

Tuesday, September 28, 2021
Board of Selectmen Meeting Minutes
Gala Room, Town Hall
7:00 p.m.

Members Present: Leah Gibson, Chair
Stephanie McGowan, Vice Chair
Seth Ferguson, Clerk
Ed O’Leary
Mark Elfman

Also Present:
William Keegan Jr.*, Town Manager
Mike Johns, Assistant Town Manager
Christina Metcalf, Community Info. Specialist
Katie Lang*, Executive Assistant
*Attended remotely

1. 6:30pm Executive Session

Motion to convene in executive session, pursuant to Massachusetts General Law, Chapter 30A, Section 21(a) 6, to consider the exchange, lease and value of real property located within and abutting the Gillette Stadium Demised Premises, with the Chair hereby declaring that an open meeting on this subject may have a detrimental effect on the negotiating position of the Town and for the Board to reconvene in open session upon adjournment of the executive session.

Roll Call Vote: EO – Yes, ME – Yes, SF – Yes, LG – Yes. Approved, 4-0-1. SM not present for vote

2. 7:00pm - Citizen's Input – No Input

3. 7:05pm Covid-19 Update - Director of Public Health Matthew Brennan and Public Health Nurse/Deputy Chief Thomas Kenvin

MB – We have 36 cases of Covid confirmed in the last 14 days. We have 14.1 cases per 1,000 residents. Over the past 3 weeks approximately 39 cases are breakthrough cases, 18 cases are delta variant. The CDC recommends wearing a face mask indoors. The CDC also believes that 99% of the current Covid-19 cases are due to the delta variant. CDC predicts the Commonwealths case count will decline or stay level over the next month. There are 12,309 Foxborough residents who are fully vaccinated, which is 68% of the total population. The Pfizer vaccine booster shots are available for those who had their first series of shots and who are in eligible groups.

TK – Follow up on the numbers we have received a decline in positivity rate. We are still on par with be 68% vaccinations rate. We have noticed an uptick in the severity of cases however the vast majority are complaining of head cold or flu light symptoms. We need to be the vaccine is supposed to prevent death and severe illness.

MB – We are hoping that things decline and there is a light at the end of the tunnel. If things change we will let you know and you can track the numbers on the website. The Covid-19 page for Foxborough specific numbers is on the website.

SF- Can you give a percentage of delta cases?

MB – CDC does a breakdown of what kind of strain in the area. About 99% of the strain is the delta strain in the area.

TK – We did a flu clinic last week at the employee health fair. There will be one at Public Safety and Council on Aging.

4. 7:15pm Joint Meeting of BOS and Planning Board to appoint Associate Member

4.1 Planning Board to call meeting to order by unanimous vote of members present. We are asking to appoint a new associate members to replace John Rhodes. We feel confident he would do a fine job.

LG – Tom is someone who steps up and gets stuff done and joining another board.

4.2 Vote to approve Tom Murphy as the an Associate Member for a term to end May 31, 2022

Motion to approve Tom Murphy as an Associate Member for a term to end May 31, 2022 by S. Ferguson 2nd by M. Elfman. Approved, 5-0.

5. 7:20pm Joint Meeting of BOS and Foxborough Housing Authority (FHA)

Subject 5.1 Foxborough Housing Authority to call meeting to order by Greg Spier with unanimous vote of quorum.
GS – This is a new tenant member of the FHA as required by DHCD. We put notification to all the housing authority residents and out of that we got 4 applications. After interviews we unanimously decided on Heather Konieczka, she has lived in a housing authority residence for 6 years. She will be a fine addition to the FHA.
LG – Congratulations on joining the Housing Authority

Subject 5.2 Vote to approve Heather Konieczka as the an Tenant Board Member for a term to end May 1, 2025

Motion to approve Heather Konieczka as the Tenant Board Member for a term to end May 1, 2025 by S. Ferguson 2nd M. Elfman.

Discussion – LG – Is this May 1st and not the 31st?

Christina – Per the DHCD rules the term is May 1st.

Approved, 5-0.

The Walnut Street RFP is online and hopefully we'll have interested developers. Thanks to Paige for her hard work.

6. 7:25pm Sweetness & Honey Bakery - Common Victualler Application – Kerri Vogler

KV – I moved to Foxborough a few years ago. I have been operation out of my house and decided to expand to the storefront. With this I'll be able to add more offerings. I'm going to be providing dairy/vegan/gluten free items. Doing breakfast items as well as cakes, cupcakes, and lots of other desserts and the store will be geared towards sweets.

ME – What hours will you be up?

KV – Sunday through Friday with possible shorter hours on the weekends.

LG – There is a warrant article on Special Town Meeting for the overlay district to make the process easier transferring from an insurance agency to a bakery.

Motion to approve a Common Victualler License for Sweetness and Honey Bakery by S. Ferguson 2nd M. Elfman. Approved, 5-0.

7. 7:35pm Foxborough Country Club - Change of Manager - Ty Cosgrove, Business Manager and Lou Carangelo, VP Foxborough Country Club

LC – I've been a resident of Foxborough for 22 years and a member of the club for 18 years. I'm the Vice President of the club and have responsibilities in the club house.

Ty – Recently moved here from Cape Cod and just started and FCC in August. I've been in the golf /restaurant industry for 20 years.

LG – This is the 4th change we've seen and would like to hear about your plan for stability.

LC – We had lost our house business manager pre-Covid and we put the liquor license of the house committee to get through. We then moved the license over to Tracey and she had left for another position. Ty is now our business manager with more responsibility within the club house. We apologize for all the change but expect to have stability going forward and Ty has already proven himself these past few months.

LG – I would reinforce how important it is to get to us that information quickly.

Lou – We started our search and Ty seems to be a great fit and we agree with the turnover being difficult. We are not in favor of turnover which is why we spent a month on a search.

LG - Have you had liquor license in your name before?

Ty – I've never had my name on the liquor license before. I predominantly worked in the golf but have worked as a bartender. I have been able to be a general manager and build a business up with an owner.

ME – Are you TIPS certified and are you aware of Fox Cares?

TY – Yes, I've been in contact with Tom Perruna and looking forward to building that relationship. I just recertified my TIPS certification recently and CPR/AED certified and have been for 15 years.

ME – Is there an issue with the fact that there was a gap in managerial coverage?

KL – I checked with the ABCC and there is typically a 3 month window. They have no issue as long as the BOS supports the change of manager.

Lou – Is there a better way to do that?

LG – The biggest thing is getting in touch with us and keeping contact with us if there are changes. We only found about a change because of the annual renewal and there was a big gap in the change of manager and there is room for improvement.

Motion to approve the Change of Manager Application for Foxborough Country Club from Tracey Goulet to Ty Cosgrove by S. Ferguson 2nd M. Elfman. Approved, 5-0.

8. 7:45pm Kraft Group - Presentation of Special Town Meeting Articles 15 & 16 Kraft Group LLC to present a short summary for review of the intent and public benefits resulting from the contemplated land swap and lease amendment for your consideration – Dan Krantz, Kraft Group and Peter Tamm, Kraft Group Counsel

DK – What we are proposing is a change to our Building P. It's about 20,000 sq. feet and we would like to replace it with 4 story building. We met with planning board as well as they are reimagining their training and condition space and need more space in the coming years to do that. It is an opportune place do to that as it is adjacent to the weight room. We want to connect it to the football space and they would take 98% of the football space on the first floor. The second floor would be the Kraft Group space; IT, finance, etc. They are cramped in a smaller space and this will allow for more space, light and to be able grow a bit as well. The third floor would be for International Forest Products and can expand as well. The 4th floor is not planned for at this time. It's a reshuffling of the deck. Where they are currently, they will vacate and football will expand. They have some dynamic plans on how they will operate. There would be no new employees so wouldn't impact traffic. There will be minor impacts as we build but the fan won't see any interruption in experience. It would be near the E1/E2 entrance. Do you have any questions from me?

SM – Is anything else moving?

DK – Nothing else is. We could have a bridge in the future and are planning to build it that way.

LG – We are being asked to swap land for a piece of land that the Town owns for a piece of land that the Kraft Group owns.

PT – This has been approved by the Planning Board. In order to build this building and invest \$30 million in the Stadium the Kraft Group will be separately financing this building. This straddles the stadium parcel and the parking and owned by an affiliate of the Kraft Group. Under ground lease has not been modified and we have made amendments. The ground lease doesn't not contemplate a building that is partly on the lease and partly on

private property. The stadium expansion that was implemented a few years ago does that. Any lender that is looking to lend money for construction, will want to ensure that it is its own independent plot. The design team could shrink the program so it's in the current footprint but that is not optimal. Rather than compromise the design, we wanted to come before Town Meeting and we would swap .5 acres for .5 acres and the footprint in the stadium lot would occupy and would be given by the town to the organization and the town would give the 1/2 acre and ensure the areas are equal. That would become part of the Building P. I'm not aware of anyone proposing to invest \$30 million in Foxborough that will be taxable, once removed from the demised premise. This goes along with the town's goals in the Master Plan and zoning. This is the type of the investment will benefit the town fiscally from the rent paid by the organization which is driven by ticket sales and ticket fees. This ensures the stability of the revenues continues. This is the investment along Route 1 that the town has stated it is looking for. The idea of bringing this to Special Town Meeting (STM) in November, not only presents real fiscal benefits as it would be a separately taxable parcel. In consulting with Administration and Town Counsel we would discuss a PILOT and would talk about the seat adjustment as well. Those two issues that were resolved are not reflected in the lease and this presents an opportunity to bring these into the lease and is a good idea. Our thinking is, prior to STM we could have a PILOT in place that it would be able to forecast revenue based on taxes. We have those two options. In order to build it we need to finance it.

LG – From what I understood the financing issue that it was leased land not that it was straddling two pieces of land. It's that it's on two parcels and not that the entirety of that is under leased land?

PT – It's separate issues, but it makes it more challenging than it needs to be. If we built without resolving the lease issue and straddling and the existing lender would take it on you are dealing with a portion of built that another lender has a building on it. The fact that there is a long term ground lease on the stadium doesn't it make it the greatest hurdle. You can finance with a ground lease.

LG – It's more that it would straddle two parcels about the other ground lease is still an issue.

PT – One option would have to be to cede the land to the town but there is nothing to give in return and this is the cleanest way to do it. If authorized at Special Town Meeting and then building was on private property we would probably create a ground lease or sub ground lease.

LG – We have a map but I have trouble figure out what is where the parcel is where you are asking to swap.

PT – [Showed on map the difference what the .5 acre parcel of land that would be swapped] We'll have an updated plan for you and have a legal description of tract A and B. They are very similar to what you saw here and about a half-acre. It can be assessed and be outside of the lease area so it can be taxed. It represents and significant annual increase to the tax revenue to the town or the town could enter into a PILOT program as well. The organization is committed that it will be a positive fiscal impact to the community.

LG – We want to make sure that we understand everything. With the piece the town would receive, was that constructed when the stadium was built or after?

PT – The building was built after but didn't require separate financing.

LG – We would lose taxes on the privately owned piece?

PT – You are right to want to know what the net is/would be with the swap. The tax group at the stadium with the assessor would provide you with a net benefit.

LG- I appreciate you coming in so we can see and talk through it.

PT – The stadium ground lease doesn't contemplate when Patriot Place didn't exist and the spinoff debt was desired but not sure where it would be. We could make the lease current modified the demised premise and ensure that the investment in the stadium continues. There are many decades left when you consider all the option periods.

LG – That was a lot but we are here to hear about it. We want to make sure we know all the details because it was complicated. I understand there is a 2nd piece with the access road.

PT – That is a Planning Board matter. The stadium lot has a paper street and provides frontage for that parcel. There is nothing for the Board to act on at Town meeting. The two items to understand would be the land swap of ½ acre to allow Building P and the second is to amend the Lease and that would substitute the new plan of the demised premise and would reflect the addition of the .5 acre for the Building P tract.

LG – Any intel about why you selected that piece of land?

DK – The adjacency to football is the primary driver.

PT – A portion of stadium extends on to private property. This is an in kind transfer that will reflect the actual conditions out there. The town will get the fee interest in its entirety and the organization would get the land beneath Building P.

LG – That building P is connected to the stadium even though we are talking about it like a different building.

DK – It will be a contiguous walk but it will be separated code wise.

LG – The building we are getting now will

SF – How do we assess a piece of the building?

PT – I'm not sure if you do, not confirmed. If this is going in the right direction and we'll be able to provide you a quick fiscal summary both the estimate tax revenue with the building of this caliber and the loss of the private property into the lease area. We can do that and update the plans to at your request.

LG – What year was that piece added?

MJ – Technically it's a separate building but it is a contiguous structure.

LG - After today I would have the Board send questions to Bill and forward them along to get them answered.

PT - We want to make sure that this Board understand what the project is and what the proposal is so we can explain this at town meeting. We are happy to return and provide any information you need. Pat Costello is a very effective advocate for the Town to get this negotiated.

LG – When you look at the warrant articles are sponsored by different departments, we want to let the citizens know that we sponsor this because we are in charge of the lease. Thank you for coming in and please hold the 12th open in case we would like you to come in again.

9: 8:15pm BOS - Special Town Meeting (STM) Warrant Review

MJ – The STM has 17 articles. It begins with several zoning articles and have gone in front of the Ad Comm and are first 6 are zoning by law amendments and would require 2/3rd vote at Town meeting. Articles 7-9 are street acceptances. Once the Town Planner recommends those then the Town Engineer would go and do final inspections.

LG – I hadn't seen a portion of a street being accepted before. I'm sure she'll explain it. She doesn't believe the full street would be adopted. This is outside the subdivision rules which is why it is a portion.

SM – Is this street not accepted at all?

LG - This would not result within the full street.

SM – It could be something as small as curb not being finished and they wouldn't have it be accepted.

MJ – Article 10 is a Zoning Board of Appeals (ZBA) amendment and is a process type of article. Article 11 is OPEB payment and we are still working on and seeing what that payment will be. Article 12 is a budget amendment for the Southeast Regional School District. Article 13 is two addresses requesting to be included in the sewer service area map. Article 14 is an article that the Police Chief is discussion with the union regarding Civil Service. The union would vote, then at STM and then it would go to state legislature as the final step. Articles 15 and 16 were the Kraft Group articles that were just discussed regarding a land swap and stadium lease. Article 17 is the CIP Committee by-law and cleans up the language regarding the Board of Water & Sewer representation. It has been represented with DPW Director, this makes it official and clearer.

LG – Looking from a timeline perspective, we can remove articles, but we can open it to amend if needed. We don't have a project plan we haven't seen the assignment of liaisons to Ad Comm to send to Finance and Town Managers and we should.

MJ – That plan on that on an ongoing basis. Meeting last week with the Town Clerk and posting this on October 13th.

ME – Did you say that the Advisory Committee wasn't going to be televised?

LG – Yes, that is right. They made the decision to not to be televised. If you would like to follow along you would have to come in person.

ME – I think it was phenomenal that it was televised and I'm surprised by that decision going forward.

SF – I agree with Mark and they meetings were televised were just as productive and I'm a little disappointed as well.

LG – I'm a parent and it is disappointing, it was nice to be able to watch it from home. I would hate for us to start at ground zero.

SF – A bit more context, there was discussion around televising, there were concerns about people speaking freely when Covid necessitate that Covid put on broadcast it seems to work really well.

ME – I felt town meeting went really well and it went well because of that.

SM – I agree, I will own whatever I say whether or not it is on camera. I understand that they had their discussion. Last year being able to watch the meetings. We respect your decision but it was good to have that.

LG – It will be on next meeting's agenda.

SM – Do we have to attend Ad Comm or have any explanation on the other warrant articles?

ME – What we would do is go to Ad Comm to get the presentation and answer.

LG – The questions comes up is that who votes first. Ad Comm can vote on one BOS article and then would vote on BOS articles after we vote on them.

MJ – In practicality the Ad Comm would vote after the Board votes on them.

LG – Ad Comm plans on voting on October 20th

BK – The Board is authorizing the articles to move forward and you could have a separate discussion on different articles and what the recommendations would be from the Board.

ME – If you can't make the meeting and ask Bill or Paige and get comfortable on your own.

SM – We are recommending that the STM warrant go to Town Meeting.

MJ – The Ad Comm makes recommendation and the Board puts its forward to town meeting.

SF – Do we have ownership of the articles?

LG – We ownership of the Board of Selectmen sponsored articles.

BK – You own the entire warrant. The Board can make a recommendation on any article but historically you don't.

LG – If there is a specific question on the wording of an article from a BOS member, does that member go to the department or you?

BK – The member would do to the department sponsoring it.

SF – There was a question I had about Article 2.

KL – Under Article 2 section 8.2 was removed regarding the change after the Ad Comm liaison meeting.

LG – Try to go to Ad Comm and if you can try to connect with the department if you have questions.

10. 9:00pm Assistant Town Manager's Update

- The Town Manager's office received a letter regarding Oak Street from Mr. Car that there is a dangerous situation on Oak Street. A speed study will be done and we'll report back after that.

- Last Friday we had some security training and had active security and we thank police department for organizing that for us.

- Marie Almodovar and Marc Craig have begun the MMA/ Suffolk University Certificate program.

- As we are discussion warrant articles, Bill and I have worked with cable access to talk about those articles.

SM – Maybe something that could be brought up to Ad Comm that the warrant articles could be presented.

11. 9:10pm Town Manager's Update

11.1 Update on American Rescue Plan Funds – We have a call with our consultant tomorrow.

Trash working group – We have 7 individuals who have expressed interest in the working group and we are having a meeting in a few weeks.

12. 9:20pm - Selectmen's Update

12.1 New Business – The skate park is closed right now due to safety concerns and are evaluating what is needed to fix it

- Budget Summit is October 13th at 7pm

-Ad Comm is meeting on Wednesdays now.

12.2 Old Business - None

13. Action Items

13.1 BOS - Approval of BOS Minutes from 8/31/21 meeting

Motion to approve the August 31, 2021 Board of Selectmen Meeting Minutes by S. Ferguson 2nd M. Elfman. Approved, 5-0.

13.2 BOS - Approval of Performance Evaluation and Review Policy

Motion to approve the Performance Evaluation and Review Policy by S. Ferguson 2nd M. Elfman.

Discussion: LG – I don't see when these are done.

MJ – It's not missing but we could add it. It is in union contract and non-union personnel guide. Their contracts spell out the timeline for the evaluation. It is stated in each contract. The intention was to be general and give guidance to supervisors evaluating. This is the town's intention of the town's evaluation

process. Besides the 4 contracts and at the end of probationary periods for new hires it would be May 15-June 15.

LG – There is no direction for what they do with the evaluation after it's complete. Does it go in a file, does it go to HR. I would like to see more detail about that in the policy.

Approved as amended, 5-0.

13.3 The 99 Restaurant - Approve Change of Officer from Goodloe M. Partee to Wendy Harkness

Motion to approve the Change of Officer from Goodloe M. Partee to Wendy Harkness for 99 Restaurants of Boston, LLC and 99 West, LLC by S. Ferguson 2nd M. Elfman. Approved, 5-0.

13.4 BOS - Approval of conditions for 119 Morse Street Local Initiative Program

Motion to approve the conditions for the 119 Morse Street Local Initiative Program by S. Ferguson 2nd M. Elfman.

Discussion: LG- These are the draft conditions. There were a lot of conversations between myself, Stephanie and Bill regarding the conditions.

SM – One of the points I would have like to have in the conditions and wasn't included in the conditions. I am okay with the letter but will not be voting in favor the letter tonight.

Approved, 4-1. S. McGowan opposed.

13.5 FCOD - Approval of new rules for the Foxborough Commission on Disability

Motion to approve the new rules for the Foxborough Commission on Disability by S. Ferguson 2nd M. Elfman.

Discussion: LG – I think, I get the intent of rule do we feel like this is the right place for this to live.

MJ – This was put together by the Commission, not Administration. Town Manager met with members and discussed the number of members.

LG - Did the commission know about the Handbook?

BK – They did get the handbook. They did have these rules in place for years and wanted to amend them to include more people. They were doing some housekeeping on those rules. The Commission can have their own rules. They are coming to you for approval since you appoint their commission

LG – We can't see the changes that were made and I would caution that we don't have individual rules for each board and committee.

BK – They've had the rules in place before the handbook and the changes weren't significant.

MJ – The number of members is regulated by State Law. If the Board wants us to revisit this with the Commission and we can see if we can get them to jive a bit better and make it more a procedure.

LG – There are a number of things in here that are old. It seems a lot for rules and regulations. I would like you to go back and work with them to make it more cohesive.

No action, postponed to future meeting.

13.6 BOS - Approval of Naming of Public Assets Policy

MJ – This is something that another community was looking into and they reached out to us. We looked at what we are doing and we don't have a policy on this. This uses best practices that other communities are using.

BK – This is another case of information sharing with other towns. This would allow it to become an official record and give the ability to the departments who occupy the building to propose a naming of an asset.

LG – Did Town Counsel see this?

BK – Yes, by doing this it adds to the public process and brings the attention to the individual receiving the honor. I wouldn't think it would be an issue and wouldn't anticipate it being voted down at town meeting.

Motion to approve the Naming of Public Assets Policy by S. Ferguson 2nd M. Elfman.

14. Adjourn – 9:26pm

Motion to adjourn by S. Ferguson 2nd M. Elfman. Approved, 5-0.