

**Selectboard
July 11th, 2018
Town Offices
Open Session
6 pm**

The open session of the Selectboard of the Town of Whately was called to order on July 11, 2018 at 6:06 p.m. by the Chair, Jonathan Edwards. Present were Selectboard members Fredrick Orloski, and Joyce Palmer-Fortune (via remote video connection). Town Administrator Brian Domina and Town Counsel David Doneski were also present. The Board previously signed the Vendor and Payroll warrants.

Jonathan informed the audience that Joyce was participating remotely in the meeting due to geographic distance and that all votes would need to be done by roll call vote.

The Board voted to approve the meeting minutes from June 27, 2018. Roll call vote: Jonathan – yes, Fred – yes, Joyce – yes. All in favor.

The Board elected to hear Keith Bardwell (Highway Superintendent) on Chapter 90 project requests prior to the public hearing so he could attend an off-site post incident meeting as a member of the Whately Fire Department. Keith provided an overview of the following projects. Fred and Jonathan signed the following project requests –

- Long Plain Road to Route 116 to Deerfield Town line near the cemetery - repaving at a cost of \$12,000.
- Portions of Chestnut Plain and North Street – blacktop repair
- Chestnut Plain (south of Whately Inn) to Hatfield Town Line – repaving at a cost of \$65,000 - project beginning Summer 2018.

No comments from the public

Public Hearing – Whately Investments, LLC for variance from Chapter 62 s. 8 of the Whately General Bylaws for 226 State Road, Whately, MA.

Jonathan opened the public hearing at 6:14 p.m. and read the variance request submitted by the Applicants. Jonathan asked the Chief of Police if he had any comments on the variance request.

Chief Sevigne discussed the approval of a full-time security detail in conjunction with a written security plan provided by Whately Investments, LLC. Chief Sevigne stated that having a trained professional security person on-site, while providing entertainment, would be a reasonable alternative to full-time police detail. If a full-time police officer detail is required, the Whately Police Department might have to reach out to surrounding towns to provide a detail police officer.

Before opening the hearing to public comment Jonathan clarified that the public hearing is in regards to the bylaw variance and not in regards to the transfer of entertainment and liquor licenses. Jonathan stated that the Town received multiple e-mails encouraging the Selectboard to deny the variance. Fred stated that he didn't recall seeing those emails.

Joe and Sheila Zewinski (59 Christian Lane) and Nicole Lankowski (22 North Street) expressed concerns about the Town granting the variance to Whately Investments, LLC without the Board having seen or reviewed the Applicant's proposed security plan.

Attorney Lessor, attorney for the Applicants, stated that the same variance has been in place for 35 years and that Whately Investments, LLC was transferred the entertainment and liquor licenses. Attorney Lessor stated that Whately Investments, LLC will make themselves available for monthly meetings with the Chief of Police. Mr. Lesser placed on record a memorandum dated July 11, 2018 and a records analysis report dated July 9, 2018 that displays police calls to the establishment by day and time of day. Ms. Lesser noted his opinion that the bylaw singles out adult entertainment for special treatment and that in his opinion it would not be upheld. Mr. Lesser stated that if the Board wants the Chief and Mr. DeJackome to sit down and develop the security plan prior to deciding on the variance that it was fine with the Applicants.

Joyce clarified that the wording of the variance section of the bylaw is permissive in that the Board may grant a variance after the Applicant has shown that the public safety and order will be maintained in contrast to the language of the entertainment statute.

Mr. Lesser stated that the Board must have an evidentiary basis for denying the variance and that such evidence must be based on information contained in the hearing record. Mr. Lesser reiterated that the 1st Amendment is not a popularity contest.

Mr. DeJackome, security consultant for the Applicants, provided a brief history of his law enforcement experience; 27 years as the Police Chief in Shelburne, 9 years as Police Chief in Charlemont and most recently as Director of Security at the Holyoke Mall. Mr. DeJackome gave a brief outline of the security measures, such as employing security staff and installing video cameras, that would be put into place at 226 State Road Whately, MA. He stated that Whately Investments, LLC security systems in place.

Attorney O'Toole, attorney for the current owner of the establishment, stated that his client is in favor of the variance and he placed on record a letter from Attorney Ed Ryan dated July 11, 2018

Theresa Biliel (190 Christian Lane) stated that safety is the most important issue and that the Board needs to see the security plan before making any decisions. Ms. Biliel expressed her concern about how the establishment would affect the Town's police force.

Jonathan stated that he will not vote on the waiver without having the opportunity to review the security plan in writing. Whately Investments, LLC and Chief of Police, James Sevigne will be meeting within the next week to discuss the details of the plan. According to the conditions of the entertainment license, the Applicants have 30 days to write the security plan and submit the plan to the Chief of Police for his approval. The 30-day window began when the entertainment and liquor license was issued.

Motion was made to continue the public hearing to Wednesday July 25th, 2018 at 6:00 pm at the Whately Town Offices located at 4 Sandy Lane, Whately, MA. Roll call vote: Jonathan – yes, Fred – yes, Joyce – yes. All in favor.

Scheduled Appointments

Mark Cappadona (Colonial Power) – Electricity aggregation – Mr. Cappadona provided the Selectboard with an overview of the municipal electricity aggregation process and what the next steps will be if the Town were to continue the process with Colonial Power. Selectboard motion to accept contract with Colonial Power contingent upon town counsel approval. Roll call vote: Jonathan – yes, Fred – yes, Joyce – yes. All in favor.

Old Business

Town Hall Project Updates – Most of the interior work is completed, however the rear stair tower is still under construction. Work is continuing on the punch lists and site work in the rear is continuing. Estimated two to three-week completion date. The Historical Society and Historical Commission plan to host Whately's Fall Festival at the Town Hall on September 30th, 2018 at 11:00 a.m. The Historical Society hopes to be moved into the new space well before that date. The Historical Society suggests that the Town Hall grand opening should occur in conjunction with the Fall Festival possibly at 10:00 a.m.

New Business

FRCOG – Accounting Program Contracts -FY19– Fred and Jonathan signed the agreement to continue participating in the FRCOG regional accounting program for FY19 and for continued use of the FRCOG accounting software.

Pine Plains Estates Deed Acceptance – Fred and Jonathan signed the easement deed to acquire the necessary easements for Grey Oak Lane, Frances Way and Eastwood Lane to become public ways.

Selectboard Petty Cash Closeout - Selectboard approved the closeout of the Selectboard petty cash account. Roll call vote: Jonathan – yes, Fred – yes, Joyce – yes. All in favor.

Letter of Support – Hannum Special Legislation – The Board received a request from Representative Kulik that it submit a letter to the legislature encouraging it to take action on the special legislation request that allows Fire Chief, John Hannum to continue employment pass the age of 65. Fred and Jonathan signed the letter of support that Brian had drafted on behalf of the Selectboard.

Selectboard Department Liaison Assignments – Brian discussed the need for the Board to determine department liaison assignments. Selectboard requested a full list of departments that need liaisons. Liaison assignments will be further discussed at the July 25th, 2018 meeting.

Appointment of Administrative Assistant – Brian discussed the recommendation to hire Amy Schrader for the position of Administrative Assistant to the Town Administrator. Roll call vote: Jonathan – yes, Fred – yes, Joyce – yes. All in favor.

Town Administrator Updates

1. Brian informed the Board that the host community agreement with Urban Grown, Inc. (Stephen Herbert) has been signed and that Mr. Herbert will be submitting his application to the Cannabis Control Commission.
2. Brian discussed a notification the Town received from the Department of Agricultural Resources regarding the issuance of a license to grow hemp at 62 Christian Lane.
3. Brian provided an update on the Williamsburg Road Bridge project. The Town will be receiving the final engineering plans in the near future. The estimated cost is approximately \$518,000 which exceeds the Town's grant amount (\$499,000), however the excess cost can be covered by Chapter 90 funds.

The Board voted to enter into Executive Session at 8:03 p.m to consider the sale or purchase of real estate located at 219 Christian Lane, Whately, MA because the Chair declared that an open meeting may have a detrimental effect on the negotiating position of the public body

Roll call vote: Jonathan – yes, Fred – yes, Joyce - yes

The Board entered executive session at 8:03 p.m.

Respectfully submitted,

Brian Domina, Town Administrator

Document List on File in the Selectboard Office

Meeting Minutes – June 27, 2018

Variance Request from Attorney Lesser dated June 14, 2018

Whately General Bylaws – Chapter 62

FRCOG Accounting Program Agreement

FRCOG Accounting Computer Software Agreement

Grant of Roadway Easement – JAWK, Inc.

Hannum Legislation Support Letter dated July 10, 2018

Resume – Amy Schrader

Letter from Whately Historical Society dated July 3, 2018

Email from Cynthia Herbert-Ramirez dated July 11, 2018

Document Titled – The Process of Municipal Aggregation from Colonial Power

Letter from Attorney Ed Ryan dated July 11, 2018

Memorandum from Attorney Tom Lesser dated July 11, 2018

**Selectboard
July 11th, 2018
Town Offices
Executive Session
Immediately After the Close of Open Session**

The Board entered executive session at 8:03 p.m.

The Board discussed whether to pursue exercising the Town's right of first refusal to purchase the East Whately School back from Frontier Regional School District.

On a motion to exercise the Town's right of first refusal to purchase the East Whately School, the Board voted unanimously to not pursue exercising the Town's right of first refusal. Roll call vote: Jonathan – no, Fred – no and Joyce – no.

The Board also discussed the town-owned property located to the north of the school building for which Bob Obear was the low bidder in response to a request for proposals. The Board asked Brian to contact Mr. Obear and then to begin researching possible development agreements, including any agreements that Mr. Obear had with the Town of Montague.

Respectfully submitted,

Brian Domina, Town Administrator

Document List on File in the Selectboard Office

Letter from George L. Goodridge dated June 15, 2008

Frontier-Obear Purchase & Sale Agreement for 219 Christian Lane dated June 12, 2018