

Truro Board of Selectmen
Meeting Minutes – Tuesday, December 16, 2014
Truro Town Hall, 5:00 p.m.

Members Present: Chair-Jay Coburn, Vice Chair- Paul Wisotzky, Clerk-Jan Worthington, Bob Weinstein, Maureen Burgess

Present: Town Administrator-Rae Ann Palmer, Chris Lucy, Alice Boyd, Jay Norton, Catherine Staff, Chief Brian Davis, Leo Childs, Charleen Greenhalgh, Phil Smith, Meg Royka, Bob Panesitti, Eliza Harned

Chair Coburn called the meeting to order at 5:00 p.m.

Coburn announced the meeting was being recorded for broadcast on Truro TV channel 18. He asked if any audience members were recording. Hearing no response in the affirmative, he opened the Public Comment period. Chris Lucy came before the Board to discuss two items:

- The last meeting he attended, where water issues were discussed with WROC, one of the topics was about nitrogen on Beach Point potentially getting into East Harbor and the bay. He believes discussions with Provincetown should begin, to discuss running a sewer line down Beach Point. Coburn asked Ms. Palmer to add that to the list of issues the Selectmen would like to talk to the Provincetown Selectmen about at their upcoming meeting.
- Chris read in the paper that the town has spent \$178,000 on legal expenses for the Kline matter. A latter article, a month later, stated that the town spent \$185,000, and the actual numbers now are at \$194,000. He feels that this should go to mediation. Coburn stated that the Board of Selectmen continues to discuss the Kline matter in executive session.

Public Hearing:

A. ¹FY15 CDBG Regional Grant Application and Authorize the Vice Chair to sign.

Coburn had a conflict of interest with this, recused himself, and turned the hearing over to Vice Chair, Wisotzky. Alice explained that this grant is for \$900,000 maximum. Burgess asked if the families (under the child care subsidy) get to choose the program. Alice stated that the funds are allocated to the parents of each child. The check goes to the child care provider of choice.

Weinstein made a motion to submit an FY15 Regional CDBG Grant as Lead Community with the towns of Wellfleet and Provincetown for housing rehabilitation and child care subsidies and authorize the Vice Chair to sign the grant application and associated forms.

Burgess seconded this motion.

So voted unanimously, 4-0.

Coburn rejoined the Board.

Board/Committee/Commission Appointments

A. ²Review, Interview and Approve Jason “Jay” Norton-DPW Director-Appointment of Tree Warden & Cape Cod Joint Transportation Committee Representative.

Wisotzky asked what the Tree Warden does. Jay explained that the Tree Warden is responsible for shade trees in the Town, making sure they are not diseased, and pruning when necessary.

Weinstein made a motion to appoint Jay Norton as the Tree Warden and the Cape Cod Joint Transportation Committee Representative.

Burgess seconded this motion.

So voted unanimously, 5-0.

B. ³Review, Interview and Approve Appointment for Council on Aging Board-Catherine Staff.
Catherine recently retired from being a registered nurse, and misses working with people. She has already attended a couple of meetings.
Worthington made a motion to approve the appointment of Catherine Staff to the Council on Aging Board.
Wisotzky seconded this motion.
So voted unanimously, 5-0.

C. ⁴Appointments for Truro Fire Department-Call Department-Zachary Bostwick, Ryan Schmidt, Julius Smith and Per Diem Fire Fighter Paramedic Rachel Pelligrino.
Coburn believed there was a technical detail which needed to be worked out with Julius Smith. They may need to do something with the personnel bylaw to make his appointment possible. Chief Davis would appreciate that being worked out, as he needs to sign Julius up for the fire academy. Coburn suggested Chief Davis work with the Town Administrator and Legal Counsel, and he also asked to table the appointment of Julius.
Wisotzky made a motion to approve the appointments of Zachary Bostwick and Ryan Schmidt to the Truro Fire Department-Call Department, and Rachel Pelligrino as a Per Diem Fire Fighter Paramedic.
Burgess seconded this motion.
So voted unanimously, 5-0.

Tabled Items

A. Public Hearing:
NSTAR Electric for installation of Cable, Conduit and 5 Manholes (Standish Way & South Hollow Rd) and Authorize the BoS Clerk to sign.
NSTAR Electric to install 3082 feet of conduit and cable with 9 new manholes including the necessary sustaining and protecting fixtures in, under, along and across the following public way on Shore Road and Authorize the BoS Clerk to sign.
Coburn stated that they were in receipt of a request from NSTAR, subsequent to their discussion from a month ago, to withdraw those requests. They are currently exploring with the State to run those lines along Route Six.

B. ⁵Development Agreement Bylaw (DAB) proposal for ATM 2015
Leo Childs has a proposal for a Development Agreement Bylaw. The purpose of this Bylaw is to enable the Town to enter into development agreements consistent with the provisions of the Cape Cod Commission Act, and Chapter D code of Cape Cod Commission Regulations of General Application. This will enable the Town to participate in any major development which occurs in the town. The Town adopted the bylaw in 2002, and again in 2005. When the 2005 bylaws were codified, this bylaw was left out.
Worthington wanted clarification that rather than having the Cape Cod Commission having the jurisdiction and control over the development, the Town would be part of the process? Leo confirmed that with large scale projects the Town could partner with the Cape Cod Commission, and the developer. Charleen added that this will allow the Town to act on its own behalf. Worthington asked if the Cape Cod Commission would "trump" the Town. Charleen answered, "Not in the development agreement bylaw."
Burgess noticed that one of the requirements was that the Town needed a current local certified comprehensive plan by the Cape Cod Commission. Charleen stated that because the Town adopted the Development Agreement Bylaw, the Commission will be happy to work with the Town to be sure that the development agreement bylaw is accepted by the Commission, with the understanding that the

bylaw has to be updated. Burgess asked if the town meeting adopts the bylaw will that mean that the Cape Cod Commission will no longer be a partner in the process. Charleen stated that there are certain processes that the Commission is involved with, but they are not involved with review of the project. That review is left to the Town. If there is a project that a developer believes triggers a DRI review, it gets filed with the Building Commissioner, the Building Commissioner will make a determination which will allow them to go through the development review process with the Town.

Weinstein is comfortable with most of the language, but had a question within section three (2J) Site Alteration. A short discussion ensued, and Weinstein was satisfied with the answer Charleen gave. Wisotzky asked how many other towns have adopted the model bylaw. Charleen was unsure. In section 9-53 and 9-55 of the model bylaw, Wisotzky felt there was some contradiction. Charleen was able to clarify.

Coburn asked if projects have come forward recently which would have benefited from this. Charleen believes, in her tenure, there have been no projects which would have triggered the DRI Review. They did have a limited DRI Review with the Tradesman Park project, because of the change of use. She states that there are a number of properties out there right now that are thirty acres or more, which could either be developed, or could see a change in development.

Chris discussed the wording in certain sections of the proposed bylaw. Coburn stated that changing the wording would require a Town vote.

Coburn expressed concern with a Development Agreement Bylaw. One of the fundamental components of the Commission is that what happens in one town does not just affect that town. Having this bylaw would remove neighboring towns the ability to give input on developments. Chris pointed out that the meetings are public and anyone from any town can attend.

Coburn suggested waiting until the meeting scheduled for January 27th, 2015 to make a decision.

Weinstein requested that the list of exemptions for agriculture be included, as it will be helpful when discussing.

Coburn moved the Charter Review recommendations to the next slot to be discussed.

Board of Selectmen Action

A. Final Recommendations from the Charter Review Committee on the Truro Town Charter.

⁶Charter Review Committee members were introduced to the Board of Selectmen. Chair, Phil Smith read from Section 4.2.1 of the Town Charter with regards to Executive Powers. He also read from Section 5.3.1 Powers and Duties under the Town Administrator. He noted that it was important to recognize the difference between the powers and duties of the Town Administrator and the executive powers of the Board of Selectmen. If the recommendations are approved tonight, the recommendations will then be submitted to Annual Town Meeting, sent to the Attorney General's Office, and voted on at Annual Town Election. Article I is a recommendation to change the title from Town Administrator to Town Manager which is a more appropriate term due to the complexity of the position.

Coburn gave his interpretation of the difference between Manager and Administrator as there was no statutory difference. Worthington questioned whether the public had been heard on this topic. Robert Panessiti noted procedurally this would go before the town at Town Meeting but the change would have a new expectation of the position. Weinstein questioned Town Counsel's comments on the position of Assistant Town Manager. Mr. Smith responded that there is a limited number of Articles that can be presented at Town Meeting and asked to defer it to next year. Coburn added that the position of Assistant Town Administrator is in the Personnel Bylaw. It was agreed to do housekeeping on items such as Assistant Town Administrator. Wisotzky added that simultaneously with the Charter change there should be a vote for the Personnel Bylaw change to include the change to Assistant Town Manager. Mr. Smith next spoke to Article II with a complete list of elected positions, moving the list from the Appendix. Wisotzky spoke of the concern in having people run for office with term limits delineating

specifically Planning Board with 3 years terms, instead of 5 year term limits. Mr. Panessiti suggested adding a term to be decided by the Board of Selectmen. Burgess concurred with Wisotzky. It was agreed upon removing the term limit from the list of elected positions but leave the Housing Authority as listed in accordance with MGL and the Board of Selectmen.

Wisotzky moved to place Article II as proposed with the amendments that would remove the terms from the School Committee, Planning Board and Cemetery Commission.

Weinstein seconded the motion.

So voted 5-0.

Wisotzky moved to place Article I on the 2015 ATM Warrant.

Burgess seconded motion.

So voted 4-1-0. Worthington opposed.

Mr. Smith explained changes to Article III which involves delegating some contract signing to the Town Administrator with the contract limit being increased to \$100K. There was a brief discussion regarding the title of Town Administrator incorporated into the change of Article III versus Town Manager should that title be voted and approved. Mr. Panessiti explained this would eliminate administrative functions from being before the Board of Selectmen at their meetings.

Wisotzky moved to place Article III as written on the Warrant.

Weinstein seconded the motion.

So voted 5-0.

Mr. Smith explained changes to Article IV with respect to Board of Selectmen acting as the Licensing Authority. Coburn explained that the Consent Agenda does expedite special one day alcohol requests.

Wisotzky moved to place Article IV as written on the Warrant.

Burgess seconded the motion.

So voted 5-0.

Mr. Smith noted with respect to changes in Article V that there is a reporting procedure between the Town Administrator and Board of Selectmen. Coburn added that there is a policy memorandum that incorporates the details. Wisotzky asked to revise the working from "review" to "appraisal or evaluation".

Burgess moved to approve placing Article V as amended (*review* changed to *evaluation*) by the Vice-Chair on the Town Warrant.

Wisotzky seconded the motion.

So voted 5-0.

Mr. Smith explained the changes and the reasons for the changes to Article VI, VII, & VIII with respect to the Town Administrator overseeing personnel in public safety with the two Chiefs reporting to the Town Administrator. Coburn clarified that the Board of Selectmen would retain appointing authority.

Weinstein questioned whether the change would incorporate the appropriate statutes. Mr. Smith responded that Town Counsel was comfortable with the changes. Weinstein questioned that the information was not presented and asked to have Town Counsel address specifically the state statute under MGL Ch. 41. Wisotzky questioned whether the Policy and Procedures would still be approved by the Board of Selectmen.

Mr. Panessiti agreed that they will discover functionally how this will move forward for better clarity for the Board of Selectmen. Weinstein reiterated that the language in conjunction with the state statute be delineated. Chief Takakjian spoke of the differences between a strong Chief and a weak Chief as it is written in MGL Ch. 41 §97. Coburn suggested tabling Articles VI, VII & VIII item for further information. Wisotzky commented on Article VIII with respect to "*and officials*" as it is referred to in five different ways in the Charter and requested additional clarification on this wording. Coburn explained to Worthington that the Board of Selectmen would continue to set policy of the Fire department and the Police department. It was agreed to also postpone Article IX.

B. ⁷Beach Commission Chair discussion on banning smoking on Town beaches.

Eliza stated that at the last Beach Commission meeting, a citizen came before them and suggested banning smoking at the town beaches, similar to what the Park has done. The Beach Commission voted in favor of banning smoking. Worthington is in complete support. Coburn suggested that a bylaw be proposed for Town Meeting.

Weinstein made a motion to authorize staff to prepare a “no smoking on Town beaches” bylaw for inclusion in the Warrant for Annual Town Meeting.

Wisotzky seconded this motion.

So voted unanimously, 5-0.

C. ⁸Discussion of Town Counsel RFQs Review of Proposals and Interview Schedule.

There are four firms, including current Town Counsel, who have submitted proposals. Coburn suggested the next step to be to conduct interviews. Weinstein took the opportunity to comply with the disclosure of appearance of conflict of interest as required by MGL, Chapter 268A, Section 23B(3). He read from a letter. He was in contact with the staff attorney, Atty. Pauline Nguyen, Assistant General Counsel for the State Ethics Commission on December 9th, 2014. Weinstein read:

“You are a Selectman for the Town of Truro. You were elected in May of 2013. The Town’s Board of Selectmen has put out an RFQ for a new Town Counsel. Currently, E. James Veara, of Zisson & Veara Law Firm, is Acting Town Counsel. E. James Veara submitted a response to the RFQ. I have had two prior dealings with said law firm. Over ten years ago Edward Veara of the law firm represented my construction company, which I no longer own. In June of 2012, prior to my being elected to Selectmen, my wife and I went before the Appellate Tax Board to appeal our property tax assessment. On the other side of the appeal, it included the Deputy Tax Assessor, and E. James Veara, who was representing Truro as Acting Town Counsel. My wife and I prevailed on appeal. You asked whether you may participate in matters relating to the RFQ, or if you are required to recuse yourself. Your question raises issues under Section 23 of the Conflict of Interest Law. Section 23B(3) prohibits a municipal employee from engaging in conduct which gives a reasonable basis for the impression that any person or entity can improperly influence him or unduly enjoy his favor in the performance of his official duties, or that he is likely act, or fail to act, as a result of kinship, rank or position of any person. In this situation, your prior dealings with E. James Veara, and the law firm, creates an appearance of a conflict. To dispel such an impression, the municipal employee must make a written disclosure in advance to his appointing authority, or if elected, to his town clerk of all the facts and circumstances. I have attached this form to this email. It is also recommended that you make a statement of the facts to be included in the meeting minutes prior to participating in any matters relating to the law firm or E. James Veara.”

Weinstein stated that in complying with this, on December 10th, 2014, he filled out the appropriate form which was sent to him by the Ethics Commission. On that form, he described the issue coming before him for action/decision. His response was *“To review and possibly make decisions with regard to an RFQ for legal services, Town Counsel for the Town of Truro.”* To the question, “What responsibility do you have for taking action or making a decision” he wrote *“I am one member of a five member Board of Selectmen charged with making decisions regarding the provision of legal services for the Town of Truro.”* Weinstein then read his statement:

“More than ten years ago, Edward Veara, of the law firm Zisson & Veara, represented my construction company, which I no longer own. In June 2012, prior to my election as a Selectman, my wife and I appeared before the Appellate Tax Board to appeal property tax assessment. E. James Veara, acting as Town Counsel, represented the Town of Truro. My wife and I prevailed. I am one of a five member Board of Selectmen, charged with securing Town Counsel services for Truro. E. James Veara is one of several applicants for the position. Since I have no relationship with E. James Veara, other than in my

duties as a member of the Board of Selectmen, I feel able to review all applicants for Town Counsel services impartially and fairly.”

Coburn would like to conduct the interviews in open session on the 27th of January. Wisotzky asked if there should be a separate meeting just for the interviews. All Selectmen agreed and set a date of Wednesday, January 28th, 2015.

D. ⁹Discussion of Search Process for Fulltime Fire Chief.

Wisotzky reported that Chief Davis must retire, under State Law, at the age of 65. At the end of September 2015, Chief Davis will be required to retire. A search process needs to begin for a new Chief of Truro’s Fire and Rescue Department. Wisotzky recommends that at their meeting tonight, they authorize the Town Administrator to develop an RFQ and start looking for search firms to help in looking for candidates. Worthington asked if regionalization would be part of the consideration. Coburn felt this could be done on a dual track. Coburn has reached out to Paul Pilcher, (Chair of the Select Board of Wellfleet) and Tom Donegan (Chair of Select Board of Provincetown) to see about some exploratory discussions, if they wish to discuss looking at regional solutions to Truro’s Fire and Rescue challenges. **Wisotzky made a motion to authorize the Town Administrator to develop an RFQ for a search firm for a full time Fire and Rescue Chief.**

Burgess seconded this motion.

So voted unanimously, 5-0.

E. ¹⁰Review and approve revised FY16 Budget Task Force meeting dates.

Ms. Palmer explained that she is proposing to add the date of December 29th to the meeting schedule, and to authorize her to move the existing departments around in order to accommodate, for example, the Fire Department when Mr. Wisotzky is available.

Burgess made a motion to approve to empower the Town Administrator to revise the schedule of the Budget Task Force meetings.

Weinstein seconded this motion.

So voted unanimously, 5-0.

Consent Agenda

A. ¹¹Review & Approve November 24th & December 2nd, Regular & Executive Session meeting minutes and hold, & December 8, 2014 (Budget Task Force Meeting).

B. Review & Approve And Authorize the Chair to sign:

1. ¹²Town Water Service Hook-up application-346 Route 6 (Seamen’s Bank)-Sean Riled P.E. c/o Coastal Engineering Co, Inc.

2. ¹³Review and Approve Curb Cut Application-37 Truro Center Rd-Holly Rose.

3. ¹⁴Cape Light Compact Contract to Replace Lighting at Public Safety Facility.

C. ¹⁵Review and Approve Use of Town Property-Pamet Park (Adjacent to Veteran’s Memorial Wall)-June 27, 2015-Wedding Ceremony (4:30pm).

D. ¹⁶Review and Approve Bike and Road Race Application Annual Cape Cod Getaway MS Bike Ride-June 28th, 2015 & Authorize the Chair to sign MassDOT Event Notification Form.

E. ¹⁷Review & Approve 2015 Renewal Business Applicants-Salty Market, Savory & the Sweet Escape-Common Victualer (food) and Truro Vineyards of Cape Cod-Lodging House.

Wisotzky made a motion to approve the Consent Agenda as printed.

Burgess seconded this motion.

So voted unanimously, 5-0.

Selectmen Reports and Liaison Reports

Weinstein-He attended the December 11th Harbor Commission meeting. Everyone was informed that the signs, which spell out the rules and regulations for parking, have been received by the Town. There is the potential for the Harbor Commission to bring a couple of ideas before the Board of Selectmen about expanding certain parking options in town. There was a good discussion about making sure the Committee complies with the Open Meeting Law. Dredging of the harbor is almost complete. Upon completion, the Town will be in receipt of a topographic map indicating "before" and "after" conditions. The Committee is looking for a secretary. Weinstein was asked about the PAYT Committee meeting, which he also attended on the 11th of December. The committee will be reviewing information from neighboring towns. The agenda for the next meeting was to report on having time to digest all of the materials which have been presented to them. The committee is also encouraging as much public participation and input as possible. He also attended a Board of Health meeting. They are in the process of streamlining some of their regulations.

Burgess-No report.

Coburn-Would like to offer his congratulations to the Fire Chief's department for the tremendous work on a major drug arrest through a collaborative effort with the Outer Cape Police Departments.

Wisotzky-He has attended the past two budget task force meetings, and would like to thank Rae Ann and Trudi Brazil. He acknowledged that a different approach was used this year, and he thanked all Department Heads for embracing that.

Worthington-She wanted to add that the Truro Fire and Rescue Department participated in the Toys for Tots toy drive and did very well. Worthington also publicly acknowledged the award received for the Annual Town Report. She thanked Nicole, Noelle, and everyone else involved in it.

Next Meeting Agenda: January 13, 2014

- Several staff appointments to Commissions and Boards
- Hearing from the Charter Review Committee
- Two contracts, one for Assessing Software, and one for our GIS Services

Coburn mentioned that since Wisotzky and Worthington would not be attending that meeting, that perhaps they should postpone the Charter Review Committee to the January 27th meeting. Burgess asked what they would do with the letter from the Chamber of Commerce regarding a proposal in their budget. Coburn explained that it falls under the Board of Selectmen's budget, so when they discuss their budget during the Budget Task Force meeting, they can discuss the Chamber as well.

Town Administrator's Report

She and the Town Accountant continue to meet with Department Heads prior to the Budget Task Force meeting. She does have the draft final job classification report. It has not been accepted yet, it needs to be reviewed to be sure it is acceptable. It could potentially impact contract negotiations. A review in Executive Session was suggested. Ms. Palmer has asked Charleen to review it as well, as she was involved in the initial work, with Mr. Lawton. Staff has been informed that Town Hall will be open the day after Christmas. She is presuming the same thing will be done for the day after New Year's Day as well. Ms. Palmer reported that she received a resignation from Ron Kettler in the DPW Department.

Wisotzky made a motion to adjourn at 7:15PM.

Burgess seconded this motion.

So voted unanimously, 5-0.

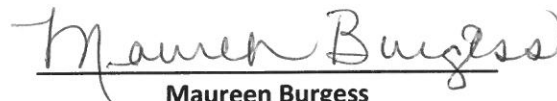
Respectfully submitted, Noelle Scoullar, Executive Assistant


Jay Coburn, Chairman


Paul Wisotzky, Vice-Chairman


Janet W. Worthington, Clerk


Robert Weinstein


Maureen Burgess
Board of Selectmen
Town of Truro

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¹ Bailey Boyd Associates Memorandum

² Bylaws for the Cape Cod Joint Transportation Committee

³ Application to Serve-COA-Catherine Staff & Email from Bonnie Sollog

⁴ Board of Selectmen Agenda Item-Appointment of new members

⁵ Request for placement of an action item on BoS Agenda, Planning Board Proposed Article, Cape Cod Commission
Chapter D Development Agreement Regulations

⁶ Proposed Charter Amendments for 2015 ATM, Letter from Zisson & Veara, P.C.

⁷ BoS Agenda Item re: Potential banning of smoking on Town Beaches

⁸ BoS Agenda Item re: discussion of next steps in completing the RFQ process for Town Counsel

⁹ BoS Agenda Item re: discussion of Fire Chief Recruitment

¹⁰ BoS Agenda Item re: Revision to Budget Task Force Meeting Dates & Revised Schedule

¹¹ BoS Minutes for November 24, 2014 & December 2, 2014 & December 8, 2014

¹² BoS Agenda Item re: Water Service Application, Memo from Patricia Pajaron

¹³ Curb Cut Application-37 Truro Center Road

¹⁴ Small C & I Program Agreement for interior lighting upgrade with Cape Light Compact

¹⁵ Application to use Town-Owned Property-Veterans Park

¹⁶ Application for Bike & Road Race-National MS Society

¹⁷ Business License Renewal Applications-Salty Market & Truro Vineyards