



SELECT BOARD MEETING
Meeting Minutes
April 24, 2023
6:00 P.M.

APPROVED: 5/8/23
Amended

PRESENT: Diana Lipari, Chair; Wesley Fowlks, Member; Les Fox, Clerk; and John Markiewicz, Member

ALSO PRESENT: Town Administrator Mike Johns; Kelley Price, Administrative Assistant; and Kirby Dolak, BXBTV

The documents discussed herein have been included with the file copy of the agenda packet for the above referenced date and are hereby incorporated by reference.

EXECUTIVE SESSION MEETING 5:00 PM
SELECT BOARD MEETING - 6:00 PM

Executive Session

1. Call the Meeting to Order Noting the Time & Presence of a Quorum

At 5:00 PM, Chair Lipari called Select Board meeting to order, via ZOOM pursuant to the procedures noted, and entered Executive Session.

2. Executive Session

- a. To discuss strategy with respect to collective bargaining or litigation per MGL Ch. 30A §21 (a) (3) (CBK Towing)
- b. To review and/or approve the release of executive session minutes of 3/1/23; 3/27/23; 3/30/23; 4/3/23; 4/5/23; & 4/10/23

3. Reconvene in Open Session at 6 PM

Regular Session

1. Call the Meeting to Order Noting the Time & Presence of the Quorum

At 6:00 PM, Chair Lipari called Select Board meeting to order, via ZOOM pursuant to the procedures noted.

ANNOUNCEMENTS

Chair Lipari read through the announcements.

APPROVAL OF MINUTES

- a. Regular Session Minutes: 4/10/23

Member Fowlks moved to approve the meeting minutes of April 10, 2023, as amended. Seconded by Member Markiewicz.

Approved: 4-0-0 by Roll Call Markiewicz, "aye," Fox "aye," Fowlks "aye," Lipari "aye."

NEW BUSINESS

- a. Appointments
 - Boxborough Police Department (Z. Stillman)

Chief Szewczyk requested an appointment for a new Police Officer, Zachary Stillman. He stated that Mr. Stillman has done a great done in a dispatch position for the Town.

Member Fowlks moved to appoint Zachary Stillman to the Boxborough Police Department for a term ending June 30, 2024. Seconded by Member Markiewicz.

Approved: 4-0-0 by Roll Call Markiewicz, "aye," Fox "aye," Fowlks "aye," Lipari "aye."

- b. Action: FY24 Transfer Station Sticker Fees

Town Administrator Johns explained for the proposed Transfer Station Sticker fees for FY24 are the same as last year. A fee has been included for affordable unit residents.

Member Fowlks moved to accept the FY24 Transfer Station Sticker Fees, as presented. Seconded by Member Markiewicz.
Approved: 4-0-0 by Roll Call Markiewicz, “aye,” Fox “aye,” Fowlks “aye,” Lipari “aye.”

c. Summary of Steps Taken by Select Board in Response to Allegations Raised Against Former Police Chief
The Board tabled this item to later in the meeting.

d. Action: Intermunicipal Agreement with the Town of Boxborough & the Town of Littleton Regarding the Provision of Water
The Board tabled this item to later in the meeting.

e. Action: Memorial Day Parade Permit

Member Fowlks moved to approve the 2023 Memorial Day Parade permit request to be held on Monday May 29, 2023 . Seconded by Member Markiewicz.

Approved: 4-0-0 by Roll Call Markiewicz, “aye,” Fox “aye,” Fowlks “aye,” Lipari “aye.”

f. Action: Intermunicipal Agreement with Town of Littleton Community Television (LCTV)

Kirby Dolak stated that the proposal is to economize both towns. The agreement has a three-year price tag of \$292,800 with a yearly cost of \$97,006 or \$24,400 per quarter. The change in cost is due to Boxborough now being charged for items that were previously done but were not being charged for. The agreement includes the basic processing of nine different commission/committee meetings and placing these into the cloud services. Boxborough is responsible for the actual video capture and the equipment. Littleton has already unanimously voted to approve this and has signed their side of the agreement.

Chair Lipari moved to accept the Intermunicipal Agreement between the Town of Boxborough and the Town of Littleton for the Provision of Littleton Community Television (LCTV) for the term of July 1, 2023 through June 30, 2026. Seconded by Member Fowlks.

Approved: 4-0-0 by Roll Call Markiewicz, “aye,” Fox “aye,” Fowlks “aye,” Lipari “aye.”

d. Action: Intermunicipal Agreement with the Town of Boxborough & the Town of Littleton Regarding the Provision of Water –
The Board took up this item at this time.

Town Administrator Johns explained that the town of Littleton has the means to get a water to the west side of Boxborough. An intermunicipal agreement (IMA) has been drafted, whereby the Littleton Electric Light and Water Department (LELWD) in conjunction with the towns of Boxborough and Littleton would extend the water line from the Whitcomb Treatment Facility across Littleton, touching a corner of Harvard, into Boxborough and up to, but not across, Route 495. This is approximately a \$19.2M project. The town of Littleton will be addressing the agreement on May 1st at their Town Meeting. Their warrant article would authorize Littleton to borrow that money from the State via a no interest loan. Much of the funding is coming through the DEP to try to take care of the PFAS issues in the water in some areas in the region. Another portion of money is coming from the Department of Transportation to take care of the salinity problem, much of which came from the Route 495 area. The zero-interest rate loan will be paid back through betterments paid by the users. In this area there are three large condominium complexes, as well as other businesses and facilities. Boxborough’s counsel has worked with the town of Littleton’s counsel to craft this IMA. There are still some areas that need to be refined in the IMA, and Littleton town meeting needs to approve an article to authorize Little to borrow the money from the Drinking Water State Revolving Fund. The IMA needs to be signed by both towns, and there is an additional piece of legislation for borrowing of money which would be signed later. There are 11 properties that would benefit from this distribution system along the Codman Hill and Swanson Road areas. The Beaver Brook property, formally owned by Cisco and now owned by Campanelli Group will contain much of the pipe to be installed by Littleton Electric Light and Water Department.

Member Markiewicz asked if the whole Beaver Brook property will have access to the water or if this will only be available to the current buildings that are in place. Town Administrator Johns explained that the buildings have not yet indicated whether they will use the water, but they will be paying for betterments either way. Member Fox stated that if Campanelli wants to connect to the Littleton water source, the infrastructure for distribution will be in place, but this would be up to them.

Member Markiewicz asked about piping over the new bridge over Route 495. Member Fox explained that the DOT has stated that water could be carried across the new Route 495 bridge for the purpose of fighting fires on the eastern side of Town, although this is not currently in the plans. A utility tray provision would be needed for this.

Chair Lipari asked why this is being proposed through betterments, when that is not how the electric was handled. She also asked where in the agreement it states that Littleton will reimburse Boxborough for administrative costs, as she is not convinced that the Town will be completely whole. Town Administrator Johns explained that betterments likely were not used for electric due to that fact

that the electric infrastructure probably already existed. In this case, the infrastructure to supply water to western Boxborough does not exist. The water is being paid by the user per gallon and the infrastructure is being paid for by the property owners, depending on the number of feet of pipe that needs to be connected. The cost of the infrastructure likely could not be covered in the rates. Most water and sewer utilities in the public sector are covered through betterments. If it better a property, that is the property owner's responsibility. Some of the administrative costs to the town of Boxborough will not be covered, and it is yet unclear if these will relate to another half- or full-time employee. It is anticipated that there may be additional costs and some money has been added into the warrant for consulting fees regarding implementing this process. The IMA provides water for the extinguishment of fires in western Boxborough. Along the water lines, fire hydrants will be installed and there will not be metering for water from the fire hydrants.

Chair Lipari stated that, in Section V of the IMA, it states that all legal and administrative costs incurred by Boxborough to assess and collect betterment and usage fees shall be paid for by Littleton. She would like to make sure this remains in the IMA. The IMA does not state specifically that Boxborough will be made whole, and it does not talk about repair of the land or the roads. Town Administrator Johns stated that LELWD will pay to close the road and put it back to the condition they are currently in or better. Ongoing maintenance of the system would be factored into the water rates. Chair Lipari stated that the Board is being asked to discuss the principles of this agreement this evening, but she would like the Board to have another look at the final agreement.

Member Markiewicz asked if Harvard has to do anything, as the water is crossing through a portion of the town. Member Fox stated that there was a meeting with Harvard's Town Administrator who stated that the town will give LELWD a license to open the road and lay pipe, and eventually will grant an easement for upkeep of the pipe.

Member Markiewicz asked if the benefited parcels have agreed to be part of the distribution system. Member Fox stated that everyone on the list has sent letters of support, including Bright Horizons daycare and a number of other properties along Codman Hill Road, with the exception of Campanelli, which has expressed support but not put this in writing yet.

Chair Lipari stated that she received comments from Cindy Markowitz of the Planning Board regarding construction and remediation of hazardous soils. There was an additional question regarding representation on the board for the water department, as Boxborough does not have any representation on the electric department board. Town Administrator Johns explained that these issues have not yet been raised but have been acknowledged.

Chair Lipari asked for public comment.

Janet Keating-Connolly asked if construction costs were discussed with Littleton if impacted soils have to be disposed of offsite. Town Administrator Johns stated that this has been discussed but has not yet been hammered out. Exact costs have not yet been shared outside of the betterment portions, as construction bids have not yet come in. Member Fox stated that he would assume a contingency budget will be created for the construction plans.

Janet Keating-Connolly asked how the betterment fees are calculated and distinguished from the construction loans. Member Fox stated that there is a zero percent, 30-year loan from the State for this project. This will be apportioned through the bettered properties due to the amount of pipe laid over and across each property. This betterment portion will be paid off for 30 years. This could be as part of the tax bill or a separate bill for the properties which join into this system. The Town will likely collect the water-related charges and send them to LELWD. If the water bill is not paid by a property owner, a lien would likely be put on the property. Town Administrator Johns explained that this is a loan, not free money. This loan will be divided amongst the property betterments. Member Fox noted that \$6.5M from DOT is free money, as long as a release is signed by the property owner that there is no salt issue on the property.

Chair Lipari moved to accept the principles of an Intermunicipal Agreement between the town of Boxborough and the town of Littleton regarding the provision of water, as presented, and to delegate the Town Administrator to work with Town Counsel to finalize the terms and language. Seconded by Member Fox.

Approved: 4-0-0 by Roll Call Markiewicz, "aye," Fox "aye," Fowlks "aye," Lipari "aye."

c. Summary of Steps Taken by Select Board in Response to Allegations Raised Against Former Police Chief - *The Board took up this item at this time.*

Chair Lipari addressed the Select Board's process in response to allegations raised against the former Police Chief Warren Ryder. After a series of discussions between the former Chief and the Town, it was mutually agreed that the Chief resign and retire from his duties, effective April 7, 2023. This has been a very difficult process for all involved, but it was only driven by the Select Board's desire to serve the best interest of the Town. The Select Board wanted to ensure that the operations of the Police Department were conducted with integrity and honesty and that all Town employees were treated fairly. A former Police Department employee's

allegations were made public on social media in October 2020, and the Select Board had to respond to the charges. An Executive Session with the former Police Chief was called on October 12, 2021. The Chief was given the opportunity to answer the charges in a presentation to the Board and the public on October 18, 2021. At that meeting, because of the serious and possibly criminal nature of the allegations concerning the Police Department, a majority of the Board voted to ask the Interim Town Administrator Carter Terenzini to contact the Public Corruption Division of the FBI to conduct an investigation. The Board felt that such an agency had more resources than the Town and, as it was a disinterested third party, the Board expected a relatively short investigation, if indeed the FBI took on the case at all. The FBI did take on the case, and this only became clear as the Town was contacted several times, including fairly recently, for specific information and the production of documents. The Board was surprised to hear that other State agencies, such as the Offices of the Attorney General, the Inspector General, and the District Attorney, were also looking into the allegations, because the Town had not contacted any other agencies. The Board could not talk about the FBI investigation as the Town was asked by the FBI not to reveal the existence of that investigation, or that documents had been requested through grand jury subpoenas, as doing so could be construed as interfering with their investigation. Eventually, Interim Town Administrator Terenzini was able to reveal that the FBI was involved in the case when he asked for the preservation of documents by all employees. By January 2022, new issues had come to light and the Select Board voted unanimously to place former Chief Ryder on paid administrative leave. The Board also authorized Interim Town Administrator Terenzini to investigate the additional issues that surfaced. In July 2022, the Select Board voted unanimously to hire a third-party investigator to look at a subset of the issues that had surfaced and to give Interim Town Administrator Terenzini the authority to find that investigator. Investigator Paul L'Italien was recommended by KP Law. As stated in his summary, Mr. L'Italien began working for the Town on August 19, 2022. He then met with Member Fowlks and Chair Lipari in order to get an understanding of the scope of the investigation, which was to be purely administrative in its focus. Contrary to what has been alleged on social media, Mr. L'Italien never met with the Board as a whole nor were the specifics of his investigation ever discussed by the Board. Mr. L'Italien only contacts in the Town were Interim Town Administrator Terenzini, KP Attorney Joe Fair, Member Fowlks, Chair Lipari, eventually Town Administrator Johns, Interim Police Chief Szewczyk, and the witnesses he contacted. Mr. L'Italien was asked to conduct a speedy investigation and to complete his report before a new Town Administrator was hired. Unfortunately, availability of witnesses and document production held back his investigation and it was not completed until mid-February 2023, a month after someone connected with the FBI contacted the former Chief's attorney to say the FBI would not be seeking an indictment of the former Police Chief. After an investigation of more than 15 months, the FBI contact did not notify the Town of this development but did confirm the information to Town Administrator Johns when he contacted them. To this day the FBI has not publicly or officially said anything about the status of their investigations, and neither have any of the other entities investigating the allegations, although the Board has reason to believe that at least some of those investigations continue. The FBI never issued any written report to the Town or, as far as it knows, even verbally commented to anyone about the results of their investigation, except for the communication to Chief Ryder's attorney and the confirmation to Town Administrator Johns. In February of this year, based on the completed investigator's written report, Town Administrator Johns, and the Select Board Chair, with the assistance of Attorney Joe Fair, determined the specific allegations against the former Chief were to be sent to him in a "Notice of Executive Session and Termination Hearing," dated February 24, 2023. As is the usual practice in personnel matters of this type, the Town did not make that notice public so as to protect the privacy interests of the employee. However, someone apparently did make the notice public, as it appeared on social media within 36 hours of its being sent to the former Chief and his attorney. The notice specified a hearing to be held during an Executive Session on March 20, 2023, giving more than the 14 days required by the former Chief's contract. Contrary to what has been said on social media, the former Chief was told he had the right to attend the Executive Session with his attorney or, if he chose, to request that the hearing be held in a public meeting so that he could respond to the charges in his preferred venue. The hearing was postponed several times while the parties engaged in settlement discussions and was ultimately canceled after a settlement agreement was reached with former Chief Ryder on April 5, 2023. The Board was unanimous in its acceptance of that settlement agreement. The settlement payment been issued and cashed by the former Chief, despite a timing issue from the bank on the day the check was presented for payment. Throughout this process the Select Board was limited in what it could communicate to the public about the allegations being investigated because they were, and still are, considered personnel matters, and, as such, are subject to privacy restrictions and are not able to be discussed publicly without a formal hearing with the employee present. Additionally, since there were various investigations being conducted during that relevant time period, releasing information while those investigations were ongoing could negatively impact the integrity and fairness of the investigations. Neither the Select Board nor anyone from the Town Administrator's Office ever initiated any publicity in print or through the broadcast media about these issues. These parties take their responsibilities very seriously and do not conduct Town business through political publicity maneuvers or media controversies. At this point, these parties cannot, and will not, comment further on the specific allegations raised but have put the investigator's report with exhibits and the settlement agreement on the Town website and have been responsive to all public record requests. A full accounting of all the money spent in connection with this issue will also be made available to the taxpayers as soon as possible. The Board has been diligent about looking at Executive Session minutes and has agreed to put those Executive Session minutes up on the Town website. The Select Board realizes that this issue has been divisive for Town residents and hopes that all parties in the Town can come together and move on.

Member Markiewicz stated that he, and likely the entire Board, wishes this item could have been dealt with faster, but it was unclear how long the FBI investigation would take. The intention in hiring a private investigator was made to speed along this process.

Member Fowlks stated that the intention in hiring a private investigator was due to additional items which came to light during the process.

There were no public comments at this time.

Member Markiewicz moved to place the statement and timeline shared during this meeting on the Town's website. Seconded by Member Fowlks.

Approved: 4-0-0 by Roll Call Markiewicz, "aye," Fox "aye," Fowlks "aye," Lipari "aye."

COMMUNITY CONCERNS

None at this time.

BOARD & ADMINISTRATOR COMMENTS & REPORTS

Town Administrator Johns stated that the acoustic tiles have been installed in the Grange Room. The acoustic panels for the walls will be forthcoming, along with additional audio/visual technology updates.

Member Fowlks moved to adjourn at 7:16pm. Seconded by Member Markiewicz.

Approved: 4-0-0 by Roll Call Markiewicz, "aye," Fox "aye," Fowlks "aye," Lipari "aye."

Item#

Exhibits

Draft Meeting Minutes April 10, 2023

Zachary Stillman employment documents

Memo from Ed Kukkula, re: Transfer Station Sticker Fees

Draft Intermunicipal Agreement with Littleton re: Provision of Water

Memos from Police Department and Fire Department, re: Memorial Day parade,
4/19/23