

MINUTES OF TOWN OF BERKLEY SELECTMEN'S MEETING OF 5/25/2022

SELECTMEN IN ATTENDANCE: George F. Miller, Chairman, Dean R. Larabee, Clerk, Wendy F. Cochrane, Member

TOPIC		ACTION
	Meeting Convened at 5:09 p.m. in the Moitoza – Pettey Hearing Room	
Executive Session	Board to go into Executive Session under MGL Ch 30A §21(a) 2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel: Assistant Treasurer, Town Accountant, Town Administrator, Administrative Assistant for the Board of Selectmen and Town Administrator, Interim Chief of Police, Town Assessor, Building Inspector, and Animal Control Officer. The Board voted to return to open session at 5:45 p.m.	Larabee to motion to enter into Executive Session, Cochrane 2 nd , voted. Larabee to motion to return to open session, Cochrane 2 nd , voted.
Minutes to be Approved	<ol style="list-style-type: none"> May 4, 2022 Meeting Minutes May 11, 2022 Meeting Minutes <p>The Board voted to approve the minutes for May 4th and May 11th, 2022.</p>	Cochrane to motion to approve, Larabee 2 nd , voted.
Meeting Mail	<p>Board to review email from Kim Hebert regarding the Berkley Middle School Graduation. Ms. Martin-Sterling mentioned that the Board of Selectmen are invited to attend the 8th grade graduation ceremony on Thursday, June 16, 2022 at 6:00 p.m., and that Ms. Hebert needed to know by June 10th. Mr. Larabee stated he will attend. The Board voted to file the email.</p> <p>Board to review letter from Dr. Alexandre Magalhaes, Superintendent of BP regarding the Re-Statement of the BP Regional Vocational Technical School District. Ms. Martin-Sterling stated the school is looking to put Freetown back in the vocational district. She noted she let Dr. Magalhaes know that the town is in receipt of the letter, and that it will make it on the November Special Town Meeting due to time constraints. She noted this re-statement will add another member community district to the overall debt. Mr. Larabee noted this will drive up the ARPA budget, and asked if there was any data as to what the expected impact will be. Ms. Martin-Sterling answered that she does not have that information at this time, but as it gets closer to November, more information will emerge. The Board voted to file the letter.</p>	<p>Cochrane to motion to file, Larabee 2nd, voted.</p> <p>Larabee to motion to file, Cochrane 2nd, voted.</p>
Old Business	<p>Board to discuss complaint from Judith Plogger of 10 Babbitt Way regarding soil removal of Mr. Lund's property. Ms. Plogger was present to speak at the meeting. She stated she was expecting someone to come out from Conservation to look at the property. Ms. Martin-Sterling stated she hadn't sent Mr. Pettey out because she was looking for drone footage of the property. Ms. Plogger noted there was no drone footage, only small videos that her neighbor had taken. Ms. Plogger stated right now there's a tarred pavement space with Mr. Lund's storage of materials for his pier and dock business, however she was concerned about Mr. Rodriguez's neighbor leasing them land for a parking lot. She mentioned that there was a big function over the weekend at the Rodriguez's but according to her husband, no cars were parked on that paved space. Ms. Martin-Sterling stated she has spoken to an individual who is familiar with Mr. Lund's property, and it is to the best of her knowledge that there is no agreement between Mr. Lund and the Rodriguez's to allow parking on his property at any time. Mr. Miller mentioned he had questions for Town Counsel at the time when the special permit was issued, but it's not something the Board can pay Town Counsel to research until there's been a violation. Mr. Miller suggested to Ms. Plogger to let the Board know if anything changes from him storing his materials on it to seeing cars parked on it during an event at the farm.</p> <p>Mr. Freitas opened the Finance Committee Meeting at 6:00 p.m.</p>	Information only; no action needed.
New Business	Board to review letter addressed to Gilbert Pontes of 18 Friend Street, Assonet MA from MTC regarding 180R Bayview Avenue, Town of Berkley. Mr. Pontes was present to speak	Larabee to motion to send letter,

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at the meeting. He asked Mr. Miller if he and the Board had read the letter he sent. Mr. Miller explained that the Board received the letter, reviewed and copied it, then instructed Ms. Martin-Sterling to send it to Town Counsel. From there, Town Counsel gave the Board a very detailed letter of their legal opinion. Mr. Pontes stated there was no provision in the agreement that they had for him to get a permit. He stated the Board took that away from him, and has no way to fix it. He then exclaimed he's going to go to court if the Board doesn't give him his money, and have them revisit the Judge's honor, in which the Judge stated that there were no signs of a septic being done. Mr. Miller asked Mr. Pontes how long ago was the Judge's order. Mr. Pontes replied in 2005. Mr. Miller explained the Board under the law cannot revisit an order from 2005, and it cannot be overturned. The Board is required to follow the advice of the Town Counsel. Mr. Pontes asked how he was supposed to finish if the Board won't give him a permit. Mr. Miller asked him if he's applied for another permit, to which Mr. Pontes exclaimed he feels like he shouldn't have to. He then requested a formal letter from the Board stating why he is not entitled his money back. Mr. Miller asked Ms. Martin-Sterling to send Mr. Pontes a letter enclosing a copy of this letter from Town Counsel dated March 30, 2022 that states the Board agrees with the opinion of Town Counsel. The Board voted to send Mr. Pontes a letter confirming that the Board agrees with the opinion of Town Counsel as outlined in the correspondence of March 30, 2022.

Cochrane 2nd,
voted.

Board to discuss Citizen Petition regarding if the town will vote to authorize Board of Selectmen to petition the General Court for special legislation, as set forth below, to change the position of Assessor from an elected position to a position appointed by the Board of Selectmen. Ms. Martin-Sterling noted this is already on the town warrant and that they're not required to have a public hearing, but wanted to just have public input on it. Mark Pettey from the Conservation Commission entered into the meeting and had a question for the Board. He asked why the new Conservation by-law wasn't put on the town warrant. Mr. Miller stated after talking with a few different people and Town Counsel, they agreed that more fine-tuning needed to be done to the by-law. He noted the Board would work with the Conservation Commission to get it on the November Special Town Meeting. Ms. Martin-Sterling stated she will take responsibility for not sending the email that was discussed in open session. Kerrie Anne Auclair of the Conservation Commission stated she did receive communication from Mr. Costa from Town Counsel about it, and questioned if the Board sent the by-law to someone else for consultation. Mr. Miller answered the Board did not consult with anyone else. Ms. Martin-Sterling stated she received a message from Ms. Auclair stating they got another engineer to review it and wanted to do many changes. Ms. Auclair stated she did, but was under the impression that the engineers received it from the Board. Ms. Martin-Sterling stated it is public information and they can ask for it, and Mr. Miller mentioned the Board didn't send them anything. Mr. Miller asked if anyone from the public had any questions on the Citizen's Petition, to which no one replied.

Information Only;
no action needed.

Board to discuss Citizen Petition regarding if the town will vote to authorize the Board of Selectmen to petition the General Court for special legislation, as set forth below, to change the position of Treasurer-Collector from an elected position to a position appointed by the Board of Selectmen. Ms. Cochrane abstained from this discussion, as it is regarding her branch of employment with the Town of Berkley.

Information Only;
no action needed.

Board to discuss Zoning By-Law change on Town Meeting Warrant. Ms. Martin-Sterling noted the Planning Board had their public hearing on this, and that the Board has received copies of the proposed by-law changes. Mr. Miller stated he attended via Zoom, and it was very informative. He recognized the Planning Board's hard work in drafting up the changes.

Information Only;
no action needed.

Board to discuss Memorial Day Celebration at the Berkley Post #121 American Legion. Mr. Miller stated he will not be able to attend. Ms. Cochrane stated the timing of the events as follows: the parade starts on the Common at 9:30 a.m., the ceremony starts at 10:00 a.m., and the American Legion will host a luncheon at 1:00 p.m. She noted Kevin Partridge of the American Legion will be organizing the speeches for the ceremony, and has asked for one of the Board of Selectmen to speak. Mr. Larabee volunteered to speak at the ceremony, and Ms. Cochrane volunteered to represent the Board at the luncheon.

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Finance Committee FY23 Budget Presentation. Mr. Freitas handed out copies of the Finance Committee's Budget to the Board and Ms. Martin-Sterling. He stated with the recommendation of the Finance Committee, they decided that every elected office was going to receive a 1.5% increase for inflation. The budget that was prepared by the Finance Committee going into Town Meeting is an unbalanced budget with a surplus of \$70K. That in itself will be utilized hopefully in November when the contracts are ratified. That number will fluctuate with additional information on new growth, and possibly other increases in the motor vehicle excise tax or the approved budget by the Commonwealth. The town's total revenue for this year is \$21,980,011. The proposed budget this year is \$21,028,080. Some of the drivers of this budget; insurance increase of a little over 3%, as well as transportation costs for the schools. For contractual employees, the Finance Committee decided to remain at the fiscal year 22 monies. The Highway Surveyor came to the committee with a proposal that he would like a certain amount of money put aside for storms for outside services. He requested \$64,700, and after discussion, the Finance Committee put \$20K aside for that particular situation. Schools this year; last year the schools received a partial 1.1%. This year, the K-8 received 2.7% from the previous year. The initial request from the schools was a little over \$9.1 million, a request of 4.23%. The finance committee ended up going with \$9,011,000. The school transportation costs from the previous year were \$530K, this year close to \$600K, almost a \$70K increase, and increased 13.11%. Schools continue to be the driver of this budget, with almost 68% of the town's money going towards them. Library; the Finance Committee has met the numbers that were requested from the Library, and they continue to function at its optimum. Debt; it has continued to decrease; The only thing left on debt is the town office building and Somerset Berkley Regional School. Health insurance; another driver of this budget, Bristol County Retirement last year was \$720K, this year it's \$777K, an increase of close to 8%. The difference this year of growth was \$478,520 from the previous year. The spending difference was a minimum of 1.2%, however that has no contractual obligations from bargaining units and/or contractual employees. Mr. Freitas stated he doesn't see many changes happening between now and the presentation of this budget on town floor. Mr. Miller commended Mr. Freitas and the Finance Committee on their hard work during this budget season. He also thanked Mr. Freitas for having consultation meetings with Ms. Martin-Sterling, and noted recently that they've come together and gotten within a few hundred dollars. Ms. Martin-Sterling noted it was \$274 to be exact.

Mr. Miller asked Mr. Freitas about the Highway Department. He noted a salary director is listed in the budget packet Mr. Freitas presented, and the salary highway Supervisor. Town Accountant Katherine Avilla stated Mr. Freitas had it printed on the wrong line, it should be down one where it says salaries clerical/maintenance. Mr. Freitas thanked her and plans to correct it. Mr. Miller asked about a coercive fine of \$11,884.65. It was a fine that was paid by an individual to the town (soil board issue). He asked if this money is being held somewhere now. Ms. Avilla stated she'll have to check where it was posted. Mr. Miller noted that according to Town Counsel, it is the town's money. Ms. Avilla stated when the check came in it went to Miscellaneous Revenue. She also stated if it went to fines and forfeits it would be in general funding, and that has already been closed. Mr. Miller stated we need to find out where that money went, and that \$4400 was deducted from that money back in 2018 pursuant to an agreement. He noted that could mean there's another \$7000 in an account somewhere and it could be used for the town, and asked Ms. Martin-Sterling to give Ms. Avilla a copy of that letter to her and highlight the dollar amounts to see if she can track it down.

Mr. Freitas stated the opinions of the Finance Committee as well as the Board are to ween off of the utilization of free cash. This year the Finance Committee used \$225K this year. Mr. Larabee asked Mr. Freitas about the first page of the handout, as he's curious about the year over year percentage increase in revenue less free cash to get an idea of what the overall increase in revenue was. Mr. Freitas answered he does not have that information, but will have it before Town Meeting. Mr. Larabee then asked about page 4 and why there is a drop in maintenance salaries for the town building, and noted it looked like it had been steadily decreasing. Mr. Freitas explained the town building doesn't have a maintenance employee, and the old maintenance officer does on call if maintenance is needed or with an outside vendor. Mr. Larabee asked under the Planning Board it looks like there was an 8%

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	<p>salary increase that wasn't requested. Mr. Freitas stated he pushed for all elected positions to get a 1.5% increase.</p> <p>Mr. Freitas noted he forgot to mention the Animal Control Officer salary, as the Finance Committee significantly increased it to a position that's commensurate with everyone else in the town. He then stated they did budget a certain amount for an assistant or someone that would fill in on his days off.</p> <p>Ms. Martin-Sterling noted that she and Mr. Freitas have worked tirelessly on the budget for the last 3 days. She will be presenting the Selectmen's budget on town floor. Mr. Larabee asked Mr. Freitas to have the year over year percentage increase in revenue for Town meeting. Tabitha McCrohan of the Finance Committee stated it's approximately 2.637%.</p> <p>Mr. Freitas mad a motion to adjourn the Finance Committee meeting.</p>	
Town Administrators Report	<p>Ms. Martin-Sterling stated she had requested from the Superintendent to give her what the school population was going to look like for next year and think it's something the Board needs to keep on the radar as the budget gets wrapped up. Of the 8th grade graduating class of 112 students, only 70 are going to the region, 32 are going to BP, 4 going to BA, and 6 going to private schools. She explained the problem the town will run into is the region is controlled by the stabilization accounts. So any population fluctuation helps sustain that stabilization account a lot longer than what might've been predicted at the override. When we shift those students to BP and BA, where there is not a stabilization account and it's coming strictly out of taxation is where we run into the problem that it affects the K-8 district and the rest of the town because there is no way to sustain for those \$60 to \$100K increases year over year. 57 of 112 students applied to BP. Only 4 students were school choice. She wanted to put it on the Board's radar to figure out a mechanism to pay for that without it being a burden to the taxpayers.</p>	Information Only' no action needed.
Public Input	<p>Donna Leary of the Planning Board was present for public input. She asked about Mr. Dean pointing out the Planning Board's salary from the packet Mr. Freitas handed to them, and if someone had asked for an increase. Mr. Larabee stated the Finance Committee did an increase, but it wasn't requested. She then asked about Mr. Pontes' case and if it's resolved. Mr. Miller stated the case has been closed. She asked if he can move forward with removing soil from his property, to which Mr. Miller replied he can't without a soil permit. She requested a copy of the letter that was sent to Mr. Pontes from Town Counsel. Mr. Miller stated Ms. Martin-Sterling will make copies of the letter of intent decision, the follow up letter from Mr. Pontes, and the letter from Town Counsel to Mr. Pontes. Her last question was in regard to the town warrant, and that she would like a breakdown of what the Board needs for streets that didn't make it on it. Ms. Martin-Sterling stated she would like to have a phone call with Ms. Leary and Mr. Costa next Wednesday to make sure it gets on the November warrant.</p> <p>The Board voted to adjourn, and noted the next meeting will be held on Tuesday, May 31, 2022 at 6:00 p.m.</p>	<p>Information Only; no action needed.</p> <p>Larabee to motion to adjourn, Cochrane 2nd, voted.</p>

George F. Miller, Chairman

Dean R. Larabee, Clerk

Wendy F. Cochrane, Member

Heather Martin-Sterling, Town Administrator