

RECEIVED
TOWN CLERK
HARWICH, MA

2025 JUN -3 A 11: 21

MINUTES

HARWICH SELECT BOARD
Donn B. Griffin Room, Town Hall
732 Main Street, Harwich, MA
Executive Session 5:00 P.M.
Regular Meeting 6:00 P.M.

APPROVED
RELEASED

MEMBERS PARTICIPATING: Jeff Handler, Chair, Peter Piekarski, Clerk, Don Howell, Anita Doucette and Mark Kelleher

ALSO PARTICIPATING: Meggan Eldredge, Assistant Town Administrator

I. CALL TO ORDER

Mr. Handler called the meeting of the Harwich Select Board to order on Tuesday, May 27, 2025, noting that they would be entering into Executive Session and returning no earlier than 6:00PM.

Mr. Piekarski moved to enter into Executive Session as presented. Seconded by Mr. Howell.

Vote: 5:0 in favor by roll call vote. Motion carried.

II. EXECUTIVE SESSION

A. Pursuant to MGL c.30A section 21 (a)(3) to discuss strategy with respect to collective bargaining for all town unions and non-union personnel and or contract negotiations with non- union personnel and the Chair has determined that open session would have a detrimental effect on the town's bargaining position

Mr. Handler called the Select Board meeting back to order reporting that while in Executive Session, no action was taken.

III. PLEDGE OF ALLEGIANCE

Mr. Handler invited all attendees to join in the Pledge of Allegiance.

IV. STAFF COMMENTS/ANNOUNCEMENTS

A. Welcome newly elected Select Board Members Anita Doucette and Mark Kelleher

Mr. Handler welcomed Ms. Doucette and Mr. Kelleher to the Select Board and thanked them for their time and effort running their campaigns.

Mr. Piekarski and Mr. Howell also welcomed the new Select Board members.

May 27, 2025

Mr. Handler announced that a Harwich second grade teacher, Pat Smith had passed away. He offered sincere condolences on behalf of the entire Select Board and offered a moment of silence for Pat Smith.

Mr. Handler wished Ella Lombard a happy 104th birthday.

Mr. Handler noted that he had attended the opening ceremony for the Grateful Mug at the Chamber of Commerce and that it was a tremendous success.

Krystle Legendre, Treasurer/Collector noted the schedule for the in-person sticker sales of Beach, Treasure Chest and Transfer Station access. She noted when and where those stickers can be purchased.

Mr. Howell noted that the sticker rates have not increased and stated that the Select Board affirms the rates each year. He requested that it be on next week's Agenda for the Board to affirm and vote.

Jamie Goodwin, Harwich Channel Station Manager noted that the Memorial Day Ceremony will be on the Harwich Channel for a week for those who missed it.

Carolyn Carrie, Community Center Director announced the June events. All information is on the website.

Richard Waystack, Assessor noted that he had attended a meeting that day with the Community Planning Director, the Assessor and the Housing Advocate. He noted that he had previously brought the subjects of the Subsidized Housing Inventory (SHI) List and how the community is subsidizing affordable housing to the Board. He noted that his Department found conflicts in the SHI List while doing research. Mr. Waystack noted that in the past, the Town has given a 50% subsidy to affordable housing projects. He noted that his Department is trying to bring all the information together on a workable list and also noted the need for a policy. His Department will be making recommendations to the Board on a policy regarding how the town will subsidize affordable housing moving forward.

Mr. Howell noted that the SHI List is the State Subsidized Housing Inventory List.

V. WEEKLY BRIEFING

Ms. Eldredge gave an update on the sewer project, noting the areas of the work and road detours.

VI. PUBLIC COMMENTS/ANNOUNCEMENTS

VII. CONSENT AGENDA

A. Approve Select Board Meeting Minutes from May 19, 2025

Mr. Piekarski moved to approve the Select Board Meeting Minutes from May 19, 2025 as presented. Seconded by Mr. Howell.

Vote: 3:0:2 in favor by roll call vote with Mr. Kelleher and Ms. Doucette abstained. Motion carried.

VIII. NEW BUSINESS

A. Town Administrator to provide the Finding of the Facts report from the Show Cause Hearing that was held on September 5, 2024, for The Port Restaurant & Bar, Inc. 541 Route 28

Atty. Jeffrey Blake of KP Law, Town Counsel was present. He gave a summary of the procedure for Show Cause Hearings as well as an overview of the events that lead to the allegations that he listed. Atty. Blake noted that the Hearing Officer upheld some of the violations. The hearing Officer also noted that the hinderance was fleeting and the staff ultimately became compliant. As a result, the Hearing Officer has recommended that the Select Board, the Local Licensing Authority, require the establishment to provide and show proof of additional training for establishment employees including summer employees, to understand and implement the requirements of the establishment under their liquor license regulation. The Hearing Officer did not recommend any other penalties at this time. Atty. Blake noted that the “look back” period of offenses is two years from the date of offense, which is not likely to apply here.

Mr. Piekarski asked if the Town defines the “provide and show proof of additional training for establishment employees including summer employees”. He asked what The Port would have to show as evidence.

Atty. Blake replied that it would be up to the Board to determine the proof. He also noted what training is currently required for establishment owners and managers and suggested having employees sign a sheet as proof of attending training.

Mr. Howell suggested the signing sheet be attached to the print out of the content of the course.

Kevin Considine, Police Chief noted what he covers during his training of establishment owners and managers. He emphasized that he makes it clear to them that it’s on them to go back, when they start their season and have a training with all their employees. Chief Considine also noted that he gives the owners and managers copies of the regulations with the ones they should emphasize highlighted. He emphasized that it should be on the business owners to prove that they had a staff meeting, show the agenda, what was discussed and have employees signatures on the Rules and Regs.

Mr. Howell confirmed with Chief Considine that there is a hard copy in existence that the employees can acknowledge. He noted that there has to be some proof that the establishment has conveyed that to all their employees and they've all signed off on receiving an acknowledgement.

Mr. Handler noted that he would like to have a competition date for the required training.

Mr. Piekarski suggested an end date for the initial training and added that there would have to be additional training as new employees are hired.

Mr. Howell moved to accept the recommendations as made by the Town Administrator and further specify that the establishment secure the acknowledgement with their signature, the receipt of all the Town Regulations presented to them as they are hired on and for any staff put on during the season. Seconded by Mr. Piekarski.

Atty. Dina Brown of Bletzer & Bletzer was present representing both the Port and Ember. She noted that they are happy to comply in terms of training. She also noted what she will put together for the training including what the Chief gives the owners and managers. She asked for clarification of what the Select Board means by training.

Mr. Howell replied that the intent of the motion was that the owners will receive the training packet but it will be up to them to self train by presenting it to each employee and get a signature from each employee. He also pointed out that this in no way supplants the obligation of the actual establishment attending the seminar that the Police Department puts on for the establishments.

Mr. Handler suggested a compliance date of June 30th.

Mr. Howell commented that that would be a difficult date for the establishment as it is right before the July 4th weekend.

Atty. Brown confirmed that employees would be trained as they are hired.

Mr. Handler commented for the record that he is not in support of that. He would prefer a date certain. He would prefer a date and then additional training, which he feels was in the spirit of the motion.

Mr. Howell commented that inherent in the motion, if accepted, is that it would start today. From here on, any employee that's brought on would have to acknowledge it. He commented that there is a date certain, it's today.

Chief Considine noted that the training should occur sooner rather than later as July 4th is close and that is when something will happen.

Vote: 5:0 in favor by roll call vote. Motion carried.

Atty. Blake noted that he and Ms. Eldridge will draft a letter to the Port on Town letterhead explaining the outcome.

B. Town Administrator to provide the Finding of the Facts report from the Show Cause Hearing that was held on November 20, 2024, for Lucky Labrador, Inc. d/b/a Perks, 545 Route 28

Atty. Jeff Blake noted that the Show Cause Hearing was for allegations regarding noise at Perks. He noted the specific regulations and dates of the alleged offenses. He noted that the Hearing Officer found sufficient evidence to uphold all of the allegations; That there was music conducted after the closing hours and there was also indoor music that could be heard outside the boundaries. Atty. Blake read the Hearing Officer's recommendation: The owners of record for the establishment testified and provided proof that they had made further investments in sound control and equipment mechanisms. I recommend that they ensure to the town that these systems and mechanism remain in place and further that they have adequately proven to have trained all staff to ensure the proper working of the same. Atty. Blake noted that his recollection is that there were some issues with the sound system and a professional was brought in. He noted that the Hearing Officer is saying that the Board ought to require that they do that and bring somebody down there to inspect and to ensure that it was done. He suggested, regarding training staff, that the Board use the same requirement as they have of the Port.

Mr. Howell noted that nobody presented anything at the hearing regarding the mechanism and that it is unlikely that there is any operation of it. Most of them are passive, baffles that collect sound. He also noted that the whole district is only 150 feet deep. He suggested that the Board should understand the workings of the mechanism before they require anyone else to understand it.

Atty. Blake noted that Perks has also changed the placement of the speakers .

Mr. Howell noted that there would not be any operation of the speakers once they are mounted on the wall. He noted what circumstances affect the sound inside a building and stated that he would be interested in knowing what it is the Board is making a motion about.

Atty. Blake responded that if the Board does have further questions, as the Local Licensing Authority, they could make a motion to ask the Perks people to come in for a further hearing and give the Board an opportunity to ask their questions. He stated that there is nothing to prevent the Board from bringing them in to answers questions.

Mr. Howell commented that the Board does not have the information it needs to understand what it is Perks did do.

Chief Considine referred to the Town Administrator's (Hearing Officer) memo, noting that the first and second instances were regarding music being turned on either by mistake or technology issues which he explained. He also noted that the training would be on how to turn the music off.

Mr. Piekarski commented that he is leaning towards having Perks explain to the Board how they control the equipment and mechanisms that they are putting forth.

Chief Considine noted that one of the three allegations occurred during business hours.

Mr. Piekarski commented that he would like to hear Perk's explanation of the sound system and mechanism. He'd also like to hear what expert the Town has to go there and say it's appropriate.

Mr. Handler noted that Perks had a similar offense two years ago and the Select Board found that it was an accident. He noted that he is inclined to lean that way with this and follow the recommendations of the Hearing Officer. He would not support having someone come back and explain. He thinks it's up to Perks to be sure it doesn't happen again.

Mr. Howell noted that the people the Town uses to do the sound reinforcement for Town Meeting are expert in setting up dispersement of sound. He commented that this is a different district where there are people living right next to the establishments. He stated that he would like it brought back.

Mr. Piekarski commented that he would support a new hearing to bring the people of the Port before the Board to explain their resolution and to define sound control equipment and mechanisms.

Atty. Blake suggested that the motion would be to move to have a further hearing on the noise allegations of a liquor license violation by the Perk on Sunday, August 4, 2024, Saturday, August 31, 2024 and Sunday, August 13, 2024. He also noted next steps regarding publishing the Notice of Hearing.

Mr. Piekarski moved to have a further hearing on the noise allegations of a liquor license violation by the Perk on Sunday, August 4, 2024, Saturday, August 31, 2024 and Sunday, August 13, 2024.

Mr. Howell stated that he wants documentary information, not just a verbal description.

Seconded by Mr. Howell.

Atty. Blake commented that that can be included in the Notice.

Vote: 4:1 in favor by roll call vote with Mr. Handler voting against. Motion carried.

C. Approve a Disclosure of Appearance of Conflict of Interest as required by G.L. c.268A, section 23(b)(3) – Brendan J. Lowney and Robert Doane - Harwich Historic District Historical Commission & Harwich Affordable Housing Trust Fund

Ms. Eldredge noted that earlier that afternoon, Administration was notified by the Historic District Chair that they have a hearing tomorrow and they may have a quorum issue due to two of their members being involved in the application before them. It will not be an issue if one of the new members is there and one of the other members shows as well. The Historic District wanted to ensure that they could hear the project tomorrow and in order to do that, Mr. Brendan Lowney and Robert Doane need to file a Conflict of Interest form with the Local Approving Authority, the Select Board. She noted the pertinent documents are included in the updated packet which she described in detail. Ms. Eldredge noted that after speaking with counsel, these do not require a Board vote, however it is required that the documents are filed with the Select Board. Having this on the Agenda puts it in the Minutes as having been discussed and acknowledged.

Mr. Howell noted that no one in the public had any idea what the Board members have in front of them. He noted that if the Board does what is suggested, this should be a supplementary piece of information put in the packet for next week, which people do get to see.

Ms. Eldredge responded that the packet was updated to include these documents and they will be put in Correspondence next week as well.

Mr. Howell noted that Mr. Lowney has the conflict because he serves on the Harwich Affordable Housing Trust (HAHT) also. He noted the reason, that the property was taken from the town and transferred to the jurisdiction of the HAHT, which is the owner of record.

IX. OLD BUSINESS

A. First Reading of the policy on The 204 Cafe Use Policy

Mr. Handler gave a brief summary of the previous discussion regarding the 204 Cafe Use Policy and asked Board members for edits, omissions or input.

Mr. Piekarski noted that the policy states “may require a certificate of insurance” and the Town does require it. He suggested they strike the word “may” in the first sentence. He also noted a sentence referring to the Town requiring an additional fee for the purpose of purchasing insurance. He asked if that is a standard practice.

Ms. Eldridge replied that it is not standard and gave examples of when the town would want an additional policy.

Mr. Kelleher asked if there is any way to measure the utility use.

Ms. Eldredge replied that the kitchen has not been used for several years. An incremental increase will show but there is not a separate meter in the Cafe.

Mr. Kelleher asked if they were looking into pest control to stay ahead of any situation.

Ms. Eldredge replied that the Town has pest control through the DPW.

Mr. Howell agreed with Mr. Piekarski's comments regarding insurance and commented that it's not a burden.

Mr. Piekarski noted that he had not seen any reference to waste removal and asked if the Town would remove the waste from the classes at the Town's expense.

Ms. Eldredge noted that there is a dumpster that the Town pays per use.

Mr. Piekarski noted that he would like to see language, that the individual hosting the event is responsible for their own waste removal.

Mr. Howell commented that the dumpster pickups would have to be relatively soon after an event was concluded to avoid issues with rodents.

Mr. Handler questioned if the Director factored trash pick up into the price and asked Ms. Eldredge to ask. If the answer is no, the price list could be reviewed. He also asked that Ms. Eldredge reach out regarding the trash pick up in the pricing so he and Ms. Eldredge can discuss next steps. He asked if the Board was ready to vote to move to a second reading.

Mr. Handler would prefer to wait for the Director's answers.

Mr. Piekarski moved to consider the first reading complete on the policy on The 204 Cafe Use Policy. Seconded by Mr. Howell.

Vote: 5:0 in favor. Motion carried.

B. Discussion on the Town Administrator Search; votes may be taken

Mr. Handler noted that Mr. Howell's request for the Colin Center not being used creates a need for procurement. The other three remaining search firms would all require a 30B Procurement. Those firms will not come before the Board until the Board puts out a Request for Proposal (RFP).

Mr. Piekarski stated that he disagrees with that statement. He noted previous conversations with search firms who had no problem coming before the Board to outline what they do.

Mr. Handler asked Board members if they want to move forward with the 30B procurement process for the Town Administrator's search firm and if they want to have a search committee in the Town of Harwich.

Mr. Piekarski commented that he is fine with beginning the procurement process for a search firm while simultaneously asking them to come before the Board to give an outline of their process. He would also like to hear the search firms input regarding having a search committee.

Mr. Piekarski moved to move forward with the 30B procurement process for a search firm for the Town Administrator. Seconded by Mr. Howell.

Mr. Howell stated for the record that the MMA has a Select Board member seminar and they talk about best practices which leads to an inbred belief structure. That is why he is not in favor of the UMass part of this, he wants to be willing to go outside the box if that is where the search takes them.

Vote: 5:0 in favor. Motion carried.

Mr. Hander noted that he will begin the process of reaching out now and asking the firms to come and present to the Board. The search committee will be discussed in the future.

C. Discussion on Acting Town Administrator; votes may be taken

Mr Piekarski noted that he would like to hear from the consultants first, adding that this has nothing to do with existing personnel. He heard it could be more than 8 months to find a Town Administrator and wants the search firms' opinions on that assessment.

Mr. Howell agreed with Mr. Piekarski's statement.

Mr. Kelleher agreed and commented that the sooner they get the consultants in to speak to the Board, the better.

Ms. Doucette also agreed.

Mr. Handler asked for the timeframe regarding procurement.

Ms. Eldredge replied that procurement will take 4-6 weeks to be before the Board for review and another week for the contract to be executed.

D. Discussion on the contracted Wastewater Management Consultant, Waterworks LLC; update and next steps; votes may be taken

Mr. Handler noted that he added this to the Agenda to allow the Board an opportunity for discussion. Mr. Pelletier will be present next week to give an update and to discuss another project.

X. TOWN ADMINISTRATOR'S REPORT

No report.

XI. SELECT BOARD MEMBER REPORT

Mr. Howell noted that the reason he hasn't scheduled a meeting for the Brooks Academy Subcommittee is because they have a plan which involves immediately putting out a contract for the architect. He noted that parties had been promised they would get into the building this summer on the first floor hoping the architect would be in place and construction would start in September.

Ms. Eldredge replied that the next Select Board Agenda includes a contract for approval from RGB Architects for Owners Project Manager (OPM) services.

Mr. Kelleher noted that the OPM for the Monomoy School Building Project did very good job and he suggested they be considered. He also noted that he had attended the Memorial Day Ceremony and that Mr. Howell did a wonderful invocation.

Ms. Doucette thanked the voters and acknowledged that she is looking forward to working with the Select Board members.

Mr. Handler noted that next week is the Select Board reorganization. He stated that he will not accept any nominations for Chair, Vice Chair or Clerk. Additionally, regardless of the outcome of reorganization, meaning if the Board can't come to a decision as to who the Chair or Vice Chair will be, June 2, 2025 will be his last day in the seat as Chair.

XII. CORRESPONDENCE

XIII. ADJOURNMENT

Mr. Howell moved to adjourn. Seconded by Mr. Piekarski.

Vote: 5:0 in favor. Motion carried. Meeting adjourned.

Respectfully submitted,

Judi Moldstad
Board Secretary

May 27, 2025

