



# MANCHESTER-BY-THE-SEA

BOARD OF SELECTMEN • TOWN HALL  
Manchester-by-the-Sea, Massachusetts 01944-1399  
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## MINUTES OF THE BOARD OF SELECTMEN

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April 20, 2021 6:30p.m. Virtual Meeting

Join Zoom Meeting, Meeting: ID 960 9965 1204, Passcode: 968336 One tap mobile: 1 301.715.8592

**MEMBERS PRESENT:** Mr. Boling, Mr. Bodmer-Turner, Ms. Jaques, Ms. Harrison and Mr. Round

**MEMBERS ABSENT:**

**STAFF PRESENT:** Town Administrator, Mr. Federspiel, BOS Clerk, Ms. Hunter, Fire Department, Chief Cleary and Police Department, Chief Fitzgerald

**GUESTS:**

**PRESS:**

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Mr. Boling called the BOS meeting to order at 6:31 p.m.

Mr. Boling welcomed participants to the virtual meeting indicating the meeting was being recorded and minutes were being taken by Ms. Hunter.

Mr. Boling also stated the Town had received a letter from SLV introducing a conventional 40B to MA Housing. The Town has a 30 day comment period and the material from SLV will be posted on the Town website.

- **Public Comment** – Gary Russel, 9 Magnolia Avenue – Mr. Russel would like to raise an issue around Town elections. There are four candidates running for two positions on the Planning Board. Mr. Russel would like the Board of Selectmen to host a forum for candidates to present their qualifications and discuss their experience in the area of Land Use and Planning. Planning is an area of significant importance for the Town and a candidate's forum and information on the Town website with candidate's CV's would help residents to understand who the candidates are and their positions on the future of the Town's growth. Mr. Boling stated an independent candidate forum is being considered.

- **Public Hearing – Entertainment License – Manchester Bath & Tennis Club**

Manchester Bath and Tennis Club is requesting the reinstatement of their entertainment license for July and August 2021. A duo plays at the club from 6:00 p.m. to 8:00 p.m. on weekends. Ms. Jaques stated she is a member of the Club but her membership will have no bearing on her decision and does not believe she needs to recuse herself.

Holly, Manager of the Club stated they were thoughtful and respectful on their neighbors and the duo played facing the beach. Last summer it was a positive experience for families and members during the pandemic and the Club would like to renew their license.

Mr. Bodmer-Turner asked if the Club sells alcoholic beverages and if members drinking alcohol on the beach is monitored. Ms. Jaques pointed out the Club is private property, nearby neighbors have their own beach association and the public beach is further down the beach from the Club.

Mr. Round asked if the Club planned to have the same program as last year. Holly stated yes it will be identical to last year. Entertainment in a safe covid environment and an opportunity for members to watch the sunset and enjoy music. Ms. Harrison asked about glass on the beach. Holly stated no drinks at the Club are served in glass containers.

Mr. Bodmer-Turner expressed concern about how alcohol was monitored by the Club with the extension of alcohol onto the beach in the presence of minors. Ms. Jaques stated she has been a member for 20 years and people have always been responsible. Alcohol is not served to minors and the beach is monitored by staff.

Mr. Boling asked if Mr. Federspiel had any concerns around the alcohol license and was the area outside of the Club defined as part of the area where alcohol could be served. Mr. Federspiel stated he was not sure what was stated on the license but the area for serving alcohol needs to be delineated as part of the license.

The Board agreed to hold approval of the Entertainment License to review and clarify the area defined for alcohol consumption. Mr. Boling stated the license is for July and August and the license could easily be approved at the next Board meeting on May 3, 2021.

- **Covid Update, Outdoor Dining**

Mr. Boling stated the Town continues to experience low covid numbers and is working with Senator Tarr's office to set up a regional 7 Town vaccination clinic. Mr. Federspiel agreed those were the highlights contained in the Covid update.

Outdoor Dining – Mr. Federspiel stated there are two new applications for outdoor dining one from the Mooring and one from Antique Table. He added it did not appear that an agreement could be reached between Cala's and the Mooring for Cala's to use the back space for dining. Additionally, both Chief Fitzgerald and Chief Cleary agree there is a need for a flashing light near Pine Street to indicate traffic should slow down as it approaches outdoor dining for Black Arrow.

Ms. Jaques asked Antique Table for clarification of their operating hours. Ms. Shaley stated the restaurant opened at 4:30 p.m. on weekdays and added hours on Saturday and Sunday. The application for outdoor dining proposes adding 24 seats out front while in the back there is seating for 14.

Ms. Harrison stated the Town is prepared to offer one parking space this year. Ms. Shaley stated last year restaurants were using more than two spaces and she felt the space allocations were unfair. Ms. Harrison reiterated this year restaurants were being allowed one parking space for outdoor dining and the current plans for Antique Table did not allow for ADA accessibility specifically where table 8 is placed and pushed up against the curb.

Ms. Shaley offered to move the larger round table to the back deck and to eliminate chairs nearest to the curb for ADA accessibility. Mr. Round mentioned there maybe flex space available after 5:00 p.m. Mr. Boling stated flex spaces had been discussed pending a Public Safety review and neither Chief supported the less robust barriers. As a result, flex spaces are not allowed and restaurants will be allowed one space. Black Arrow is the exception due to their limited space capacity.

Mr. Round indicated he was good with two spaces for Antique Table given there were no businesses immediately around their restaurant. Ms. Harrison did not understand how the Board was considering two parking spaces for Antique Table given the capacity of the restaurant with a back deck and large interior space. Ms. Jaques and Mr. Boling agreed. Ms. Harrison indicated she heard restaurants were exceeding the amount of allowed space and asked who would confirm the restaurants were using only the allowed space. Mr. Federspiel agreed to review space allocation use for restaurants.

Mr. Boling concluded the discussion for Antique Table by stating the restaurant was limited to one parking space and tables 11, 7 and 8 in the proposed diagram could be kept and tables 6 and 10 removed.

*Ms. Jaques moved to approve the proposed plan for Antique Table (and would like to review the final proposal). Ms. Harrison seconded the motion. The motion passed unanimously.*

Mr. Boling asked for questions and comments around the Mooring's request. Ms. Harrison stated it appeared the Mooring was proposing using two spaces, 8 feet by 20 feet in the proposal received this morning. Mike from the Mooring stated he was proposing 8 diners in the parking space area with two tables under the windows.

Ms. Jaques asked for confirmation of the Mooring's hours. The Mooring opens at 11:30 a.m. for lunch and stated his interior space is also limited especially when chairs need to be 6 feet apart. Ms. Jaques indicated the tables need to be 6 feet apart not the chairs.

Chief Cleary stated neither he nor Chief Fitzgerald had reviewed the plans for the Mooring. Mike apologized for not forwarding his plans to the Chiefs and requested approval pending the public safety review. Ms. Jaques will forward the proposal to the chiefs.

*Ms. Jaques moved to approve the Moorings proposal pending approval of jersey barrier placement. Mr. Round seconded the motion. The motion passed unanimously.*

Mr. Federspiel asked for confirmation around the angled barrier indicating angling the jersey barrier decreases the amount of space available. Ms. Harrison stated it should not take 9 feet to angle the barrier it is likely 1.5 feet. Mr. Round suggested keeping the

angle on the up traffic side but not on the down traffic side, Ms. Jaques and Ms. Harrison agreed.

Mr. Boling requested additional information on the Black Arrow warning sign. Chief Fitzgerald stated the sign is a regular street LED sign flashing *SLOW* it will be placed between Morse Court and Pine Street on an existing pole.

*Ms. Harrison moved to approve the temporary SLOW sign between Morse Court and Pine Street to slow traffic approaching Black Arrow, Ms. Jaques seconded the motion. The motion passed unanimously.*

The owner of Mari's requested parking spaces downtown be defined. Ms. Harrison supports painting all parking spaces in the Village area and agrees people need guidance around where to park.

*Mr. Bodmer-Turner moved to paint parking lines in downtown, Ms. Harrison seconded the motion. The motion passed unanimously.*

Ms. Harrison suggested painting the jersey barriers to make them less ugly and mentioned approaching the District to see if students may be interested in the project. Mr. Federspiel will figure out how to best paint the jersey barriers agreeing paint would help.

- **Fire Department By-Law Policy Request**

Chief Cleary is requesting approval for two new Town By Laws. The first is for requiring sprinkler systems and more robust smoke/fire alarms for certain congregate living arrangements. Existing establishments would be given 5 years to comply.

The other request is to implement a new building identification system that alerts firefighters what types of hazards they might encounter in a particular building. The identification badge is tied to a data base maintained by the Fire Department on structures that pose greater challenges should there be a fire. Both requests would be new Town By Laws that require voter approval.

Chief Cleary stated he proposes requiring sprinklers for rooming houses, fraternity houses and congregated living arrangements. Sprinklers allow residents time to escape the building in the event of a fire. Ms. Harrison indicated the State accepted the provisions of Section 26G to apply to any residence more than 7,500 square feet. Chief Cleary clarified that section applies to new construction and is not retroactive. However, he is proposing only sections H and I for the Town.

Ms. Jaques asked about Air B&B's, Chief Cleary did not know the answer, indicating that will depend on how the State defines Air B&B's. Ms. Jaques also asked who was responsible for maintaining and certifying the standards. Chief Cleary stated that would be the responsibility of the Fire Department. He would like to see this provision brought forward this spring.

Mr. Bodmer-Turner asked how the five year compliance for existing structures would be enforced. Chief Cleary stated it would be part of the building code and if the structure was not in compliance, it could be cited and evacuated. Mr. Round asked about condominium buildings. The Chief would work with the Building and Assessor's Department to see if structures met the standards. Mr. Round asked if this would apply to the Powder House Apartments. Chief Cleary stated it would depend on classification.

Mr. Boling stated he supports the concept and indicated the spring Annual Town Meeting has a lot on the schedule and this request would result in several questions from residents possibly requiring a comprehensive and drawn out discussion. Mr. Bodmer-Turner agreed with Mr. Boling suggesting the proposal be consolidated into bulleted highlights on a single sheet of paper.

The Chief discussed marking buildings for firefighter safety. The marking system is for commercial buildings and identifies the type of construction, existence of sprinklers and hazardous materials that maybe in the building. The marking is in the shape of a Maltese Cross which contains all the information related to the building. Information is completed and updated during the annual inspection of the building. The process also applies to vacant buildings indicating if there are life safety issues existing in the building. Chief Cleary indicated there were not likely many vacant buildings in Town.

Mr. Bodmer-Turner asked about reading the information and suggested it might be more helpful to maintain this type of information in a data base accessed by firefighters on the way to the scene. Chief Cleary mentioned mutual aid companies not having access to all the information. Mr. Boling asked the Chief if it was his expectation that all buildings have a Maltese Cross or buildings with highest hazards. Chief Cleary was interested in ultimately marking all buildings. Ms. Harrison stated she believes the concept is too amorphous for her.

Mr. Bodmer-Turner is concerned with the cost of maintaining the information given the Town does not have a dedicated Fire Safety Officer. He would be interested in knowing how many small towns in Massachusetts are using this system. Chief Cleary will follow up on small towns using the system.

Mr. Bodmer-Turner could support 26 H but not the marking of all buildings at this time. Mr. Round agreed. Ms. Harrison is not comfortable with either proposal and specifically does not want to take a position because of the Powder House endeavor. Ms. Jaques stated sprinklers are important safety measures for multi person dwellings and two minutes is essential time to evacuate people from a building.

Mr. Boling stated the Board could tentatively move forward with sprinklers and will have further discussion at the next meeting on May 3, 2021.

- **Annual Town Meeting FY22 Budget Discussion**

Mr. Federspiel stated the Warrant will contain the FY22 Budget, Annual Report, Town Operating and Capital Expenses, Capital Exclusion and School Budget. There are 10 standard Articles.

Additionally, there are five citizen petition articles:

- 1) Zoning Article will not be voted.
- 2) Articles related to 40B, requesting a straw vote that the Town is not in favor of the project.
- 3) A change to Town By Laws requiring two access roads to large (over 100 units) projects .
- 4) Expansion of blasting requirements.
- 5) Request that Dispatch remain in the Police Department and the Town not pursue Regional Dispatch.

The Board is also considering the Sprinkler By Law change.

The Finance Committee is still reviewing one Capital item. The Planning Board's request for \$40K to study the potential for commercial development in the LCD.

The Finance Committee is recommending a tax increase of 1.5%. This recommendation is made through a less conservative approach to local receipts and savings realized in Health Insurance. The Finance Committee engaged in significant discussion around the Town's Fund Balance and believes the Town is sitting on too much of the taxpayers' money. The Finance Committee discussed drawing down the Fund Balance by investing in capital projects and considered more targeted stabilization accounts. Overall, the Finance Committee is not in favor of collecting and not spending taxpayers' money.

The Board's final approval of the Budget and Warrant will be on the May 3, 2021 agenda. Mr. Federspiel reminded the Board elections are on May 18, 2021.

Mr. Bodmer-Turner asked if the petition articles that restricted the business of the Town were legal. Mr. Boling stated he had raised the question with Town Counsel who believes the Articles can stand although he does not believe they are authentic or good governance. Mr. Federspiel stated it is up to the voters to say yes or no to this line of thinking.

Mr. Boling stated he supports the tax rate for this year but stated there needs to be additional long range planning around the Town's budget. There are areas of spending that are out of the Town's control specifically mentioning MERSD and Capital Expenses, Mr. Boling is concerned we are tightening up too much.

- **Consent Agenda**

- BOS Meeting Minutes – April 20, 2021
- Acceptance of Surf Village Conservation Restriction
- Reserve Fund Transfer for IT costs

*Ms. Jaques moved to approve the Consent Agenda, Ms. Harrison seconded the motion. The motion passed unanimously.*

Mr. Bodmer-Turner asked for clarification of IT costs. Mr. Federspiel stated it was for conversion of the Town's computer programs to Microsoft 365 and the cloud. Microsoft 365 was not budgeted for FY21 but is budgeted for FY22.

- **Town Administrator's Report**
  - ✓ **Path from Town Hall parking lot to Beach Street:** The Town will be working with a surveyor to locate property lines and will be working with the Church and Jim Brown on the exact layout of the path. The fence and gate will be relocated to the sewer plant site.
  - ✓ **Town Hall re-opening for regular business:** The public will begin to have regular access to Town Hall but still expecting to follow all Covid protocols including mask wearing and social distancing. No in person public meetings will occur when Town Hall reopens.
  - ✓ **Construction updates:** A number of projects are going out to bid – painting Seaside One, revised compost project, summer paving and waterline work and Tuck's Point floats (once we get final permits – delayed release will push this project to the fall).
  
- **Other Matters, as May Have Not Been Reasonably Anticipated by the Chairman** – There were no additional matters discussed this evening.

Ms. Harrison asked if the appraisal of the Mason's building was moving forward. Mr. Federspiel stated it is underway and will be completed by June 2021.

*Mr. Boling moved to adjourn the meeting to enter Executive Session and not to return to Open Meeting, Mr. Bodmer-Turner seconded the motion. The motion passed unanimously by a roll call vote.*

- **Executive Session:**
  - A) **Under M.G.L. Ch. 30A, sect 21 (a)(2) To Conduct Strategy Session in Preparation for Union Negotiations.**

**Meeting Documents:**

- Consent Agenda as listed
- Outdoor Dining Proposals
- Request from Manchester Bath & Tennis Club for an Entertainment License
- FY22 Budget
- Town Administrator's Report

**Upcoming BOS Meeting**

- Monday, May 3, 2021
- Monday, May 17, 2021