



TOWN OF MENDON

SELECT BOARD

20 Main Street, Mendon, MA 01756
Tel: 508-473-2312 Fax: 508-478-8241

Notice of Meeting

October 26, 2022

6:00 PM

Hybrid Meeting

Microsoft Teams meeting

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room device**

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Meeting ID: 235 780 401 741

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Board Members

Michael Merolli, Chair

Lawney Tinio, Vice-Chair

Alejna Brugos

Brendan Chenelle

Michael Goddard

Meeting Minutes

At 6 PM a regular Select Board meeting was called to order. Present: Mike Merolli, Lawney Tinio, Brendan Chenelle, Alejna Brugos, Mike Goddard, Kim Newman and Laura St.John-Dupuis

Mr. Merolli led the pledge of allegiance.

Citizen Statements and Petitions

Eagle Scout Citation- Recognize Mendon Boy Scouts Achieving the Eagle Scout Rank

Mr. Chenelle read the Eagle Scout Citation-

Mr. Chenelle made a motion to award an Eagle Scout Citation to Brian Dubowik, Troop 1 Mendon, 100th Eagle Scout. Second by Mr. Tinio. The motion passed unanimously.

6:10 PM Public Hearing- New License to Store Flammables/Combustibles-Harry Ohanessian 147 Hartford Ave East

Mr. Chenelle Read the Public Hearing Notice

The Select Board hereby gives notice that it will hold a Public Hearing on October 26, 2022 at 6:10 pm in the Town Hall upper meeting room, 20 Main Street, Mendon, MA 01756 to consider the application for a new license to store flammables/combustibles by Harry Ohanessian, 147,149 & 163 Hartford Ave East, Mendon, MA 01756 under M.G.L. Chapter 148 § 13. All interested parties will be given an opportunity to be heard.

Mr. Chenelle made a motion to open the public hearing to consider the application for a new license to store flammables/combustibles by Harry Ohanessian, 147,149 & 163 Hartford Ave East, Mendon, MA 01756 under M.G.L. Chapter 148 § 13. Second by Mr. Tinio. The motion passed unanimously.

Mr. Chenelle made a motion to close the public hearing to consider the application for a new license to store flammables/combustibles by Harry Ohanessian, 147,149 & 163 Hartford Ave East, Mendon, MA 01756 under M.G.L. Chapter 148 § 13. Second by Mr. Tinio. The motion passed unanimously.

Mr. Chenelle made a motion to approve the application for a new license to store flammables/combustibles by Harry Ohanessian, 147,149 & 163 Hartford Ave East, Mendon, MA 01756 under M.G.L. Chapter 148 § 13. Pending

the approval of final permits from the appropriate departments. Second by Mr. Tinio. The motion passed unanimously.

6:20 PM Public Hearing- Vote to Layout Public Ways – Applewood Lane, Brookview Lane, Willowbrook

Mr. Chenelle Read Public Hearing Notice.

In conformity with the requirements of M.G.L. Ch. 82 S. 22, the Mendon Select Board hereby gives notice that it will hold a hearing on October 26, 2022 at 6:20 PM in the Town Hall upper meeting room, 20 Main Street, Mendon, to consider laying out and accepting Applewood Lane, Brookview Lane, and Willowbrook Lane. Mendon, MA. All interested parties will be given an opportunity to be heard.

Mr. Chenelle made a motion to open the public hearing to consider laying out and accepting Applewood Lane, Brookview Lane, and Willowbrook Lane. Mendon, MA. Second by Mr. Goddard. The motion passed unanimously.

Mr. Chenelle made a motion to close the public hearing to consider laying out and accepting Applewood Lane, Brookview Lane, and Willowbrook Lane. Mendon, MA. Second by Mr. Goddard The motion passed unanimously.

Mr. Chenelle made a motion to approve the layout of Applewood Lane as a Town way. It is in the opinion of the Select Board that common convenience and necessity require the laying out of Town ways at this location. Second by Ms. Brugos The motion passed unanimously.

Mr. Chenelle made a motion to approve the layout of Brookview Lane as a Town way. It is in the opinion of the Select Board that common convenience and necessity require the laying out of Town ways at this location. Second by Ms. Brugos. The motion passed unanimously.

Mr. Chenelle made a motion to approve the layout of Willowbrook Lane as a Town way. It is in the opinion of the Select Board that common convenience and necessity require the laying out of Town ways at this location. Second by Ms. Brugos. The motion passed unanimously.

Discuss Implementing Bylaw- Chapter III, Section 12 “No Elected member of the Select Board or the Planning Board shall be appointed to or otherwise serve on the Conservation Commission or the Zoning Board of Appeals. Citizen’s Petition 5/11/22 Annual Town Meeting.

Mr. Merolli stated that Town Counsel, Cindy Amara, spoke to the Attorney General’s office regarding the bylaw that was approved at the 5/11/22 Annual Town Meeting and gave the floor to Town Counsel. Ms. Amara addressed the Board stating that she spoke with Ms. Kellie Gunagan at the Attorney General’s office. Ms. Gunagan approved the bylaw that was approved a Town Meeting she did not look at anything beyond whether the bylaw is inconsistent with state law. That is the limit of her role and limit of her ability to act on anything. She never looked at how it would be applied, she acknowledged that as a general rule bylaws are applied prospectively. Ms. Gunagan stated that she found the phrase or otherwise serve to be ambiguous and concluded as written, the bylaw does not require a current Con-Com or ZBA member be prohibited from finishing their current term and takes no position as to how the Select Board choses to interpret the language and defers to Town Counsel. Ms. Amara also stated that Ms. Kelli Gunagan wrote the decision and was in charge of approving this bylaw.

Mr. Merolli asked Town Counsel regarding the Conservation Commission and if the Select Board could remove someone. Ms. Amara stated that under the statute the Select Board can only remove someone for cause. You are not required by the language of the bylaw to force people to step down before the end of a term. Whether the Board chose to or not is also an open question, the language of the bylaw and language of Conservation Commission act do not give definitive answers to address the question. Whether its challenged or not, Ms. Amara cannot say but stated that the Select Board is most likely not going to be successfully challenged if the bylaw is viewed to be applied prospectively.

Mr. Goddard asked Town Counsel if this is the same for ZBA. Ms. Amara stated yes.

Mr. Goddard stated that he assumed that voluntary would be the action to be taken. Mr. Merolli stated that both members were asked to voluntarily step down and both declined to resign. Mr. Tinio stated that both of them feel they should be able to finish out the term when the bylaw is applied prospectively.

Ms. Burgos stated that she talked to a number of people that agreed and the most appropriate thing is that these members resign and would like to see this change to happen.. Ms. Brugos was advised by the Town Clerk to resign from the Tax Aid Committee when she was elected to the Select Board. Ms. Brugos is willing to support the direction of moving toward removal.

Mr. Tinio stated that these people serving on these Boards deserve this respect for their service, this bylaw came midstream during their appointment. They have served very long and the proper process should be to let them finish out their term.

Ms. Brugos stated that these Boards make decisions on developments. It seems inappropriate for tow Boards not to make independent decisions about these developments.

Ms. Amara stated all of boards involved in a project have independent rolls standards and areas of inquiry that they are allowed by law to address. Individuals on the Board cannot change what the Board is allowed to look at and each Board has its own jurisdiction of what is looking they are all independent actions regardless of the composition of the Board.

Mr. Merolli asked about the following statement that Town Counsel provided “Although the Selectmen are the appointing body and have the power to remove the Commissioners for cause, they do not have supervisory authority or managerial control over the Commissioners' day-to-day activities. Nor are the Commissioners in the business of delivering government services. Their role is rather one of implementing and enforcing state and federal environmental policies....” Does this somehow negate the ability to interview and recommend their own members. Ms. Amara stated that the Select Board's role ends after appointment and then cannot dictate how the commission does its job.

Mr. Goddard asked if the Select Board has the option to set the end of the fiscal year for removal. Ms. Amara stated that she feels it would be the hardest to justify and doesn't feel you can put in a third arbitrary date.

Mr. Tinio wondered why this didn't include the BOH as they would be dealing with the same thing with Planning and ZBA. If it is about diversity and new perspectives and a flood of people we have to volunteer in Mendon, we should definitely be looking at this bylaw differently if it is truly about diversity and fresh perspective if we are going to push these two boards then we should be considering this around all Boards. Ms. Brugos stated that maybe we should consider other Boards where there might be conflicts. Mr. Merolli's stated that if we were to do this we would entertain this as the Select Board. We could certainly look at doing something at the Annual Town Meeting. Ms. Amara stated that this bylaw was a Citizen Petition, once submitted it cannot be altered it must appear on the Town Meeting Warrant as written. It is best if person who has interest in placing an article on the Town Meeting warrant, they should come before the Select Board to discuss their article to avoid issues like this.

Ms. Brugos asked Town Counsel about the the public hearing process if the Board votes to remove a member of these Boards what is the time frame that the person is removed. Ms. Amara stated that the Board would need to vote to take action on this item then the person who has been removed can ask for a public hearing. The Select Board can stipulate the amount of time the person can request a public hearing. The hearing will be publicized. The person who has been removed will continue to serve until after the public hearing.

Mr. Goddard made a motion to implement this bylaw prospectively. Second by Mr. Tinio. All those in favor; Tinio, Aye. Opposed, Brugos, Abstained- Chenelle. The motion passed 2 to 1 allowing current members to serve out the remainder of their current terms.

Consider Appointments

Firefighter/EMT- Zachary Phillips

Mr. Tinio made a motion to appoint Zachary Phillips to the position of Firefighter/EMT at a starting rate of \$24.83 per hour. Second by Mr. Goddard. The motion passed unanimously.

ADA Coordinator, 1 Year Reappointment- Kevin Rudden

Mr. Goddard made a motion for the reappointment of Kevin Rudden as ADA Coordinator for a term that will expire June 30, 2023. Second by Mr. Tinio. The motion passed unanimously.

Conservation Commission

Mr. Aicardi addressed the Select Board and stated serving on the Conservation Commission and stated that the Commission has been resident friendly and are pro- resident. Mr. Aicardi stated that he was doing a project in Hopkinton. It took 8 months to build 1 house in a buffer zone. When he saw openings on Mendon's ConCom he applied. He stated that he enjoys helping the residents of Mendon.

Mr. Merolli invited Mr. Bob Sweet to address the Select Board regarding his interested in serving on the Conservation Commission. Mr. Sweet stated that that he has been interested in Conservation for over 20 years. He has the time and would like to give back to the community.

Mr. Merolli stated that the Board will ask the other two applicants to attend the next meeting to be interviewed for and will appoint candidates to the two open Conservation Commission seats. .

Zoning Board of Appeals- This items was passed over as the Board voted to allow current seat holders to complete their terms prospectively.

Finalize/Approve STM Warrant

Ms. Newman stated this is an unusual fiscal year, there reviewed each article for the STM with the Select Board.

Mr. Chenelle moved to approve the warrant as amended with approval of Town Counsel and Town Administrator. Second by Ms. Brugos. The motion passed unanimously.

Adjournment

Mr. Goddard made a motion to adjourn, second by Ms. Brugos. The motion passed unanimously.

Submitted by- Laura St.John Dupuis