

Minutes
SELECT BOARD
Monday, March 11, 2019 6:00 p.m.
Town Hall, 5 Academy Hill Road

Select Board present: John O'Rourke, chair; Phil Kantor; Bob Armstrong

Others present: Lisa Gustavsen, Roaring Glen; Tom Lesser, Esq. for Phil and Leah Bowden, Tornado Mountain; Alan Singer, Roy Cohen, Finance Committee; Bob Baker, Fire Chief; Esther Glovacki, FCAT; Tom Hutcheson, Town Administrator; Lisa Turowsky, Assistant to Town Administrator

John O'Rourke called the meeting to order at 6:00 p.m.

Minutes

Kantor had question about Moore/Gustavson proposal: he thought they said they needed a variance re: the fencing. Replace "waiver from" to "variance for" in the minutes.

- **On a motion from O'Rourke to approve the minutes of March 4, 2019 as amended, seconded by Armstrong, the vote was unanimous in favor**

Meetings Attended by Select Board Members

Kantor attended multiple collective bargaining sessions with teachers and IAs; Town Caucus and Capital Improvements Planning Committee meeting.

Armstrong attended the Town Caucus; a meeting of the Municipal Coalition against Pipelines; Capital Improvement Planning Commission where they came up with recommendations so they can appear in the warrant re: Highway Department requests; and a workshop on short-term rentals which he found "confusing" as to what the law is.

O'Rourke went to the Town Caucus; it was necessary to roust people for quorum.

Public Comments *None*

Old Business

Sign Community Compact contract for regional municipal accountant training program at the FRCOG

Hutcheson recalled that Bob Dean of the FRCOG came in to ask the Select Board to apply for the training program contract; Conway is the lead town for the grant.

- **On a motion from O'Rourke to sign the Community Compact contract for FRCOG's regional municipal accountant training program, seconded by Armstrong, the vote was unanimous in favor.**

Proposed revision to Host Community Agreement Policy

Hutcheson proposed adding the language in italics to the policy: "Copy of draft license application to the Cannabis Control Commission (*as public submissions are public documents, do not submit confidential business information*)"

- **On a motion from O'Rourke to approve the change to the policy as proposed, seconded by Armstrong, the vote was unanimous in favor.**

Draft Host Community Agreement for Philip and Leah Bowden

Tom Lesser, the Bowden's attorney, was here on their behalf. Armstrong referred Lesser to the cultivation agreement which doesn't specify marijuana cultivated by the applicant; Lesser will add that language to clarify. Armstrong asked about the reason for Tornado Mountain having two different licenses; Cannabis Control Commission asks that they apply for separate licenses each with their own HCA. If the Bowdens decide to separate the businesses into two separate LLCs they'd need SB approval; some accountants recommend structuring the businesses that way. The discussion then moved to the Community Impact Payment (CIP) and how that will be calculated. Lesser's presentation related to statute itself and the requirements of the CCC; costs must be reasonably related to the marijuana business being in town. Lesser asked the Select Board to follow the law as he reads it. Lesser noted that Tornado Mountain is not a retail business with costs like police presence, education, etc. No one is even going to see the cultivation area which is surrounded by conservation land, said Lesser. He said that it is his understanding that the Police Department won't need to increase patrols. The Bowdens have offered a 1.5% CIP. Lesser noted that it is not clear how growing marijuana outside is going to work

out; it could be successful, or it could not. The CIP percentage should be related to actual cost to the town. Or, it could say the applicant will pay all the costs up to 3% of their gross wholesale receipts. Kantor thinks the cost to the town would easily exceed 3%. There might be some highway costs for grading the road, for example. At CGS they're talking about a cannabis curriculum, so there would be cost for training someone, etc. Hutcheson spoke to the 5-year mandatory contribution, stating that there is an argument for getting more money up front so the Town can continue programming after 5 years. Lesser disagreed with Hutcheson's understanding of the law; he suggested that the CIP be based on the cost to the Town up to 3%, with a neutral person deciding what to do if there's a disagreement. O'Rourke says this is going to be a learning experience for Tornado Mountain and for the Town. Kantor thought there should be a mechanism to revisit these issues on an annual basis. Armstrong would like to have a standard HCA for Tornado Mountain and Roaring Glen for cultivation because those activities are so similar. The Select Board believes it is important for the Town to have some amount to get started; Lesser agrees that would work for his clients. The Town is looking at a \$5000 contribution from Tornado Mountain at the outset, with the percentage up to 3%, based on the Town's costs. Lisa Gustavson said that's amenable to her. Lesser will rewrite Tornado Mountain's HCA and present it to the SB for approval.

Draft Host Community Agreement for John Moore and Lisa Gustavsen

Hutcheson had some questions/suggestions about Roaring Glen's Host Community Agreement (HCA). He asked Gustavsen to replace "covered sales" with "gross wholesale receipts," which is the language in the law. Also, he asked for her concurrence that the word "proved" should be "provided," and that Section 9 should read "hereby agree to the renegotiated payment." There was a discussion about whether there should be a mechanism for a standard arbitration agreement if parties can't negotiate an agreeable CIP. O'Rourke wants it to be a professional, not a Town resident, as Kantor proposed. Lesser requested a third party to decide when there are disagreements. O'Rourke asked him to draft a "soft" arbitration clause, someone who's knowledgeable about town government. The cost of a third party would be shared.

Kantor asked Gustavsen the extent to which the issue of needing a variance for fencing will affect their plans. She met with the Planning Board, who said there is no requirement for a variance regarding Roaring Glen's security plans. But the CCC might ask for security changes, said Gustavsen; they can't know what the CCC wants until Roaring Glen submits their application. Kantor wants to know if the Select Board signs an HCA, does that mean that the Select Board has approved Roaring Glen's plan. Hutcheson said no; Gustavsen said the business will be bound by whatever the CCC wants.

Gustavsen will coordinate getting the Select Board the same language regarding cultivation as Tornado Mountain has in its proposed HCA.

6:30 JOINT MEETING with the FINANCE COMMITTEE

Proposed Town budget for Fiscal Year 2020, including operations and special articles

Hutcheson summarized the warrant articles. Article 24 relates to authorizing spending from revolving Medicaid fund, which is needed every year. Article 25 related to the CPC; there are no numbers yet. Article 27 relates to B&B taxes; B&B *homes* are exempt from the tax; B&B *establishments* (4+ rooms) may be taxed. Hutcheson doesn't have the number of B&B establishments in Conway; if this would affect local B&B owners, Hutcheson would like to talk to them. Armstrong reported that Marje from the Board of Health did not know of any. Airbnb collects taxes as part of their business model so the Town wouldn't be collecting taxes from Airbnbs. Article 29: The Planning Board is not submitting any amendments of their by-laws this year, so this placeholder will be removed. Article 30: The Treasurer would like three joint custodians for OPEB investment decisions proposing instead of being the sole trustee of the OPEB fund.

Fire Department training pay

Hutcheson distributed Excel sheets regarding to Fire Department training pay. Employees must be paid if undergoing the Fire Department's mandatory training. Chief Baker will propose that his budget include a total of just shy of \$9,500 to cover the cost of payments for mandatory training. Chief Baker feels that the hourly training sessions for him are covered under his salary. There is a minimum of two hours of training a month for all firefighters and junior firefighters; there are also two fire academy courses each year, two hours each. His total for the year is \$9,471. He reviewed what other towns are doing in this regard. Some towns pay hourly, some pay by stipend. He never realized that the employee handbook which sets forth the requirement that employees be paid for mandatory training applied to fire personnel. Training of 28 hours a year is what he's recommending. He recommends going by the hour; some people don't show up for training. There are currently 23 people in the force. Juniors (14-18-year-olds) should get paid the same as adult firefighters; 65% of adult firefighters were once juniors. One mandatory training a month is sufficient to meet state requirements.

- **On a motion from O'Rourke to accept Chief Baker's recommendation for training funding, effective July 1, 2019, seconded by Armstrong, the vote was unanimous in favor.**

Notes on budget additions:

Open Space Committee and Rose field ("Riverbend Meadow") mowing

Hutcheson has added \$1,500 to the 170 series budget (for the Open Space Committee) for the additional expense for mowing the walking path on a more frequent basis than regular maintenance. The person who has been doing it is not interested in continuing. Hutcheson said it is fine to receive two separate invoices; the Town accountant agrees. Kantor thought this was too much money; Hutcheson doubted the whole amount would be spent, but as the contract is still being drafted, we should leave some room.

Frontier capital spending

Hutcheson reported that he hadn't gotten any formal communication from Frontier regarding the amount we're being assessed for their borrowing. There was nothing in Frontier's budget for this so Hutcheson didn't put anything in his draft budget. Now, the expense is covered as a special article with free cash as the source of funds.

Town Clerk salary to include dog license fees Tabled

Recommendation on pay raise Tabled

This recommendation is traditionally a function of the Finance Committee but as they have no quorum tonight this item is tabled. Kantor wants an Executive Session to discuss this item so as not to affect the Town's negotiating position with Union 38.

Recommendations on warrant articles Tabled

New Business

None

Items Not Anticipated 48 Hours in Advance of the Meeting

Citizen Petition for resolution in support of HD.2968 and SD.1495, creation of a special commission re: state flag

Pixie Holbrook came in to discuss what's on the warrant as Article 32, a resolution to support the creation of a state commission to look at changes to the flag of the Commonwealth. Holbrook pointed out that there are problems with the representation of a native American on the flag of the Commonwealth. The Towns of Gill, Wendell, and Orange have passed a resolution already. Holbrook submitted a detailed fact sheet about the resolution to Hutcheson. Jo Comerford and Natalie Blais have submitted the resolution as a bill.

Town Administrator update

None

Select Board Comments

None

Mail

The members of the Select Board received their copies of The Beacon.

Sen. Adam Hinds acknowledged receipt of letter from the Select Board re: Ch. 70 funding.

Announcements

None

At 7:25 p.m., on a motion from O'Rourke to adjourn, seconded by Kantor, the vote was unanimous in favor.

Next Meeting Monday, March 25th, 2019, at the *Town Office, 32 Main Street*, at 6:00 p.m.