talked about revisiting the Transfer Station Policy on the replacement sticker fee and had a few questions for town administration related to the old library building repairs and the new recreation director office at the old library.

The meeting was adjourned at 9:10pm.

Documents referenced:
Lions Club one day license request – dated 7.6.2023
Dog Hearing materials – dated 7.13.2023
John Lee vol form – dated July 2023
Surplus items – August 2023
Tree removal request – dated 8.8.2023

Attachment A

Statement for Select Board Meeting, August 8, 2023

A little background—The League of Women Voters of Harvard planned to march in the 4th of July parade. About one week before the 4th, the League received a targeted email from a person we assumed was part of the 4th Committee who specifically called our attention to the "Parade Code of Conduct". We reviewed the Code of Conduct again but did not see anything to be concerned about. Sunday, July 2nd, I received an email from the same person—again informing me that our LWV signs would not be allowed per the Code of Conduct.

Seeking clarification, I called Chris Chalifoux, a 4th of July Committee member (I could not determine if the other person had any authority per the Committee or not). Chris explained to me that there were people who thought our Human Rights signs were political. We agreed to remove one particular sign in a conciliatory gesture because it seemed to be the one sign that the Committee was calling objectionable, but chose to march with the others. The morning of the parade, we were asked to remove another sign, we did not agree.

The town of Harvard's Fourth of July Committee has suddenly been given the authority to create and promote a document that has not been reviewed nor voted on by the Select Board. Their "code of conduct" went from being a recommendation on how to comport oneself at the parade to one that restricts some groups from participating at the sole discretion of the Fourth of July Committee. The town administrator has given the Fourth of July Committee authority that exceeds what any other committee has, including the Select Board, note quote in The Harvard Press July 7th issue.

The Town governing board should not allow a small group of volunteers, let alone one, to impose their own moral agenda on others thus hijacking the Board's own commitment to diversity and inclusion. To do so would allow small private 'pressure groups' who are of the minority opinion to render the Town's welcoming and inclusive DEI statement void.

The LWV of Harvard hopes that the Select Board takes notice of this expanded authority and will work with the town administrator and the Fourth of July Committee to create a code of conduct that is truly fair and welcoming and, importantly, constitutional to all parade participants.

Thank you.

Attachment B

Staff Report
August 8, 2023

1. Miscellaneous:
    a. Recent articles in the Lowell Sun report on the excessive heat and rain having produced widespread beach closures. Here in Harvard, we have been fortunate that this has not been the case. Water sampling is ongoing with the help of the Pond Committee and testing by NABH.
    b. Those heavy rains have caused flooding and devastating crop damage throughout the State and especially out in Western Massachusetts. Governor Healy helped launch a fundraiser to aid farms, the legislature also passed a $20million budget item to assist farmers (details of this are not available).
    c. COVID has resurfaced amongst employees in some departments and I have sent out an email to all departments notifying them and letting them know that wearing masks and washing hands are still the best way to protect themselves. There is no plan to shut down any department or go back to the early days of the pandemic.
    d. We will be starting another trial period of work from home Fridays for a short three-month period as Marie and David Fay have found a new tool from National Grid. As you remember, the last time we tried this, a year ago, we were able to determine the carbon credits (saved 1.56 metric tons - ~3,439 pounds of carbon, which was equal to planting 78 trees) but the electric modeling was not great. Now with this new tool we will be able to see if there is additional benefit and how big it could be overall. This is our attempt to see what savings could be had and to assist the HCIC with their initiatives.
    e. Marie, Dave Maxson, and myself have started work on the cell tower project again and I have welcomed Bill Johnson's help in re-jiggering the document which will be available to act on at the next meeting. We are trying to re-work the criteria and extend the response timeline in hopes that we will be able to garner some responses and be in a position whereby we get to determine the best and highest bid.
    f. Attached is the draft letter for the ZBA regarding the 40B submission for the Village at Robbins Lane. I included the safety issue the Board discussed at an earlier meeting and would like to know if anything more needs to be added?

2. State Fiscal Notes of Interest: (State House News Service)
    a. Through the end of July there has been a stalemate between the House and senate over the State Budget (material attached). Governor Healy submitted another interim budget for the month of August which was quickly passed by the legislature.
    b. The delay in the budget related to various views on budget items and one that was recently resolved was the Transportation (Chapter 90) Bill which is $375 million and includes the standard (10 years now) $200 million and an additional $175 million part of which will be formula driven (miles of roadways) for communities under 10,000 population. We do not know how much this will be yet as we wait to hear from Mass Highway. Other issues that were not resolved had to do with the on-line lottery and tax relief.
    c. The legislature did come to agreement on the 28th of July and both houses ratified the final budget on Monday the 31st. They agreed on spending but not taxes (tax relief) and used a large amount of one-time funds to pass the $56 billion budget. They also agreed on the FY23 supplemental budget of $600 million.

d. Tax relief is big and Governor Healy reminded the legislature that she is anxious to work on the tax package. The delay by the legislature to agree on tax relief leaves seniors, families, and renters waiting. However, in an editorial from the Lowell Sun, they said it right that tax cuts do not come naturally to the legislature.(read the attached it is interesting).
e. July revenues came in $264 million above last year but DOR says about $150 million of that is tied to a shift is sales, use and withholding collections between months because of timing. They estimate that the actual increase is approximately $114 million or about 4.7% above last year as opposed to the 11%.
f. Mass Lottery posted record profits, $1.176 billion, on revenue of $6.131 billion, which is the first time in the 51-year history that the lottery has surpassed $6 billion.
g. Midyear home sales in Massachusetts are down almost 25%. This drop will impact the funds available through the CPC as registry of deed filings will also be down.
h. One huge item hanging over the current State House administration is the $2.5 billion COVID error, improper use of pandemic funds on jobless benefits, left over by the prior administration. It is not yet been determined if the State will have to pay the Federal Government back. If it does it will be a significant lift to deal with.

3. Local Revenue Update:
   a. With the finalization of the state budget for FY24, Jared has determined that the change in Cherry Sheet (revenue and expenses) nets the Town approximately $31, 000 more than what we had estimated as shown on the attached.
   b. On our local receipts we were down in Building permit and transfer station revenues but have seen an increase in investment revenue due to the efforts of the Town treasurer.

4. <u>Police Updates:</u>
   a. Sorry to report that Detective Danielle Fortunado and Dusty will be leaving Harvard to go to her hometown of Millbury. She will be leaving us by the end of this month. If you see her out and about over the next few weeks, say thank you and wish her well.

5. <u>Housing Development Issues</u>:
   a. Bonnie Heudorfer is working with Airelle Jennings and others in drafting the Housing Production Plan. Bonnie is donating her time and we are very grateful for all of her expertise and efforts.
   b. The new SHI numbers are out and we are at 4.91%. The Subsidized Housing Inventory (SHI) is used to measure a community's stock of low-or moderate-income housing for the purposes of M.G.L. Chapter 40B, the Comprehensive Permit Law. Chapter 40B, requires that the Executive Office of Housing and Livable Communities (EOHLC- formerly DHCD) update a list of year-round housing units based on the most recent decennial Census for all 351 Massachusetts municipalities. The 2020 Census data that is used to determine year-round housing units for the SHI percentages is now publicly available. This data set deducts seasonal/recreational housing units. In addition, the EOHLC has completed a complete update on units that qualify for the SHI. (See attached)

6. Buildings and Fields:
    a. The Permanent Building Committee has sent out the attached letter to realtors seeking parcels that meet the stated criteria. Marie worked with the committee and the Fire Chief to develop the criteria being used.
    b. Gale Associates continues to gather information from various sport groups; there were a number of groups who have not made themselves available to Gale for their Zoom meetings. Preliminary recommendations will be shared with the project team on August 14.
    c. Harvard Park and Woods bid did not receive responses; Marie is trying to ascertain why so that it can be put out again to attract responses.
    d. The Permanent Building Committee selected Weston and Sampson Engineering for the DPW Schematic Design project.

7. Notice, Reminders, and Updates:
    a. Budget letter has gone out in accordance with Chapter 14 of our bylaws, as the official start of the FY25 budget process (See attached).
    b. There will be a one-day liquor license hearing on the 22nd for the Alpaca Farm.
    c. The Sarah Watson Scholarship is available to current college students. Information can be found on the town website with applications due by August 15, 2023
    d. We received the attached response from MART regarding the Board's request for shuttle services.
    e. Draft non-monetary articles and those of a monetary emergency nature are due to the TA by September 15, 2023 at 10AM.
    f. Both Marie and I are unable to make the meeting on the 5th and wonder if the Board wishes to move ahead with that date or move it to the 12th?