TOWN OF WENHAM

Board of Selectmen
Meeting of Tuesday, September 16, 2014
Town Hall, 138 Main Street

Pursuant to the Open Meeting Law, M.G.L. Chapter 30 A, § 18-25, written notice posted by the Town Clerk delivered to all Board members, a meeting of the Board of Selectmen (BOS) was held on SEPTEMBER 16, 2014 at 7 PM in the Selectmen Chambers.

WELCOME AND OVERVIEW OF THE AGENDA
With a quorum present, Chairman Wilhelm called the meeting to order at 7 PM
Selectmen Present: Jack Wilhelm, Chair; Catherine Harrison, Vice Chair; Ken Whittaker, Clerk
Also Present: Mark Andrews, Town Administrator; Catherine Tinsley, Minutes Secretary
The meeting was recorded by HWCAM, with permission.
Chairman Wilhelm announced that a private citizen is videoing the meeting with permission

Public Information:
Agenda
Announcements
Planning Board Information
Legal Study
Liquor License application
Appointment Policy

PUBLIC INPUT
John Clemenzi, Stage Hill Road, Chair of the Board of Directors of Eastern Essex District Department of Veteran's Services, reported that the Board has signed an agreement with Former US Army Field Artillery Captain Ryan Lennon for the position of the Veteran Director for the District. He starts October 6, 2014.

ANNOUNCEMENTS
1. Mike Lucy, Wallace Drive, Chair of the Finance Committee, acknowledged a Letter of Resignation from Finance Committee member Kat Mansfield. He recognized Ms. Mansfield for her service on the Committee. He announced the Finance Committee now has a vacancy and interested residents should submit a Letter of Interest to the Town Administrator. A draft budget schedule for fiscal year 2016 has been circulated. The first meeting of the Finance Committee is October 15, 2014.
2. Wenham continues under a water ban; no sprinklers/ hand watering only from 5 PM to 9 AM.
3. A meeting has been scheduled for November 5, 2014, at 7 PM in the Bessie Buker Multi Media Room, to discuss 40B developments and the impact it has on the Town. If the developer of the proposed Maple Woods project has received a "Letter of Authorization" from the state permitting him to go forward and apply for a comprehensive permit with the Zoning Board of Appeals, the agenda for the meeting will also include a discussion on the pros and cons of the project. This meeting will be reaffirmed at the next BOS meeting.
4. The BOS has been advised there is a vacancy on the Library of Trustees. Long time Trustee, Doris Gallant has moved out of Town, leaving a vacancy for a Wenham resident. The appointment for this vacancy is being researched and information for the appointing process will be forthcoming. Ms. Gallant was thanked for her many years of service to Wenham, which dated back before the formation of the joint library.
5. A flu vaccine clinic has been scheduled for Wednesday, September 2, 2014 and November 12, 2014 at the Hamilton Council on Aging at 299 Bay Road Hamilton. The clinic is sponsored by the Hamilton and Wenham Boards of Health. There is no fee for the vaccine.
6. Chairman Wilhelm, along with Hamilton Selectmen Scott Maddern, & David Neill attended a preliminary presentation of an "affordable pool" to the Joint Recreation Department. A joint meeting of the Wenham and Hamilton BOS to receive a presentation will be scheduled. More details to follow including the time and date of the meeting.

NEW BUSINESS

Planning Board Update – D. Geikie; E. Cademartori

Mr. Andrews explained this is the first of a series of Chair Reports. The BOS discussed ways to keep the town informed at their June retreat. These reports will be posted on the Town's web site to include additional information that may come forward.

Present: David Geikie, Chair of Planning Board; Emilie Cademartori, Coordinator

Mr. Geikie thanked the BOS for the opportunity to give an update on the Planning Board's current applications.

He began by saying there is no progress regarding cell towers in Wenham to improve cellular service. A small informal committee is considering options to improve cell services in town.

Regarding the Town's affordable housing rate, Ms. Cademartori reported that seven new affordable units were certified for 2014 brining the total percentage of affordable housing in Wenham to 8.7%. The goal is 10%, which would allow the Town to refuse 40B projects. She announced a series of monthly housing forum meetings regarding affordable housing on the North Shore; all town boards are encouraged to attend. This information will be posted on the Town's web site.

Spring Hill, off Dodges Row, is a definitive housing proposal for 18 house lots with a total of 19 homes; this includes two existing houses. A peer review has been discussed with the applicant. There is one affordable unit planned but the developer has been asked to consider two affordable units, noting there is no requirement for them to have any affordable units. There was a side discussion that Wenham has not adopted inclusionary zoning, which would required a portion (e.g. 10% to maintain the percentage of affordable units) of new construction to be affordable housing, and that this be considered by the Town. The Affordable Housing Trust has the ability to work with developers and provide funding. The Trust's funding source comes in part from money received from contractors in lieu of including affordable units in developments.

A small sub division is planned on Arbor Street. The applicant is requesting three housing lots consisting of two new houses and one existing home.

The Hamilton Wenham (HW) Village Improvement Plan- A joint application (HW) was approved for a grant to improve the "downtown area". The Coordinator & Planning Board Chair have attended the Hamilton Development Company meetings held over the past two years. Wenham has only a small stretch of this area along Route 1A. A pedestrian safety plan has been proposed as one of the first recommendations; there may be additional grant money specifically for improving pedestrian safety. Mr. Andrews stated that as a matter of protocol, this should come before the BOS for acceptance. On a side note, Mr. Geikie said that in the past, Wenham residents have not been interested in developing Wenham Center as a business/commercial district as a way to increase revenue.

Regarding the repurposing of Penguin Hall (Mullen property, Essex Street), Ms. Cademartori reported that the Zoning Board has received an application for a Special Permit for the Mullen property. The hearing was opened on August 6, 2014 and continued to September 24, 2014. A full presentation is anticipated at this hearing; it will be televised. If a project is permitted through the Zoning Board, there may be a site plan review by the Planning Board including such things as parking, storm water management, roadways etc. The Planning Board will work in concert with the ZBA when needed. Ms. Cademartori stated that the applicant has been asked on multiple occasions to provide the town with a written summery describing what is being proposed in advance of the hearing. Information received will be posted on the town's web site. If the applicant does not change the "footprint" of the current building, it may not trigger action by the Planning Board and / or much action by the Town.

Ms. Cademartori reviewed that during the cell tower process the Town's bylaws were found to be inadequate in terms of being able to collect money from an applicant to cover outside review and outside legal help. Ms. Cademartori requested to work with town counsel/outside counsel to revise the zoning bylaws to allow all the boards on all applications to collect what is allowed under state law to hire experts.

Mr. Geikie informed the Board that the Rules & Regulations, and Wenham Zoning, both need to be updated and put in line with the state laws. The zoning bylaws rewrite was done in 2009. The Sub Division Regulations and Town Bylaws were next to be rewritten, but did not get done. This is a budget item. Mr. Whittaker asked how to best go forward. A committee was established by the BOS to work on the zoning bylaws in 2009 and Mr. Geikie supported a committee be formed again. Ms. Harrison suggested a proposal for outside counsel to work on the regulations be prepared for the Finance Committee to be included in the budget discussions. Chairman Wilhelm asked for an outline be done regarding the recommended process to reconcile the deficiencies as described regarding the regulations.

Legal Base Study and Update

Paul Weaver, Town Counsel, addressed the Board saying he has acted as Town Counsel since 1974. He informed the BOS that his family obligations are keeping him out of town and he is not always able to attend meetings.

He went on to say that the Town has had the long tradition of a citizen town counsel as opposed to a commercial law firm as it provides continuity. He recommended if such a person could be found to carry on this tradition, that this is superior for Wenham. Mr. Weaver went on to propose a transition plan to include an associate town counsel.
He proposed an update of the legal base study be done noting this provides interesting history and a brief introduction of how municipal law works, and every office, board, commission in town and the scope of duty. In addition to MGL, there are so called optional laws. The legal study also includes some optional discretionary laws that the town has accepted. Mr. Weaver will also add his knowledge and research of developments in town with enduring value and suggested that they be summarized and added to the legal base study i.e. Iron Rail, Car Barn Lot, etc. He told the board he has a paralegal that can begin work on the update, and that it be formatted for adoption and maintained going forward. Mr. Weaver asked for $10,000 for the legal base study, and that this be done over three months at 27 hours a week.
Mr. Weaver also said he wanted to work on the non -criminal enforcement system for fines under the Town Bylaws. This includes a provision for the town to collect fines i.e. for the non-reporting of a buried Oil Tank. The process would be similar to a traffic ticket being issued and collected. He said he would seek funding in the next fiscal budget if necessary. Regarding the appointment of an Associate Town Counsel, Mr. Weaver supported the concept that this person be present if he was not available and continue on to be his successor as Town Counsel.
It was the consensus of the Board to support the legal base study as outlined and an Associate Town Counsel be sought. Mr. Andrews was asked to work with Paul Weaver to prepare a reserve fund transfer for the cost of the legal base study. It was announced that residents interested in serving as an Associate Town Counsel, should contact Paul Weaver.

Appointment Process
Mr. Whittaker edited the Appointment Process Policy for consideration by BOS saying he streamlined the process for efficiency and increased the responsibility of the committee/ board/ chair. The recommended person would come before the board for appointment. Consideration and review was deferred to another meeting.

Cross Keys Legal Update
Paul Weaver, Town Counsel, stated when there is litigation pending, it is never appropriate to comment on pending litigation. This is such the case and he would provide only an update. The background of the case is whether the Cross Keys program is entitled to zoning exemption, not being a conforming use under Wenham zoning bylaw.
An abutter demanded, under section 7 of the Wenham Zoning Bylaw, that the Building Inspector review the status of the program and its qualification for status. The Building Inspector ruled in favor of the abutter but stayed enforcement of the "cease and desist order" pending a Zoning Board of Appeals (ZBA) review. Cross Keys, in response, filed suit in federal court alleging exemption from restriction of Wenham zoning bylaws and a trial was scheduled for September 29, 2014 claiming:

1. Exempt under Dover Amendment
2. Disability accommodation of clients
3. Fair housing discrimination requirement for accommodation
4. General prohibition of use of zoning laws to discriminate parties

- Cross Keys filed an appeal to the Wenham ZBA.
- September 3, 2014 – The ZBA voted two to one to uphold the Building Inspector's decision denying the exempt status to the Cross Keys program.
- September 8, 2014 – Cross Keys filed a demand with Building Inspector for accommodation of clients of Cross Keys as handicapped or disabled persons entitled to accommodation or exemption from Wenham Zoning Bylaws.
- September 11, 2014 – The Building Inspector granted a reasonable accommodation to Cross Keys to operate to serve disabled population within the scale and scope of current operations; this decision can be appealed within 14 days.
- Federal court postponed the discovery and trial of lawsuit for an unknown period of time.

Mr. Weaver noted that the legal issues under the "Dover Amendment Exemption Analysis" and "Disability Accommodation Analysis" are different.
He reviewed that the town maintains "Public Official Errors and Omission Policy" (insurance coverage). The Town Administrator sought to activate this coverage, which was granted; Litigation Counsel was appointed, referred to as "Counsel of Record" for the town for this litigation. The Town will continue to work with the insurance company regarding the costs related to this litigation under the policy.
The Chairman stated no comment, or questions could be taken but new developments would be reported.

One-Day Liquor License Request - Hamilton Wenham Mother's Club

Vote: Ms. Harrison moved, and it was seconded, the WBOS grant a one-day liquor license to The Hamilton Wenham Mother's Club a one-day special liquor license for Wednesday, September 24, 2014 for a Fund Raiser event from 7 PM to 10:30 PM at Burnham Hall (Wenham Museum). The motion carried unanimously.

Gift of 1000 Flower Bulbs from E. West

Ms. West has donated 1000 flower bulbs to be planted in the downtown area of Wenham.
Mr. Tyack suggested involving the Boys Scouts as a project to ensure the bulbs are planted in a timely manner. The Board agreed non-profits e.g. WVIS be offered some bulbs as well as residents to dress up the streets.
Vote: Ms. Harrison moved, and it was seconded, the Town of Wenham to accept the gift of (approximately) 1000 flower bulbs from Elizabeth West to be planted preferably within the downtown area, by the Boy Scouts if they accept, and excess bulbs be offered to citizens to use in public areas with a preference to non profits. The motion carried unanimously.

REPORTS

Mr. Andrews referenced the Retreat Action Form Report that has been updated to include the priorities as indicated by the BOS. Five of the nineteen areas are completed or near completion, and estimated completion dates are more definitive.

Mr. Whittaker noted his concern regarding the Cell Tower Policy and suggested a committee be tasked to find a site rather than go through revising the policy. He welcomed the opportunity to go through it carefully, recognizing this is a draft. Ms. Harrison agreed on the approach to get a group of people to identify town owned land for potential cell tower sites but also to consider other alternative options. Mr. Andrews's noted that town properties have been inventoried and suggested private properties may want to be considered to be added to the list of preferred sites.

The Selectmen agreed that Selectman Harrison's priority list be reviewed, noting the other Selectmen's lists are similar. Ms Harrison suggested that these items as priorities should be done by the end of the calendar year.

1. The Classification and Compensation Study for Non- union Employees; preferably before the FY16 budget is put together and to include internal equity between positions/ jobs and external data such as job descriptions, market salaries, and position comparisons to other similar towns. Mr. Andrews stated that he intends to do a reserve fund transfer to continue the classification study that was started in FY 14. He recommended this study be updated every two –three years.
2. A five-year Capital Plan and Long Range Financial Plan- Ms. Harrison suggested this be done through ten years and include how capital items would be funded. Mr. Andrews said this activity is largely complete.
3. Draft Budget Calendar – Ms. Harrison noted this should include discussions with the BOS in concert with the Finance Committee on proposed policies and thoughts on the budget before department heads packets are delivered.
   The BOS asked a draft calendar be on the next meeting agenda for discussion and to set goals and recommendations from the BOS for the upcoming budget.
4. Best practices / Updated Legal Base Study – To update and clarify documents with inconsistencies
5. Recommendation for Town Hall (Office) organization – To look at the way the town hall departments are configured for efficiencies e.g. employees have the right jobs, the right amount of work, etc.
6. Improve communication between boards, committees, departments
7. Improve communications with constituents

Mr. Andrews responded that efforts are being made to address some of these concerns:

- Adding Chair Reports to increase communication
- Using the "banner on the Town's web site" as an information source
- Suggested a social event to bring people together to talk
- Also in the packet, an agenda for a meeting at the Regional Emergency Center (RECC), which may include providing a "reverse 911" program to Wenham

Ms. Harrison suggested a one page monthly report from department heads similar to what the Town Clerk does and these memos be shared between departments.
Mr. Wilhelm noted his priorities include fixing what is broken, citing the telephone system and email system and getting proposals and looking at outside IT support, and the continued success of the transition of the Finance Department.

Mr. Andrews was asked to prepare a summary from the meeting on the Selectmen's priorities and prepare a progress report every other meeting, on how these goals are being met. Mr. Andrews added this is a living document and will be updated. He will be adding a color-coded system.

DPW Foreman - Mr. Andrews recommended Keith Carter, as third in command, to be appointed as the new foreman due to the retirement of George Ricker. Mr. Tyack spoke in support of this appointment.
Vote: Mr. Whittaker moved to appoint Keith Carter as DPW foreman and it was unanimous to do so.

Grants - Mr. Andrews reviewed that he reported to the Board on August 5, 2014 that the town was successful in receiving $248,069 of a Green Communities Grant, in part, for the development of LED Streetlight program. He was remiss in not asking the Board to vote to formally accept the grant and asked them to confirm their vote.
He also asked the BOS to authorize him to go forward with the hiring an energy manager, with the town of Hamilton; this was a joint application with the Town of Hamilton and the HWRSD through a grant is for $24,690 to subsidies the position. Mr. Wilhelm questioned whether by accepting the grant, what obligations the town would incur, and if there is a time frame. He asked to defer this vote for further discussion. Mr. Whittaker suggested hiring the energy manager first and wait for a detailed report on the grant funding requirements and obligations.
Mr. Andrews will put together a synopsis for the next meeting regarding the streetlight program including the pay back period, and savings from the annual budget. Mr. Whittaker suggested this includes Johnson Controls.
Ms. Harrison questioned if the energy manager would continue to be paid as an employee after the grant money was spent. Mr. Andrews explained that this person would be responsible for finding grants for this position, or use energy savings to pay for the second year in part, but after the two years, there is no obligation to continue with the position; this is a two-year contract and there is a cost of about $8000 (shared) for the second year. Ms. Harrison asked for the details of what this person is doing, how the resources would be shared, citing her concern of adding a new employee.
Mr. Andrews will provide the BOS with a draft of the Inter-municipal agreement that will cover this shared position. Hamilton has approved the person and the position. It was unknown if the school had approved it yet. This will be on the next agenda for discussion.

Community Innovation Challenge Grant Update: This is a $ 90,000 grant program of which $50,000 is for the Town of Wenham to add to fleet of maintenance tools & equipment for the Grounds & Maintenance. About $13,000 is for program management; a contract with the Collins Center will be drafted.

September 24, 2014 – Wenham is hosting a regional meeting of local Town Manager/ Town Administrators; the BOS were encouraged to attend.

Mr. Whittaker referenced an article in The Beacon magazine that the Town of Andover has formed an OPEB committee, and he suggested Wenham consider forming such a committee.

Chairman Wilhelm reviewed that the Town Administrator requested the BOS delay the discussion regarding the process for the Town Administrator's annual review to allow him research and put together information of different format recommended/used by other towns. The Selectmen agreed to defer this discussion.

ADJOURNMENT
Vote: Mr. Wilhelm moved to adjourn at 9 PM and it was unanimous to do so.

Respectfully submitted by

Catherine Tinsley
9.18.14