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# Select Board Meeting Minutes 9/20/18

## Select Board Minutes of the meeting of 9/20/18

**Meeting Opened at:** 9am

**Select Board Members Present:** Carol Edelman, Chairperson, Kenneth Basler and Donald Coburn

**Also in attendance:** Peter Chait, Mickey Jervas

### Miscellaneous Items Reviewed:

- The Board reviewed the request from the Zoning Board of Appeals to bring in a consultant for the cell tower special permit request. The Board unanimously approved of their consultant choice and approves proceeding.
- The Board discussed the reappointment of Con Comm agent and member Kim Wetherall as her 90 day probationary appointment has ended. Everyone is satisfied with her performance to date. A motion was made to reappoint her as the Con Comm agent and as a Conservation Commission member through June 30, 2019.
- The Board discussed the response from Baystate Municipal Accounting with regard to the monies they are seeking for work done outside the scope of the 2017/18 contract. The original figure in their request was for \$35,477.68 and after conversations they agreed to lower it to \$24,801.84 which according to BMA represents just the work done on the Treasurer part of the reconciliation. Carol expressed that this was a fair request and was in favor of compensating them for work done in order to maintain a good working relationship with a company that has done a great job for us, and avoid any legal proceedings. Don argued that this was brought before the Board before and he and Kenn were against; he argues that the contract signed was for a flat \$30k and that BMA knew there would be additional work to correct the books and there was no official agreement for the overages; in his opinion we cannot pay this without entering arbitration/mediation as per our contract with BMA which would determine whether BMA was entitled to the money. Kenn stated that he originally agreed with this line of thinking but felt that it makes more sense to come to an agreement rather than entering into a costly legal battle. Discussion ensued. Kenn agreed after discussing the matter that arbitration may be the clearer way to move forward and if it is determined that we do in fact owe BMA the money then that is the bottom line; the Finance Committee will determine where the money will come from. A motion was made to let Justin Cole of BMA know that the Board agrees to enact the arbitration clause of the contract to determine if he is due the full amount. This was approved by 2 of the Board members; Carol was undecided as she was in favor of the other solution.
- The Board met with Mickey Jervas, Library Trustee to discuss the library renovation contract (AIA Document A101-2007). Counsel has advised that we need to include addendum items which were provided to everyone yesterday. Mickey would not sign off on the addendum from Town Counsel today as she did not have time to review it (received yesterday at 3:45pm) and felt that it did not affect the contract which she stated had to be signed today. Don would not agree to sign the contract unless the addendum were attached to the contract. Discussion ensued and it was agreed by all parties to put a note on the contract that, "addendum 1 is part of this contract however reasonable changes may be made by mutual agreement." The contract was signed with that addition. There was discussion about the terms "owner" and "awarding authority" used in the contract. Mickey states that the library trustees are by law the "owner" and "awarding authority" but the contract must be signed by the Select Board for disbursements of funds; a document acknowledging this was provided and signed by all. All understood that any changes that would make the costs go over the \$3.1 million approved at town meeting would require town meeting approval.
- Additional library items discussed:
  - a. The Trustees have requested that all accounting reports be sent to the Library Director no later than the 15<sup>th</sup> of each month. M. Noe noted that the library has been receiving consistent monthly reports in their internal mailbox each month.
  - b. The Library Trustees requested, in accordance with our policy to disburse items under \$10k in value, that the Board authorize the library to turn over the library property to the Friends of the Monterey Library for appropriate disposal. All agreed.
- Mickey had a personal complaint concerning Swann Rd and work done there on Tuesday and the fact that no one on Swann Rd was notified that the road was going to be closed for the entire morning.
- The Community Compact IT grant was submitted for the September 15 deadline.

- The Board reviewed the proposal from the UMASS Collins Center to review significant changes that have been made in town hall, and to help in deciding whether the town should proceed with hiring a Town Administrator (something Kenn told town meeting voters would be done). Kenn suggested that we wait until we know what is going to happen with the Baystate arbitration before engaging the Collins Center. If all goes smoothly, then Kenn feels this report would be valuable in determining how to move forward with or without a Town Administrator. All agreed to put this on hold for the time being.
- FY20 preliminary budget meetings schedule/process; it was proposed to discuss this with the Finance Committee at the joint meeting next week.
- The Board reviewed the response from the school committee to our request to move forward with the disposition of the Monterey school building. No one was clear on what the school committee was looking for, and this will be sent to counsel to help us determine how to move forward when we decide to do something with the property in the future.
- Warrants were signed.
- Minutes from 9/5/18 were approved with minor amendments.
- Mail was reviewed which included:
  - a. Linda Hebert's resignation from the Council on Aging.
  - b. Cliff Weiss' resignation from the Broadband Committee.
  - c. MMA Chapter 90 local road funding survey was completed. The Board agreed that at least \$500k was needed annually to reach and maintain a state of good repair on our roads.
- The Board discussed the procurement/CPO items that M. Noe brought to their attention:
  - a. The need for a designated CPO if the town is going to put out any RFP's (request for proposal). The Board will address this when and if we issue an RFP.
  - b. The Board congratulated Melissa Noe for passing the first exam of the procurement classes.
  - c. Currently M. Noe is signed up for 2 more classes, Supplies & Services in November and Design & Construction in December. It was agreed that the class in December was not needed at this time. M. Noe will still be able to apply to be a Massachusetts Certified Public Purchasing Office in Supplies & Services without the design and construction class.
  - d. It was agreed that organizing a Conflict of Interest class offered though the State would be a good idea. M. Noe will work on this.
  - e. Records Access Officer – It was brought to M. Noe's attention at the class she recently attended that each town is supposed to have an appointed RAO (records access officer) and file this with the Secretary of State's office. The Board will follow up with the Town Clerk to see if she was aware of the requirement and will discuss appointments at a later date.
- The Board discussed the Assistant Town Clerk's resignation due to an inconsistent schedule. All agreed that going forward consideration should be given to how to fill this position, and find a person who can be trained to eventually become the Town Clerk when Terry retires.
- PILOT letters to Hume and Gould Farm – Carol reviewed the draft letters written by Don and did some additional research on what other small towns are doing. She would like more time to suggest changes to the letter. Discussion ensued. Don also agreed that he would like to do a bit more research.
- The monthly update from Baystate Municipal Accounting (BMA) touched upon the following:
  - a. Firetruck borrowing issue from FY16/17: The May 2016 ATM authorized the town to borrow \$650k to purchase and outfit a firetruck. The Treasurer at the time only borrowed \$598k when the total cost for the truck and to outfit it came in at \$648,539.96 leaving an uncovered balance of \$50,539.96. Since the borrowing has already been completed we cannot borrow the additional \$50,539.96. BMA stated that the town is going to need to fund this shortfall through town meeting action. The short term impact is a reduction to the FY18 free cash.
  - b. Council on Aging: Justin has met with Kay to review reporting discrepancies and subsequent adjustments were made.
  - c. Fraudulent bank activity: we have been made aware that a \$13,637 check was stolen through the mail, altered and cashed. We are working with the bank and police filing the proper reports and getting the money back.
  - d. Auction of town property: The list of properties taken by the town is being reviewed by BMA staff for legal information at the registry of deeds. BMA will be setting up a meeting with a municipal auction company to conduct the final review. The timeline is approximately a month pending a clean legal review of the deeds.
- FY18 town report: The Board directed M. Noe to send out the notices to all departments looking for their individual reports.
- Legal opinions on conflict of interest matters, on relations among members of the Select Board, and on the question of whether a town may use eminent domain to take over fiber cables if that is the only way to insure 96% coverage: Don

explained that he would like clarification from counsel on his concerns. Kenn did not feel that the conflict of interest needs to be looked at any further as the party with the conflict has resigned. Don was given permission to contact town counsel.

At 11:38am the Board discussed the need to go into Executive Session as per MGL c30A sec 21 #6. Roll call was taken by the Chair. All Select Board members were present. A motion was made by to go into executive session, seconded, and approved unanimously. The Board agreed that they would return to an open session. Open session was resumed at 11:52am.

Don requested an update on the Broadband status. Carol recused herself from this discussion. Kenn reported that he and Larry are working on writing an RFP which should be done in a week for the Board and counsel to review. Don reported that he had a meeting with Larry and the owner of Fiber Connect and had some concerns with some of the items discussed.

**A motion was made and unanimously approved to adjourn the meeting at: 12pm**

Submitted by:  
Melissa Noe, Administrative Assistant  
Approved by:  
Monterey Select Board

cc: Website ([www.montereyma.gov](http://www.montereyma.gov))  
Select Board Members  
Minutes Book  
Town Clerk