

## **Norfolk Board of Selectmen's Open Session Meeting Minutes September 17, 2019**

Present: Kevin Kalkut; CiCi Van Tine; Christopher Wider; Blythe Robinson, Town Administrator; Judith Lizardi, Executive Assistant.

The meeting was held in Room 124, Town Hall. Mr. Kalkut called the meeting to order at 7:00 p.m. Mr. Kalkut announced this meeting is being both video and audio taped. All present recited the Pledge of Allegiance.

Ms. Robinson read the agenda. She stated the public comment item is a new initiative that will be on each regular agenda going forward. She noted there will be an executive session held at the end of the meeting with the Select Board returning to open session only to adjourn the meeting.

### Public Comment

Mr. David Rosenberg, 123 North Street, stated that during the September 3, 2019, Select Board meeting, possibilities for enhancing and increasing citizen engagement in town government were discussed. He reflected that focusing on one committee at a time constrains possible solutions. He stated he found four people through a professional society who may be able to help as brainstorming facilitators; they are not from Norfolk. He would like to talk to those people to get the benefit of their views.

Mr. Ernest Alix, 40 North Street, discussed a possible location for the fire station. He provided a plan of a 6.35-acre lot and stated the Bremilst property is for sale with 1,031 ft. on North Street. It would be large enough for the building; the land that is not used could be taken for open space. The land is approximately 10 to 12 ft. high with gravel which could be brought to the old fire station property. The town could sell the old fire station and use that money toward the purchase of this new property. He noted many houses could be built there if the town does not act first.

### Town Government Study Committee – Presentation of articles recommended for Fall Special Town Meeting

Chairman Jonathan Smith of the Town Government Study Committee stated they have been performing due diligence on many items of which two will be presented tonight. They would like to clean up Town Bylaw Article 6 pertaining to contracts with a main interest in Chapter 30B which was enacted in 1936. He recommended eliminating Section 3 regarding bid procedures which are much different now than in 1936. He recommended the town conduct a pay and classification study as it has been 17 years since the last study was done; this study is recommended to be done every 10 years. It costs money but is a value to the town. He discussed two proposed warrant articles coming from the town clerk's office that the Committee has endorsed: a general severability clause in the bylaws and a codification of the bylaws. He recommended the town review the bylaws as to form and put them in a way that they are interactive with the town. Right now, the entire PDF has to be reviewed to find a specific section. This would also help with transparency. He noted 135 other towns have done this.

Chairman Kalkut stated bylaw review is important to make sure we are not putting ourselves at risk in certain situations by not keeping up to date.

Mr. Smith mentioned there are two vacancies on the committee. Volunteer forms are available on the town website or call for information.

## **ACTION ITEMS**

### Please consider appointing Michael Brogan to the Zoning Board of Appeals

Ms. Robinson stated Mr. Brogan had indicated his interest in being appointed to the ZBA during the annual appointment process. There was a 2 to 1 vote in opposition as Mr. Brogan was in litigation with the town at that time; that litigation has been resolved. She noted that 10 to 12 emails have been received about this possible appointment; they have been shared with the Board.

Mr. Brogan gave a brief statement of his interest in the ZBA. He stated he has been a resident of the town for 48 years, a building commissioner for the Commonwealth of MA and the State of RI, and he does zoning every day. He said he has a good background for this position.

Mr. Wider said the ZBA is the busiest board in the town. They may be losing a member and there are no associate members at this time. They need people with technical expertise and construction and zoning backgrounds on the ZBA to represent the citizens of the town as zoning laws are difficult. People willing to put in the time and effort are needed; Mr. Brogan brings those qualities.

Ms. Van Tine said she read the provided correspondence on this item. She appreciates people who volunteer; it is commendable. However, she has significant concerns about the level of acrimony. Mr. Brogan has a great background, but so do others who may not have the same contested issues; she questions his temperament as related to the ZBA position. She noted there are other people who have come forward with interest. She is a no.

Mr. Kalkut stated the Board has heard from many residents addressing concerns about Mr. Brogan's appointment.

Mr. Brogan stated he has done nothing wrong in this town. He has only defended his farm that his family has owned for generations. The alternative to his farm is having apartments. He is trying to work with the town, keep the farm as it is, and go forward. He wants to put his time and interest into Norfolk. He has a lot of knowledge that can be used and utilized.

Ms. Van Tine said she is not suggesting Mr. Brogan did anything wrong. Her issue is with temperament and how a person deals with neighbors and others, and how a person deals with conflicts. It has nothing to do with the farm.

Mr. Brogan said if it was not for the farm, he would be appointed to the ZBA.

Mr. Kalkut stated he disagreed with that. The charge of the BOS is to find people to act impartially and fairly. Mr. Brogan has the technical experience. However, looking at some of the historical interactions of what has occurred, this Board has to decide if the applicant would be able to work and make decisions with fairness and be unbiased.

Mr. Brogan said he would treat everyone fair and equally; he has worked in town for many years.

Mr. Wider stated that no one else has come forward for this position.

Ms. Robinson said she just received two more applications.

Mr. Wider stated he did not know about those applications. He stated Mr. Brogan is not involved in a lawsuit with the town. All the negative comments have been coming from residents of Seekonk Street who are unhappy with Run & Gun and do not like Mr. Brogan. He stated that whether someone is liked or not because of what they are doing on their property does not allow the Board to decide if that person can have a position in the town. He stated the ZBA is a five-member board; Mr. Brogan will not be making the decisions alone. Zoning issues are reviewed on fact, not on personal feeling. Mr. Wider stated that as he is chairman of the ZBA, Mr. Brogan will not get away with anything. He does not think the Board can judge Mr. Brogan on the Run & Gun farm. He has the right to have that farm. He stated he thinks it is outrageous that seven or eight letters from people on a street can determine the fate of whether a person becomes a member of the ZBA. Like him or not, he is technically capable of doing the job.

Ms. Van Tine said she appreciates what Mr. Wider is saying. However, when she reads the provided letters, they speak about Mr. Brogan's temperament. Her opinion is based on what she read in the letters, not with the lawsuit.

Mr. Kalkut said his interactions with Mr. Brogan's case have been fairly limited. He looks forward to the day they can leverage Mr. Brogan's experience and background; however, he does not think right now is the time.

A motion was made by Mr. Wider to appoint Michael Brogan to the Zoning Board of Appeals. It was seconded by Ms. Van Tine. A vote was taken as follows: Mr. Wider – aye; Mr. Kalkut – nay; Ms. Van Tine – nay. Motion denied.

Please consider updating the Town's list of Special Municipal Employees

Ms. Robinson explained the State's conflict of interest law (G.L. c. 268A) covers all municipal officials and employees, regardless of whether they are elected or appointed, as well as their pay status. There are two sections of the law where the conflict law rules apply less restrictively as long as those officials are designated as "special municipal employees." The provided list dates from 1998, and it is quite out of date with committees that no longer exist, ones that have been created in the intervening years, and positions that were at one time very part-time, that are now full-time roles. She recommended the Board review the enclosed spreadsheet and take several actions to update the list to reflect the boards and positions that should be classified as special municipal employees.

A motion was made by Ms. Van Tine to update the list of special municipal employees by removing from the list the following boards and positions: ADA Compliance Committee, Bylaw Study Committee, Cemetery Commission, Computer System Committee, Earth Removal Advisory Committee, Economic Development Committee, MBTA Advisory Board Rep, Mirror Lake Advisory Committee, Open Space Planning Committee, Permanent Building Committee, Permanent Building Committee Clerk, Personnel Board, Personnel Board Clerk, Recycling/Solid Waste Committee, Sealer of Weights & Measures & Assistant, Tree Warden and Deputy Tree Warden, Water Commissioners, Zoning Bylaw Study Committee, Advisory Board Clerk, Animal Control Officer and Assistant, Assistant Town Clerk, Burial Agents, Conservation Agent, Conservation Commission Clerk, Corrections Advisory Committee, Town Counsel, Zoning Board of Appeals Clerk. It was seconded by Mr. Wider, and so voted. All were in favor.

A motion was made by Mr. Wider to update the list of special municipal employees by adding to the list the following boards and positions: B1 Zoning District Working Committee, Call Firefighters

and Lieutenants, Community Preservation Committee, Emergency Management Director, Energy Committee, Insurance Advisory Committee, MBTA Advisory Board Representative, Mechanical Inspector, Norfolk Municipal Affordable Housing Trust, Public Safety Building Committee, Town Government Study Committee, Assistant Inspector of Wires, Assistant Fence Viewer, Assistant Inspector of Gas Fittings, Planning Board Associate, Assistant Plumbing Inspector, Tri County School Committee. It was seconded by Mr. Kalkut, and so voted. All were in favor.

A motion was made by Mr. Kalkut to update the list of special municipal employees by updating the names and/or titles of committees and positions as follows: Advisory Board to Advisory Committee, Arts Council to Cultural Council, Call Firefighter/EMT to Call Firefighter/EMT/Paramedic, Custodian of Veterans Graves to Veterans Grave Officer, Electrical Inspector and Deputy to Inspector of Wires, Gas Inspector to Inspector of Gas Fittings, Health Agent & Sanitarian to Board of Health Agent, Regional District School Committee to King Philip School Committee, Trustees of Public Library to Library Trustee. It was seconded by Mr. Wider, and so vote. All were in favor.

Please consider updating the Town's Public Records Policy and designating the Police and Fire Chiefs as Records Access Officers

Ms. Robinson stated this update provides grammatical changes and good housekeeping. She stated Mr. Anthony Turi, current Records Access Officer, will review his research and reasons for requesting to designate the Police and Fire Chiefs as Records Access Officers.

Mr. Anthony Turi, Assistant Town Clerk, reviewed the suggested changes. He stated records laws leave it open as to who can perform this duty. He has received a few police and fire department records requests over the years. From an efficiency standpoint, it is for the town's benefit to have the police and fire chiefs as the records request officers for police and fire report requests. He stated that when he is contacted for such a records request, he turns it over to those departments anyway. Through his research, he has determined that many towns do this. It makes those departments responsible for how they are responding to such requests. He noted if a person submits a public records request and it is not filled within 10 days, it can be appealed to the state. He explained that the other minor changes are to clear up language.

Mr. Wider stated that Mr. Turi does a good job and to keep it simple, Mr. Turi should continue to manage the records requests.

Mr. Turi stated the proposed method is simpler and makes for better responses; it does not make sense for someone to contact the assistant town clerk for a police or fire request. He reiterated that his research confirmed many other towns do it this way.

Ms. Robinson said 10 days is not a long time to complete difficult requests; every moment is needed. It is better to start the 10-day time period with people going directly to the police or fire departments. She noted that Mr. Turi does not work full time.

Mr. Kalkut confirmed both the police and fire chiefs were in agreement with this designation.

A motion was made by Mr. Kalkut to update the Town's Public Records Policy and designate the Police and Fire Chiefs as Records Access Officers. It was seconded by Ms. Van Tine, and so voted. All were in favor.

## Discussion Items

### Please discuss traffic and safety related to the intersection of Everett & Pine Streets

Ms. Robinson stated this intersection has been a concern for people for years. Recently, there have been some difficult traffic situations especially during stadium games. Emails, photographs, and videos from residents expressing concern have been received. She stated Police Chief Stone and Deputy Police Chief Carroll have a lot of experience responding to traffic accidents and they are here at the meeting to review some accident, speed data and traffic statistics. As well, Mr. Robert McGhee, Director of Public Works, and Mr. Barry Lariviere, Assistant Director of Public Works, will provide a review of the intersection. She suggested this will begin the conversation about the current concerns, possible options, and cost perspectives.

Mr. Kalkut stated that as this item was initiated by the residents, they should begin with their comments and concerns.

Mr. Peter Svalbe, 58 Everett Street, stated Everett Street and Rt. 115 is problematic during stadium events as well as with day-to-day traffic. Speeds and confusion at the intersection are concerns in this heavy traffic area. As well as commuter traffic, there are many heavy trucks. It is on an incline with vehicles going 45 mph downhill. There have been one or two car flips. He is concerned about his safety and that of residents for which he asked that something be done to slow the speed at this intersection and provide clarity as to when people are supposed to turn. He would like something considered in the interim until a real solution can be budgeted and implemented. He noted the DPW director has been very supportive of this being an important intersection to address.

Ms. Anna McGrath, 57 Everett Street, stated it is very unsafe and there is a lot of confusion at the intersection. She worries about children in the area and teenagers with new licenses. She supports any changes that can be made to make it safer.

Ms. Jennifer Svalbe, 58 Everett Street, discussed semi-trucks speeding down the hill having to use Jake brakes to slow down on Rt. 115 before crossing a residential street. She called 911 on September 10, 2019, because of a crash. This intersection poses a very serious safety concern.

Ms. Stephanie Donovan, 66 Everett Street, expressed concerns about the dangerousness of the intersection. She stated she and family members have been rear-ended in the past at this intersection. It is terrifying to watch the trucks speed by.

Ms. Betsy Whitney, 26 Valley Street, stated she supports all the previous comments about the dangerousness of this intersection. She stated it is a cut-through street. Although there is a 30 mph sign, the trucks go very fast. She stated she appreciates the police presence she has seen and is encouraged about the discussion for a roundabout.

Mr. Nathaniel Hunter, business owner on Hill Street, stated he gives his support to increasing safety in the area.

Ms. Van Tine mentioned she observes how fast the cars and trucks are going when she walks and runs on that street.

Police Chief Stone and Deputy Police Chief Carroll discussed the MassDot data and explained that the town's accident statistics are slightly different than the state's data. Deputy Chief Carroll reviewed that there were 32 accidents at Rt. 1A and Rt. 115 and 14 accidents at Pine and Everett Streets. They discussed their concerns and experience regarding the intersection. Chief Stone said Pine Street has been a heavily enforced area, however, there have been many accidents and a lot of citations written in the past 10 years. It is a heavily traveled public way. He explained what the police have tried to do with Everett Street because of stadium traffic including working with Walpole police and installing signs. He requested residents call them and they will go at different times to check the area. He discussed the hill and noted the difficulty people have in stopping due to snow. Going up the hill can also be difficult when it snows.

Mr. Kalkut asked Chief Stone if he believes another traffic light or speed mitigation method is needed for this road, or if the methods that have already been put in place are the most effective.

Chief Stone stated that anything more done to the intersection will be an investment for the town; it will have to be decided how much the town wants to spend. He suggested a possible traffic or engineering study for the area.

Mr. McGhee reviewed the history of the area and a \$7.5 million project for improvements to the area done in 2008. However, he thinks the only improvement for that inspection was some grading coming out of Everett Street; it must have been determined that a traffic light or roundabout was not needed. He said he believes it is a dangerous intersection that needs attention. Some work has been done with speed humps and four-way stop signs on Everett Street.

Mr. Lariviere reviewed a map of the area, some of the issues with the intersection, and some possible solutions. He stated the vertical issues and slope at the intersection preclude a roundabout. He discussed the work done at Boardman Street and Rockwood Road with the stop sign and radar sensor that signals a flashing beacon in front of the playground; speed and traffic data will be collected and reviewed. One scenario for the Pine Street and Everett Street intersection is along with the existing speed limit sign to add a caution intersection ahead sign and a flashing speed limit indicator. Another possible solution is to have an overhanging flashing yellow beacon similar to Main Street and Park Street warning people there is an intersection ahead and to slow down. He stated another scenario involves redesigning the traffic patterns with one-way and no-truck routes. The town would have to invest a significant amount of money to determine if one of these methods could be put there. All of the scenarios would be based on available funding. He noted that a roundabout could cost \$1 million; a flashing yellow is in the \$50,000 to \$60,000 range.

A resident asked about the Complete Streets program the Town participated in.

Mr. Lariviere explained the grant program, noting shovel-ready projects are required. The design must be done first, and then it is hoped to get the money from the state. They are testing Boardman Street and Rockwood Road now. He thinks a good comparison could be done between this intersection and the Everett Street and Pine Street intersection. He stated studies have shown that the blinking yellow is effective. Residents discussed the benefits of blinking stop lights.

Mr. Kalkut confirmed that what is being done at Boardman Street and Rockwood Road to collect the data will take six months to evaluate.

Ms. Robinson summarized that tonight was really to have a conversation and not to make a decision. She recommended more enforcement in the area, obtaining the data from the Boardman Street and Rockwood Road light, and considering this for the next budget. She noted that traffic studies are expensive.

Mr. Kalkut said he would like to see the cost for solar speed readers in the interim. He thanked everyone for their attendance and discussion.

Please consider approval of the following warrants:

A motion was made by Mr. Kalkut to approve the following warrants:

- 08/30/2019 04P20 and 04PS20 \$749,660.07
- 09/03/2019 10V20 \$804,026.49
- 09/10/2019 11VSA20 \$4,100.00
- 09/10/2019 11V20 \$203,619.72
- 09/10/2019 11VS20 \$127,245.51

It was seconded by Ms. Van Tine, and so voted. All were in favor.

Please consider approval of regular session minutes

No meeting minutes were presented for approval.

### **Executive Session**

Mr. Kalkut stated that an open meeting may have a detrimental effect on the litigation position of the public body. He read the executive session motion:

Move that the Board vote to enter into executive session under Massachusetts G.L. c.30A, §21(a)(3) to obtain advice of counsel and discuss strategy with respect to potential litigation regarding the construction of the Police Station insofar as an open meeting may have a detrimental effect on the litigation position of the public body, and further to invite Town Counsel Peter Mello, Town Administrator Blythe Robinson, and Executive Assistant Judith Lizardi. The Board will only reconvene into open session for the purpose of adjourning the meeting.

At 8:57 p.m., a motion was made by Mr. Kalkut to enter into the Executive Session and return to the open session to adjourn the meeting. It was seconded by Ms. Van Tine. A roll call vote was taken as follows: Mr. Wider - aye; Ms. Van Tine – aye; Mr. Kalkut – aye. All were in favor.

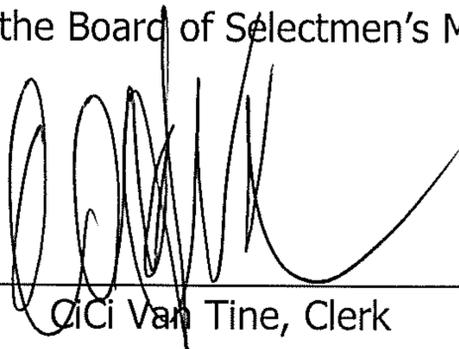
At 9:55 p.m., a motion was made by Mr. Wider to close the Executive Session and enter into open session to adjourn the meeting. It was seconded by Ms. Van Tine. A roll call vote was taken as follows: Mr. Kalkut - aye; Mr. Wider - aye; Ms. Van Tine - aye. All were in favor.

Prior to adjourning, Ms. Robinson stated the Board members need to meet to sign the Fire Chief's contract. After discussion, Board members agreed to meet on Tuesday, September 24, 2019, at 4:30 p.m. Ms. Robinson mentioned that she is scheduled to meet with the Run & Gun neighbors on Monday, September 23, 2019, at 5:00 p.m. She will explain to the neighbors that the town is finished with its involvement in this issue.

At 10:00 p.m., a motion was made by Mr. Wider to adjourn the meeting. It was seconded by Mr. Kalkut, and so voted. All were in favor.

The next meeting will be held in Room 124, Town Hall, on Tuesday, September 24, 2019, at 4:30 p.m.

This is a true and accurate report of the Board of Selectmen's Meeting of September 17, 2019.



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Cici Van Tine, Clerk