

BOARD OF SELECTMEN
Working Session
Town Hall Conference Room
Minutes of October 27, 2014

Chairman Dick Gandt called the meeting to order at 4:45PM. Board members present in addition to Chairman Dick Gandt, were Martha Morrison, Laura Powers, Steve Lais and Eldon Goodhue. Of the Selectmen's staff Board Secretary Donna Rich was in attendance. Town Administrator Kellie Hebert was absent. Other persons present during all or part of the meeting were Alcohol Licensing Advisory Committee member Nancy Luther, Fire Chief Ron Giovannacci, Conservation Administrator Lana Spillman, Tri-Town Transcript editor Kathy O'Brien and resident Sean Cunniff.

Alcohol License Solicitations: Alcohol Licensing Advisory Committee member Nancy Luther explained the need for the Board to publicly announce they are accepting application for the All Alcohol Pouring Licenses. Selectman Goodhue made a motion that the Board of Selectmen would be accepting applications for All Alcohol Pouring Licenses as of Monday, November 3rd, seconded by Selectman Morrison; so voted: 5-0.

Role of Personnel Advisory Committee: Chairman Gandt commented on his belief of the misunderstanding that existed with the Personnel Advisory Committee being able to be recognized at a meeting, stating that he had spoken with Mr. Wallace earlier today regarding this issue. Chairman Gandt noted that Mr. Wallace stated that he disagreed with Chairman Gandt's understanding. Chairman Gandt said that while the Personnel Advisory Committee is under the Town Bylaw, section 8, the committee is not subject to the Open Meeting Law when the Committee acts only in an advisory capacity to the Town Administrator on matters over which she has sole authority to act. Therefore the committee is not in a position to be recognized at a Board of Selectmen meeting. Selectman Morrison defended the legality of the Committee being recognized at a meeting and discredited the opinion of the Chairman. Selectman Goodhue requested that the issue be tabled because of the sense of the Board regarding the issue.

Permitting Implementation: Selectman Morrison expressed kudos to Chairman Gandt for his successful implementation of the Permitting Software in the Building Inspectional Services Department and Board of Health, also for the continued progress with the Conservation Commission and Planning and Zoning Coordinator. Selectman Morrison made a motion to empower Chairman Gandt to be identified as an agent of the Board for the implementation of the Permitting Software project, second by Selectmen Goodhue; so voted: 5-0. There was a conversation relative to Chairman Gandt's access to the Munis software and to Town Hall offices. Selectman Lais noted that the Board does not have the authority to provide access to Munis and that the Chairman should go through the Munis System Administrator to obtain those privileges.

Selectmen access to Town Hall: Chairman Gandt began the discussion relative to full access of Town Hall being made to the Board of Selectmen. Chairman Gandt expressed his concerns with his ability of not being able to perform maintenance on the heating system, checking the air conditioner in the computer/copier room and general access throughout the offices. Selectman Powers noted that a dedicated maintenance person, other than an elected official, should be considered for such activities.

Clarification of the Authority for Signing of Contracts/Grants & Chapter 90/Peer Reviews etc:

Chairman Gandt opened the discussion with a seven (7) page power point presentation (attached) which discussed the authorities vested in the executive and legislative branches of town government as well as functions that are administrative verses executive. Selectman Goodhue clarified that the question at hand was the giving of authority to the Town Administrator, as was voted by the Town Meeting, further explaining that the voters voted to have a strong Town Administrator, one that will run the daily business of the town. Selectman Goodhue referred to a letter dated 6/13/2007 from Attorney General Martha Coakley quoting that it is unclear, stating that the Town Administrator shall act as an agent of the Board of Selectmen and directly answer the Board. Selectmen Goodhue concluded that he would like to give the Town Administrator the authority to sign contracts, with the Chairman to review what is signed. Selectman Morrison suggested that contracts or agreements that have been voted on and approved by other elected boards and that have been vetted through the procurement process and the Town Accountant should be signed by Town Administrator. In addition, Selectman Morrison noted that anything the Board of Selectmen has discretion over should be reserved for the Board to sign. However, Selectman Morrison noted that Chapter 90 funds and Peer Review contracts should be signed by Town Administrator, as they are not utilizing tax dollars, approved by other elected boards and should be moved forward in a more timely fashion. Selectman Powers commented that the Board had recently rewritten the Town Administrator job description to have more authority which was provided during the hiring of the new Town Administrator. Selectman Powers suggested that the Board, with the Town Administrator's input, should develop written guidelines codifying the expectations and a clear understanding of who has responsibility for signing what documents. Selectman Lais commented that being a newcomer and after reading the Attorney General's letter concluded that it is a gray area. Chairman Gandt commented that the question is not what the Board wants to do, rather what the law allows the Board to do. The Chairman recognized resident Sean Cunniff. Mr. Cunniff stated that he has done a lot of research regarding the authority of signing contracts and stated that in his opinion the Board is in a lot of trouble. Mr. Cunniff quoted Massachusetts General Law section 40, which states that only Town Meeting can sign contracts and that Town Meeting voted Power of Attorney to the Board of Selectmen and the School Committee for approval of contracts. Mr. Cunniff suggested that a total review of the contract procedures and policies be initiated by the Board. Furthermore, Mr. Cunniff announced that he would be placing an Open Meeting Law complaint regarding the Personnel Advisory Committee and as a courtesy was informing the Board. Selectman Powers stated that the Personnel Advisory Committee was reconstituted as an advisor to the Town Administrator and is operating as a different body than what is stated in the town bylaw, adding that it is unfair to hold them to a standard that they are not constituted to meet. Selectman Morrison expressed again her position on the Chairman not recognizing Al Wallace to speak at the Board meeting, stating that it is not the way a Board should treat people who volunteer their time to the Town. In regards to the contract authority, Chairman Gandt restated that as a citizen he was pursuing a discussion with an attorney on the issue. Chairman Gandt concluded by appointing a subcommittee, of Selectmen Morrison and Powers, to define and prepare procedures for the various types of contracts and agreements under the Board of Selectmen. The Chairman further stated that in the interim, all contracts were to be brought to the Board of Selectmen for consideration and signature.

At 6:30 PM, Selectmen Morrison made a motion to adjourn and Selectman Powers seconded the motion; so voted: 5-0.

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Respectfully submitted,

Donna Rich, Secretary
Selectmen's Office

Per the Open Meeting Law, the documents that were either distributed to the BOS before the meeting in a packet, or at the meeting were:

1. Agenda
2. Power Point Presentation titled, :Governance of Town Government”

Approved as amended at the February 23, 2015 Board of Selectmen's meeting.

<p>Pursuant to the 'Open Meeting Law,' G.L. 39, § 23B, the approval of these minutes by the Board constitutes a certification of the date, time and place of the meeting, the members present and absent, and the actions taken at the meeting. Any other description of statements made by any person, or the summary of the discussion of any matter, is included for the purpose of context only, and no certification, express or implied, is made by the Board as to the completeness or accuracy of such statements.</p>
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