



MANCHESTER-BY-THE-SEA

SELECT BOARD • TOWN HALL
Manchester-by-the-Sea, Massachusetts 01944-1399
Telephone (978) 526-2000 FAX (978) 526-2001

MINUTES OF THE SELECT BOARD

May 16, 2022 6:30p.m. Virtual Meeting

Join Zoom Meeting, Meeting: ID 859 6397 7221 Passcode: 225266 Mobile: 1.646.558.8656

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

MEMBERS ABSENT:

STAFF PRESENT: Town Administrator, Mr. Federspiel, Ms. Hunter, Town Planner, Ms. Brown, DPW Director, Mr. Dam

GUESTS: Town Moderator, Mr. Wilson, Planning Board Chair, Mr. Mastrogiacomo and Planning Board Members, Ms. Creighton, and Mr. Olney

PRESS:

Mr. Bodmer-Turner called the Select Board meeting to order at 6:34 p.m.

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

0. Public Comment – There was no public comment this evening.

Chair's Report:

1. Presentation by the Planning Board – Proposed Zoning Amendments



Proposed Zoning By-Law Changes.pdf

Additional information on Proposed Zoning Recodification is available on the Town website under Planning Board and Zoning Recodification

Note: there are three sections of the zoning regulations that are slated to be pulled out and become part of the General By-Laws. Curb cut permits become an administrative function for DPW unless the application does not meet the requirements. In this case, the Planning Board remains the permitting body. Stormwater regulations have been modified to adhere to the new State/EPA and DPW can enforce for all properties. For new development the Planning Board retains authority through their site plan review process.

The Planning Board presented the proposed 11 Warrant Articles on recodification to the Board outlining the changes.

Board Questions and Comments

- Mr. Bodmer-Turner complimented the table format
- Mr. Round noted in section 4 swimming pools by right in conforming lots but many lots in Town are not conforming
- Mr. Round also asked about solar arrays, Ms. Creighton answered that in section 11
- Ms. Harrison stated section 6 has multiple changes and suggested dividing the question
- Ms. Jaques asked about the by right changes questioning if this did not make the process less effective
- Ms. Jaques also thought more work was falling into the role of the Building Inspector and asked if he had time or would need additional hours
- Ms. Jaques added that the changes make a lot of sense
- Section 9 ADU's Ms. Harrison suggested this be separated and oversight further defined
- Ms. Harrison asked for clarity about by-right ADU's, are they or are they not separate structures. Ms. Creighton responded they are within the primary structure.
- Ms. Jaques had a question about Residential Clusters and if there was an affordable unit would that unit add to the SHI and could the unit be less than 80% of AMI. Mr. Olney replied the unit could not be lowered without a subsidy.

2. Appoint MAPC Representative (Planning Board Member)

The Town's current representative to the Metropolitan Area Planning Council is Ms. Delisio. Her three-year term is ending, it is time for the Select Board to appoint a new representative. Mr. Mastrogiacomo has recommended that Ms. Creighton be appointed to the position.

Ms. Jaques moved to appoint Ms. Sarah Creighton as the Town's Representative to the Metropolitan Area Planning Council for a three-year term; Mr. Round seconded the motion. The motion passed unanimously by roll call vote.

3. Review Special Town Meeting Articles

The Board discussed the warrant for Special Town Meeting. Mr. Federspiel stated the Board will need a special meeting on either May 24th or 25th, following the Planning Board hearings and their final vote on the Zoning Amendments, to finalize the Warrant language. Mr. Federspiel assumes that even if the vote on dispatch service is overwhelmingly in favor of staying in-house, the Board would not seek supplemental funding at the June meeting, waiting instead for a Fall Special Meeting. If the Board is in favor of funding earlier, we will need to discuss.

An additional item has come up that would be helpful to place on the Warrant. The Board may recall that a landlocked parcel owned by the Halloran family (located behind the Housing Authority units on Loading Place Road) has been discussed in the past as a potential site for adding additional Affordable Housing. The family would like to see the land put to this use and are willing to donate the land. This is an old wood lot and has a title defect making donating the land problematic. A formal “taking” by eminent domain seems to be the easiest and most economical way to clear up the chain of title. The Halloran heirs are amenable to taking this approach. The Affordable Housing Trust favors this as well and would like to move forward with the acquisition. Voters must approve this action. Mr. Federspiel recommends that the Board add the additional article to the June Warrant. Town Counsel provided the following language.

To see if the Town will vote to authorize the Select Board to acquire, by purchase, gift, and/or eminent domain, for affordable housing and for the purpose of clearing the title thereto, a certain parcel of land located off Forest Lane, so-called, containing about 2.05 acres, more or less, identified by the Assessors as Parcel 37-0-32, and referred to as Parcel 7 in that certain deed recorded with the Essex South District Registry of Deeds in Book 38176, Page 88, said property to be under the care, custody and control of and/or conveyed to the Manchester-by-the-Sea Affordable Housing Trust for affordable housing purposes and for the purpose of conveyance, or take any other action relative thereto.

Ms. Harrison asked if that is the only additional article specifically mentioning the Hamilton Land issue on Chebacco Road and increasing the CPA contribution indicating the Town is going to need additional funds. Mr. Federspiel stated Hamilton has run out of time for extending their bonding for the project and propose moving forward with paving the road in such a way that it drains away from Gravelly Pond. CPC discussed increasing the contribution and decided it was best to have more financial information on Sweeney Park and the Rotunda prior to requesting a higher surcharge.

Mr. Wilson asked about Loading Place Road and if there would be need for consideration indicating that if no funds are required the vote at Town meeting would be a simple majority. However, if funds were required it would be a two thirds vote, and the funds would need to come from the Town not the AHT. Mr. Wilson added that there is a distinction in the statute around consideration. Mr. Federspiel does not believe this is a possibility but if the worst case plays out the issue could be brought back to a future Town Meeting.

4. Short-Term Paying Guest License Application – David Demeter, 54 Union Street

Mr. Demeter rents his property at 54 Union Street for 7-day periods during July and August. He indicated his rating on Air B&B is 4.97 and he is considered a super host. He noted people love to come to Manchester-by-the-Sea. Mr. Demeter lives at the property 10 months of the year and maintains an office across the street.

Ms. Harrison moved to approve the Short-Term Paying Guest License for Mr. Demeter at 54 Union Street; Mr. Boling seconded the motion. The motion passed unanimously by roll call vote.

5. LGBTQ Flag Raising Request – Discussion cont. from 5/2/22

Mr. Federspiel outlined the current request. Ms. Watt-Bucci, is requesting to fly the Progress flag (successor to the rainbow flag) for the month of June on the Town Common flagpole at the Veteran Honor Roll. The Board discussed this briefly at your last meeting as part of the discussion regarding the general flag policy. Supporters of the new Honor Roll believe the flagpole is strictly for the benefit of the new structure and that only the American and POW/MIA flags should be flown from the flagpole. Additionally, the new Supreme Court ruling on the Boston City Hall case involving a denial of permission to fly an overtly Christian flag. The Court ruled against the City reversing the City's denial to fly the requested flag.

The Supreme Court case is a bit nuanced. It says that if a community basically allows most any flag to fly on its flagpole, that permission is routinely granted as an administrative function, then the community must be willing to fly any and all flags that request to be flown. Boston falls under this category as granting permission was basically done on a first come, first served basis. However, the Supreme Court stated that flag poles are not necessarily an open public forum venue. Communities can choose to regulate just like they regulate the content of their web sites. However, there must be a process by which the community leaders officially endorse the message being conveyed by the flag being flown. Boston lacked such a process, the Court said it improperly denied the one request. The Court cited San Jose's policy as an example of a legitimate city policy regarding flag flying.

The Supreme Court decision does not prevent discretion regarding what flags can be flown. The Board can decide to fly only the US flag, State Flag and POW/MIA flag. Or the Board can develop a policy that specifies only officially endorsed flags can be flown.

Assuming the Board wants to accommodate more than just the US/POW flags, the next question is the use of the flagpole at the Honor Role. Mr. Federspiel appreciates the desire to keep the flagpole dedicated to the Honor Role and not use it for other purposes. However, he does not see occasionally flying a third flag (smaller and below the US and POW/MIA flags) as disrespectful to the armed service men and women inscribed on the Honor Roll. If the Board wishes to erect a second pole on the Common to more easily accommodate special flags that is also an option.

There is also the alternative of hanging flags from the building like the Town agreed to last year for Pride Month.

The Board had a lengthy discussion on the issue of flying the Progress Flag. Mr. Bodmer-Turner expressed concern that the Board has no existing policy and asked if the Board could develop a policy. Ms. Harrison stated the Board has a policy on developing policies and that requires two readings and two meetings.

Ms. Harrison added her reading of the Supreme Court decision is if the Board specifically considers the request, and the Board is specifically considering the request, the Board is within its authority to decide on flags on Town flagpoles.

Mr. Boling agreed with Ms. Harrison adding in the past the Town's position was in support of LGBTQ, Board members have made speeches which is a municipal statement of the Board. Mr. Boling believes it is a good idea to establish a written policy and good to move forward with the request.

Mr. Bodmer-Turner disagreed stating that past opportunities were not government speak. Adding the Board does not have a specific policy and there was no proclamation. He believes new standards exist that change what the Board can do. Mr. Boling stated the event was not qualified with a proclamation, but statements were made in recognition of Pride month with a vote of the Board.

Mr. Round supports a second flagpole and is not in favor of flying the Progress flag at the Veteran Honor Roll.

Following additional discussion and Public Comment in favor of recognizing LGBTQ month and flying the Progress Flag on the Town Common flagpole and Public Comment not in support of flying the Progress flag at the Veteran Honor Roll the following motions were made.

Mr. Bodmer-Turner moved in favor of a proclamation of support with the Progress Flag flown on Town Hall, Mr. Round seconded the motion.

Ms. Harrison voted no, Ms. Jaques voted no, Mr. Round voted yes, and Mr. Bodmer-Turner voted yes. The motion did not pass.

Ms. Jaques moved that a proclamation in support of LGBTQ Pride Month be presented, and the Progress Flag will fly on the flagpole on Town Common for the month of June; Mr. Boling seconded the motion.

Ms. Harrison voted yes, Ms. Jaques voted yes, Mr. Round voted yes, and Mr. Bodmer-Turner voted no. The motion passed.

6. Select Board Policies – Continued Discussion

The Board decided not to further discuss the Flag Policy and the Fair Housing Policy is awaiting guidance from Town Counsel.

The Board briefly discussed Board, Committee, Commission and Trust appointments. It has been generally agreed that people are allowed to serve multiple terms. Ms. Mellish, Chair of ZBA and Finance Committee stated that it is difficult to identify qualified volunteers to serve and that implementing term limits would make that even more difficult. Ms. Jaques agreed with Ms. Mellish.

Mr. Round suggested ending the policy of term limits given the difficulty with filling positions. Mr. Bodmer-Turner added if a member fails to attend meetings and missed

more than half of the meetings in a six-month period the member would be removed. Due to the late hour further discussion was continued to the next meeting.

7. Consent Agenda

- a) Bella Wright – Rally for Reproductive Rights**
- b) Approval of Minutes – 4/4/2022 and 4/19/2022**

Ms. Wright stated the rally event was planned to take place between 11:00 a.m. and 2:00 p.m. with the group gathering at Masconomo Park and walking to Town Hall. There will be four speakers at the event. Ms. Jaques asked Ms. Wright if she had spoken to the Police regarding the event, she stated she had, and the Police were supportive and will supervise traffic during the walk to Town Hall. Ms. Jaques' complimented Ms. Wright on her leadership and community engagement.

Meeting minutes for 4/19/2022 were pulled for additional edits.

Ms. Jaques moved to approve the Consent Agenda with the minutes of April 19, 2022 held for editing; Mr. Round seconded the motion. The motion passed unanimously by roll call vote.

8. Town Administrator's Report

Town Elections are scheduled for Tuesday. With contested races on the School Committee and Select Board turnout hopefully will be high. The Dispatch question has also generated a lot of interest and may be a draw as well. The Town will be anxious to hear the results. The Planning Board is holding a Public Hearing on proposed zoning changes on election night.

Climate Resiliency Meetings

May 18: Detailed presentation on the likely impacts of a Cat 3 hurricane hitting Cape Ann and on May 23: Second EPA Building Blocks Workshop – priority actions needed regionally. Mr. Federspiel will forward meeting registration information and also post on-line.

Staffing Mr. Federspiel announced that Debbie Powers will be joining the team on June 1, 2022 as the new Executive Assistant in the TA/Select Board Office. Debbie is well versed in the position as she currently serves in a similar role in Rockport. She is looking for an opportunity to take on more responsibilities.

9. Other Matters, As May Have Not Been Reasonably Anticipated by the Chair – There were no additional matters to discuss this evening.

Ms. Harrison moved to adjourn the meeting; Ms. Jaques seconded the motion. The motion passed unanimously by roll call vote.

Meeting Materials:

Short Term Rental Application

Proposed Zoning Amendments
BOS Policies
Consent Agenda – as listed
Town Administrator’s Report

Upcoming Select Board Meetings:

Tuesday, May 24, 2022

Monday, June 6, 2022