



# MANCHESTER-BY-THE-SEA

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

## MINUTES OF THE SELECT BOARD

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July 5, 2022

6:30p.m.

Virtual Meeting

Join Zoom Meeting, Meeting: ID 884 7582 2741 Passcode: 629910 Mobile: 1.646.558.8656

**MEMBERS PRESENT:** Ms. Jaques, Chair, Ms. Harrison, Mr. Round, Ms. Bilotta, and Mr. Sollosy

**MEMBERS ABSENT:**

**STAFF PRESENT:** Town Administrator, Mr. Federspiel, Executive Assistant, Debbie Powers

**GUESTS:**

**PRESS:**

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Ms. Jaques called the Select Board meeting to order at 6:30 pm and all members were present by roll call vote.

### **Public Comment on items not on the agenda –**

Ron Skates, 4 Boardman Avenue, addressed the Select Board on the vote of the Dispatch Center. He stated that the Board went against the will of the people. He spoke on the point Chairman Jaques said that there were not many that voted and he asked the Board why the two new board members are seated when the vote was the same for them in the total numbers.

Ms. Jaques stated that she did not say it that way, she said that vote was 35% of the registered voters. The vote was one metric of many the Board looked at and they did not disregard what the voter's said. She is hoping to move forward.

### **Chairman's Report-**

#### **1. Drought Conditions:**

Ms. Jaques updated the Town on the current drought conditions. In our region the State has determined we are at Level 2 of 4, which lists the area as significant drought conditions. Our water supply is holding up, but she feels that it would be better if we implemented some conditions. She asked that the State information be included on the website to keep the town updated and informed.

Chuck Dam, Director of Public Works, informed all that the town water supply is monitored daily. Gravely Pond is currently down about a foot and the Lincoln Street well is running normally. At this point, our own supply is okay, but it would be helpful to get the information out to the citizens.

Ms. Harrison stated she feels that if there is not a problem, we shouldn't "cry wolf".

Ms. Bilotta thought we should tell people where we are at, and they can handle the information. We should give them accurate information.

Steve Gang, 12 Ashland Avenue, stated that the Town is notable for high summer water usage and asked if we will experience more drinking water usage for irrigation. Mr. Federspiel stated as things get drier, our use goes up.

Ms. Jaques, stated with the consensus of the Select Board that it would be good to get the state information to the public but to make it clear that our Town is okay at the moment and we will keep an eye on the drought. If there are any changes, the Select Board can implement changes.

## **2. Annual Reappointments:**

Ms. Jaques read off the names of the 1-year reappointments

*Ms. Harrison moved to approve the 1-year reappointments; Ms. Bilotta seconded the motion. The motion passed unanimously by roll call vote.*

Ms. Jaques read the names of the 3-year reappointments.

*Mr. Round moved to approve the 3-year reappointments; Ms. Bilotta seconded the motion. The motion passed unanimously by roll call vote.*

## **3. New Licenses:**

- a. **One Day Alcohol License – Greater Cape Ann Chamber of Commerce:** Ms. Jaques stated that the Greater Cape Ann Chamber of Commerce is requesting a one day license to have a beer garden in Masconomo Park during their Festival by the Sea event on August 6<sup>th</sup>.

*Ms. Harrison moved to approve the license as written; Mr. Round seconded the motion. The motion passed unanimously by roll call vote.*

- b. **Used Car Dealers License – Dean Collins:**

Dean Collins, 13 Highwood Road, informed the Select Board that he is seeking a Used Car Dealers License as he had in the past. He will be dealing with customers by email and phone only. No cars will be on the premises. He stated that Massachusetts requires him to have a Class II license from the Town to perform this type of business.

Ms. Jaques asked about the surety bond. Mr. Collins answered that the bond is renewed every three years and if it is terminated, the Select Board would be notified.

*Mr. Round moved to approve a used car dealers license for Dean Collins with the stipulation that no vehicles for sale will be physically located in Manchester-by-the-Sea; Mr. Sollosy seconded the motion. The motion passed unanimously by roll call vote.*

**c. Taxi Cab/Livery License – Richard Philpott:**

Ms. Jaques asked if there is any type of insurance necessary for this type of business.

Mr. Philpott informed the Select Board that he will provide a copy of his liability insurance.

*Ms. Harrison moved to approve the application for a Taxicab/Private Livery License for Richard F. Philpott, subject to the Town receiving a copy of his Certificate of Liability Insurance, for the business By The Sea Transportation LLC; Mr. Round seconded the motion. The motion passed unanimously by roll call vote.*

4. **Reserve Fund Request:** Mr. Federspiel updated that Board that the Town has a series of transfers that are needed to balance various accounts. Despite the number of transfers, overall, we are finishing the year underbudget. The Finance Committee has approved all of these except the last one for additional funds for Fire Salaries.
- 1) \$93,000 for Fire Department Salaries – needed to cover overtime as we had to backfill for a firefighter out on extended injured leave and a second fire fighter out for a shorter injured leave period
  - 2) \$6,848 for Election Expenses – needed to cover additional cost of related to the fall special town meeting and the Select Board nominees recount.
  - 3) \$35,000 for Legal services – the 40B, personnel issues and legal challenges to ZBA and Conservation Commission decisions have caused legal expenses to be much higher.

*Ms. Harrison moved to approve the reserve fund transfers as written; Ms. Bilotta seconded the motion. The motion passed unanimously by roll call vote.*

**5. Inter Departmental Transfer Requests:**

- 1) \$1,927 From Tuck's Point Cleaning and Prof Services for Tuck's Point Salaries – extended season last fall required additional hours
- 2) \$8,304.29 from Planning Salaries for ZBA Salaries and filing fees – additional hours due to 40B and increased ZBA applications/ mailing expenses
- 3) \$4,000 from Planning Salaries to FICA account – FICA expenses underestimated
- 4) \$68,000 from Health Insurance to Police Salaries – OT costs higher due to need to backfill for officer on extended paid leave and loss of reserve officers
- 5) \$10,820 from Health Insurance to IT expenses – unexpected computer upgrades needed as well as the expense of disposing of old hard drives, other equipment
- 4) \$50,000 from Health Insurance to Legal - the 40B, personnel issues and legal challenges to ZBA and Conservation Commission decisions have caused legal expenses to be much higher.
- 6) \$8,000 from Health Insurance to Parking Clerk exp – additional cost for mailing resident stickers instead of pick-up and the fulfillment of beach tag requests on-line (freed up staff time significantly)
- 7) \$7,591.30 from Health Insurance to Assessor Salaries – transition to new Assessor, keeping retired Assessor on for overlap
- 8) \$30,500 from Street lighting (\$15,00) and Sand salt (\$15,500) for Fire Vehicle Maintenance – aging ladder truck and Engine needed significant repairs
- 9) \$3,700 Custodial Salaries to Custodial Services – slower transition to in-house hire vs contracted services
- 10) \$5,000 from Property Insurance to Town Hall Electricity – energy cost increases due to higher than expected inflation
- 11) \$300 from Unemployment Comp to HDC Salaries – former clerk was paid a stipend; new clerk hourly
- 12) \$6,500 from Health Insurance to Harbormaster salaries – extended season into fall required additional dock coverage
- 13) \$7,000 from Fire Vehicle Maintenance to Fire Salaries – repair estimates came in lower however fire salaries came in higher due to sick day backfilling and training OT costs

Ms. Bilotta questioned about the additional costs to the parking stickers. She asked what additional costs were incurred. Mr. Federspiel answered that there were additional costs from an outside source to fulfill the stickers and the Town will be looking to see if this can be done in house next year.

Ms. Harrison recalls when we voted on how the stickers would be delivered, the stickers would be mailed with the excise tax bills. She asked Mr. Federspiel when was it decided to do a separate mailing and why. Mr. Federspiel answered that we missed the deadline for the excise tax mailing so that is why we had to do a separate mailing.

*Mr. Round moved to approve the inter departmental transfers as listed; Ms. Harrison seconded the motion. The motion passed unanimously by roll call vote.*

## **6. Dispatch Update:**

Mr. Federspiel updated the Select Board that the town's request to join the NSR 911 Center will be officially voted on by the current governing board at a meeting on July 7<sup>th</sup>. Once that Board ratifies the Town to join, the state will send along an Inter-Municipal Agreement for Ms. Jaques and himself to sign. He also stated that the Police and Fire Chiefs and himself met with center staff to begin outlining equipment purchasing and to discuss ways to collaborate on the transition. He related that the Center is very willing to reach out to the town's current dispatchers and help them decide if they would like to continue their careers at the Center. They also discussed how dispatching could take place utilizing the current service to Essex and our ability to be on the Essex radio frequency. This provides a good fallback should our own dispatchers leave before the transition is completed.

#### **7. Set Special Town Meeting Date:**

Ms. Jaques informed the Board that there are two dates proposed, Monday, October 24 or Monday, November 14. Town Clerk Dianne Bucco prefers the November date after the state's fall election and the Planning Board opted for the October date but were also comfortable with the November date.

Mr. Federspiel further addressed that the Planning Board decided to recommend October 24, with Friday, November 11 being Veteran's Day. There was some concern about people taking vacation time, which he believes to not be the case.

Town Moderator Alan Wilson stated he feels that people will be traveling for the Veterans Day holiday. He suggested the October 24<sup>th</sup> would be preferable due to attendance.

Ms. Jaques asked the Board for their preference on the date. Ms. Bilotta has no preference, Ms. Harrison preferred the October date. Mr. Sollosy has no preference but will respect the Town Clerk's request of the November date. Mr. Round has no preference. Ms. Jaques opts for November 14<sup>th</sup> to give the Planning Board a little more time for more information.

*Ms. Bilotta moved to schedule the Fall Town Meeting for the evening of Monday, November 14, 2022; Mr. Sollosy seconded. The motion passed unanimously by roll call vote.*

#### **8. Board/Committee Updates:**

##### **a. Board of Health:**

Ms. Polo-Filias, Co- Chair of the Board, stated that the Board of Health is currently in the process of hiring a full time, Health Agent. She updated the Board on the history of the Board of Health. In the 1990s the Board of Health shared a Health Agent with Essex and were a 3-member elected board, which led to difficulty having a quorum. The Selectmen at that time decided to make it a 5-member appointed board, to help with attendance and adopted a Home Rule Petition. These factors are affecting the Board of Health now. The Board of Health has been operating without a department head for many years. The Finance Committee approved the Board of Health to hire a full time Health Agent and the Board of Health is struggling with who the Health Agent would report to. The State informed the Board of Health, that they have the power to hire,

fire and manage staff. Since Manchester has a Home Rule Petition, the Town Administrator manages the employees, unless the Board of Health is an elected board. The Board of Health would like to clarify this and have the chain of command clear so to understand the management structure.

Mr. Federspiel stated that he worked on a Memorandum of Understanding to spell out how the Administration and the Board of Health can respect each other's roles and work towards the good of the Town. Many towns have the Agent report to the Board of Health on policies and directives and the Town Administrator would be responsible with the administrative duties and this has worked very well. Mr. Federspiel informed the Board that this would be a two-step process to review and sign a Memorandum of Understanding between the Select Board and the Board of Health and the second step would be to finalize the job description.

Ms. Bilotta, stated that this is very common in the private sector, called dual reporting. She addressed that Mr. Federspiel explained the outline very well. She suggested that in the Memorandum of Understanding, the Health Agents responsibilities to be separated into two sections delineating who the Agent would report to.

Mr. Federspiel informed the Board that this process has worked out well in the past, with jointly hiring the Library Director and Town Planner.

Mr. Sollosy spoke on Mr. Federspiel's point and would like to see this model continue, as it has been successful in the past.

Mr. Round addressed the memorandum from Town Counsel that stated that the Select Board, Town Administrator and Board of Health all need to understand who is in charge of what. The Board of Health is a very diverse department.

Ms. Harrison agrees with Ms. Bilotta comments about the dual reporting model is common in the private sector and works very well. She agrees that responsibilities need to clear in the MOU.

Ms. Jaques stated that it seems that all the board members are in agreement to have the Memorandum of Understanding put in place. She asked Ms. Polo-Filias what she feels would be the next step?

Ms. Polo-Filias would like to have the Memorandum of Understanding be ready for the Select Board to approve at their July 18<sup>th</sup> meeting.

#### **b. Water Resources Protection Task Force:**

Steve Gang, Chair of the Water Resources Protection Task Force, reviewed the process of the establishment of the Task Force, which began in November, 2021. He reviewed the breakdown of the six subcommittee groups, which included usage and demand, supply and sources, effect of climate change, citizen awareness and engagement and how to the Town can create greater responsibility, authority and accountability. The teams give status reports at each meeting. He reviewed five key issues that the Select Board and the Town should be aware of in the future. The first would be protecting the Town's watersheds, second would be finding a third water

source, third is supporting the DPW in dealing with emerging contaminants, fourth is encourage real conservation of water and fifth is informing citizen about drinking water issues.

He informed the Board that the Task Force has retained Scott Horsley to provide assistance. They help draft new regulations with the help from the Board of Health that would add a new layer of review for development with the Town's drinking water watershed or future drinking water watersheds. These regulations are completed and are in front of the Board of Health. They have aligned with Hamilton citizens who are concerned about threats to the drinking water supply and also began some forensic work on rising levels of contaminants to the water. Lastly, collected ten years' worth of data on drinking water usage by quarter and developed a citizen survey to build awareness of drinking water, to be sent out later.

Ms. Harrison commented on the draft of the Board of Health water protection regulations, which was marked as confidential. She feels that the more people read and understand where this is going the better and it would help the citizens be aware of what is going on if everything is transparent.

Mr. Round thanked Mr. Gang and the Task Force for all the work. He spoke on transparency and when is the best time to get the information out there. Pertaining to the regulations, he feels that there needs to be some benchmarking with other towns. The document covers a lot of ground and it needs to be consistent with other town that have similar regulations.

Mr. Sollosy, thanked Mr. Gang on what has been done and he knows there is still a lot of work to be completed. He supports getting it done the right way the first time and supports Ms. Harrison's desire of transparency.

Ms. Bilotta, thanked the Task Force effort. She agreed with Ms. Harrison that transparency is something the Board is trying to improve and suggested a "here is what we know and here is what we don't know/working on" slide to informing the public that there is more work to be done. She agrees with Mr. Round on benchmarking. She questioned if the Task Force should have come before the Select Board, who created the Task Force, before recommending the draft regulations to the BOH. Shouldn't the recommendations be coming to the Select Board before any other agencies.

Peter Colarusso informed the Board that Scott Horsley did review other towns with similar regulations. The proposal is now being reviewed by the Environmental Protection Agency's clean water group and the Department of Environmental Protection. The Board of Health wants to make sure they were handling the regulations correctly and informed the Board of their process. He asked the Select Board if they had another way to make this more transparent. He felt that the Board of Health was following the correct procedures.

Mr. Federspiel stated the Task Force was created by the Select Board and the Task Force should come before the Board before any recommendation move forward. He stated it was premature to have the Board of Health hold any hearings until the Task Force present their recommendation to the Select Board, then there would be a discussion to move the regulations forward to the Board of Health.

Ms. Jaques stated when the Task Force was set up, it was originally intended for the Task Force to report back to the Select Board.

**9. Consent Agenda:**

**a. Approval of Minutes – June 21, 2022**

**b. Approval of 3 bench donations – Longevity Bench Project, Inc.:**

*Mr. Round moved to approve the consent agenda items; Ms. Harrison seconded. The motion passed unanimously by roll call vote.*

**10. Board Polices – Next Steps:**

Ms. Jaques updated the new members on the process of reviewing the Board Policies. She asked the Board if it was possible to hold a special Thursday meeting to review the policies?

Ms. Harrison gave a little more background information on the policies and how the review process started. There are 36 named policies, started in 1979. The policies have been digitized and many of the policies pre-date the Town Administrator . She will send the new members the full packet to the new members. Her goal is to reduce the length and number of polices, to be able to hand to new Select Board members and Department Heads to be read instead of being filed.

Ms. Jaques asked if another member can help Ms. Harrison review the policies. Mr. Round said he can help with review.

Ms. Harrison asked for a meeting to be held on July 14, 2022.

**11. Liaison Updates:**

Ms. Jaques briefed the new members on the liaison updates. She would like to reinstate this at the July 18<sup>th</sup> meeting. She asked the members to provide a brief overview of each member's committee/board.

**12. Contract Approvals – Police Chief and Town Administrator:**

Mr. Federspiel addressed the Select Board on the Police Chief's one year contact, with the option of a year two and three. There are many goals incorporated into the contract that were worked on and outlined by the Police Chief and the Select Board in the negotiations process. The contract requires quarterly reviews, which will help update the Board on the progress of the goals.

Ms. Jaques asked if the months be listed in the contract for the quarterly reviews. Mr. Federspiel said that can be included.

Mr. Sollosy, Ms. Bilotta and Ms. Harrison had nothing further to add.

Mr. Round mentioned to change the MPD acronym to Manchester Police Department.



*Mr. Round moved to approve Police Chief Todd J. Fitzgerald's contract, beginning July 1, 2022 through June 30, 2023; Ms. Harrison seconded. The motion passed unanimously by roll call vote.*

Mr. Federspiel addressed the Select Board that he has worked for the Town for nine years and would like to continue for another 3 years. This contract is similar to his previous contract. It provides for quarterly reviews and it included a provision on the standard COLA increases - if inflation continues to be push higher and new Union Contracts provide for a higher COLA, there is an opportunity to revisit this.

Mr. Round questioned the salary and COLA wording and thought it was a little open ended. Mr. Federspiel answered that the wording is open ended because the Town does not have those new union contracts. He explained that the provision is allowing for the contract to be opened to have the conversation if inflation pushes higher than 2 ½ percent in the next two years.

*Mr. Round moved to approve Town Administrator Gregory Federspiel's contract, beginning on July 1, 2022 to through June 30, 2025; Ms. Harrison seconded. The motion passed unanimously by roll call vote.*

### **13. Town Administrator's Report:**

- 1) **Chebacco Road:** Mr. Federspiel explained Hamilton has completed the permitting process, including new permits from their Conservation Commission and from the state. Hamilton has agreed to seek a truck exclusion and to install permanent speed tables. They are also agreeable with a low salt application. These actions should help keep traffic volumes low.
- 2) **End/Start of Fiscal Years:** He let the Board know that the Town is closing out FY22 underbudget and with revenues higher then estimated that will add to our overall reserves. FY23 is now underway and will be a very challenging year, with the impacts of inflation, especially with fuel costs and higher construction costs. We are entering a more challenging budgeting period and will have to pay extra attention to expenditures.
- 3) **Water and Sewer Rates:** He updated the Board that they will formally set the new rates at your July 18<sup>th</sup> meeting. Given the budget that was approved we are looking at a 3% increase to the rates.
- 4) **40B:** The Zoning Board of Appeals has two more public hearing dates scheduled. Assuming the ZBA concludes the evidentiary phase of the hearing in July, they will have 40 days to render their decision. Regardless of their decision I fully expect appeals to be made, first to the State's HAC and then likely to the courts.

Public Comment:

Christine DeLisio, 6 Lincoln Avenue, asked the Select Board if they will be appealing Hamilton's Conservation Commission's decision? If not, why not?

Mr. Federspiel stated that the Board discussed that possibility but the Board at that time didn't feel that was necessary. The Board asked for some of the stipulations and Hamilton was agreeable to most.

**14. Executive Session per MGL. Ch. 30a, Section 21 (A)(3): To Discuss strategy with respect to litigation if an open meeting may have a detrimental effect on the litigating position of the public body and the Chair so declares and not to return to open meeting.**

*Ms. Harrison moved to adjourn the meeting to Executive Session not to return to open meeting; Mr. Round seconded the motion. The motion passed unanimously by roll call vote.*

**Meeting Materials:**

List of Appointments

New licenses

Reserve Fund and Inter Departmental Transfers

KP Law memo on Board of Health Status as Town Department and related issues

Consent Agenda – as listed

Town Administrator's Report

**Upcoming Select Board Meetings:**

Monday, July 18, 2022

Monday, August 1, 2022