MINUTES
SELECT BOARD
HARWICH TOWN HALL
732 MAIN STREET, HARWICH MA
MONDAY, SEPTEMBER 15, 2025
5:15 P.M.

MEMBERS PARTICIPATING: Chair Donald Howell, Vice Chair Peter Piekarski, Clerk Mark Kelleher, Member Jeffrey Handler & Member Anita Doucette

ALSO PARTICIPATING: Acting Town Administrator Tony Schiavi & Executive Assistant Jennifer Clarke

CALL TO ORDER

Mr. Kelleher moved that the Select Board enter into Executive Session to discuss the items as outlined below, 2nd by Ms. Doucette. The vote was 5-0-0 with Mr. Howell, Mr. Handler, Mr. Piekarski, Mr. Kelleher & Ms. Doucette all voting aye by roll call

EXECUTIVE SESSION

A. Pursuant to MGL c.30A, §21 (a)(3) to discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares; SEIU 888 – Service Employes International Union - Harwich Management Employees Association, HEA - Harwich Employees Association, HMEA – Highways and Maintenance Employees Association, IAMAW – International Association of Machinists and Aerospace Workers, NEPBA – New England Police Benevolent Association

Open Session Meeting resumes no earlier than 6:30 p.m.

Mr. Howell stated that no conclusions were made in Executive Session that can be reported in open session.

PLEDGE OF ALLEGIANCE

Mr. Howell invited everyone to join in the Pledge of Allegiance.

STAFF COMMENTS/ANNOUNCEMENTS

No staff comments/announcements were heard.

WEEKLY BRIEFING

Mr. Schiavi provided the two-week and three-week lookahead information as provided in the packet. The Chatham Water/Wastewater advisory committee has met to review our regulations that we had forwarded over to them. They have no issue with it. Their next step is to make a formal recommendation to the Chatham Select Board. There is no update on the Great Sand Lakes inclusion in the Intermunicipal agreement. Mr. Schiavi said that he would give it more time and then reach out to the Chatham Town Manager in Chatham to see if there is an update. Harwich did receive a reach out from the Dennis Wastewater Superintendent to set up a meeting with Mr. Schiavi and Harwich Water/Wastewater Superintendent to see what they have going on and bring back information to the Board related to their eventual project to develop a wastewater treatment plant by the Dennis DPW. The Brooks Academy Designer Select Team met and have chosen Habeeb & Associates Architect as the designer firm. The next step is that they need to submit their price proposal. We did receive 2 responses to the Walther Road stairs request for quotes that went out. There were 2 respondents and they both came in higher than expected. Mr. Schiavi has not had a chance to review them yet but will update the board when he has more information.

PUBLIC COMMENTS/ANNOUNCEMENTS

No public comment/announcements were heard.

CONSENT AGENDA

A. Approve the Select Board Meeting Minutes from August 25, 2025, and September 8, 2025

Mr. Kelleher moved to approve the minutes of the August 25, 2025 and September 8, 2025 Select Board meetings, 2nd by Mr. Piekarski.

Ms. Doucette noted a scrivener's error on page 2 of the August 25, 2025 minutes.

Mr. Handler moved to approve the minutes of the August 25, 2025 and September 8, 2025 Select Board meetings as amended, 2nd by Mr. Kelleher and approved 5-0-0.

B. Vote to approve the following committee appointments as recommended by the Interview Committee:
  1. Ellen Collins, Harwich Housing Committee, full member, term to expire June 30, 2026
  2. Susan Cyr, Conservation Commission, full member, term to expire June 30, 2027

Mr. Kelleher moved to approve the committee appointments as recommended by the Interview Committee and noted on the agenda, 2nd by Mr. Handler and approved 5-0-0.

NEW BUSINESS

A. Open Meeting Law Complaint from Ron Beaty, dated August 30, 2025: Acknowledge receipt of complaint, review complaint, discussion, and possible responses thereto

Mr. Howell said that the board needs to acknowledge the complaint in an open meeting and have a discussion on a possible response. Attorney Michelle Rendazzo from KP Law was present and briefly reviewed the Open Meeting Law (OML) complaint that was filed, which primarily focuses on the language of the agendas and possible confusion. Her firm is handing several cases like this on the Cape, so Harwich is not a focal point for this. Attorney Rendazzo has prepared a draft response for the board to review. She gathered information and looks to the Attorney General's determination on OML complaints to see how they have landed on similar cases in the past and puts together a response for the board to review. To the extent there was any possible confusion on the agenda and how it was worded, she has had discission with Mr. Schiavi and some of the issues have been fixed. If there is a main point that Mr. Beaty raises is a conflation of a couple of executive session purposes, which goes back to before the OML was changed in 2010. We have made an argument that we have not violated the OML but will correct anything that may be confusing.

Mr. Piekarski thanked Attorney Rendazzo for crafting a response and asked her to outline the process of what comes next. She responded that this is the administrative complaint process at the board level. If the board decides to adopt the response with or without any changes, the response will be sent to the complainant and a copy to the Attorney General's office. At that point, the complainant will say whether or not they accept the response. If it is not accepted, the complainant will go to the Attorney General's office for them to investigate, which can take months. The board would be notified if the complainant pursues additional investigation.

Mr. Kelleher said that to him it seems like a good point that the complainant brought up the use of acronyms. He asked that if someone wanted to complain about a process, if they could call rather than going through this legal process. Attorney Rendazzo responded that she has not seen that avenue taken by Mr. Beaty but has seen it with other folks. Mr. Kelleher asked if after this matter is settled, could we show the public how much this complaint cost the town. Attorney Rendazzo responded that for the most part, KP Law invoices are public record.

Mr. Howell noted that some of the things being alleged in the complaint are long standing and have been that way through various Town Administrators and various Select Boards. Attorney Rendazzo responded that she understands the need for transparency, but that there needs to be room for human error and mistakes, which is what we have here.

Mr. Piekarski moved to approve the response crafted by Town Counsel relating to the Open Meeting Law complaint filed by Ron Beaty dated August 30, 2025 and authorize Town Counsel to send the response on behalf of the Town, 2nd by Mr. Handler and approved 5-0-0.

B. Discussion on developing an Entertainment policy

In the packet are copies of the Town of Falmouth Entertainment regulation and The Town of Wellesley Entertainment policy.

Mr. Howell said that comments have been made by counsel for a licensee that Harwich is not treating everyone the same with respect to entertainment. The zoning in Harwich Port is very shallow and there is a commercial district that is 150' and right behind that is residential. Harwich needs to come up with a policy that is based on reality and can be defensible. We need to stick to identifying what the problem is and then coming up with a solution. This is not before the board tonight to vote on a policy, just for discussion only.

Mr. Handler said that he would like a better idea of what isn't working. Mr. Howell responded that electrified music travels and that the problem is allowing amplified music at all and there is no way to contain it in a small district. The sound also travels differently depending on the wind direction. A number of things have changed through the years. We used to have separation between our Noise Bylaw, Entertainment Licenses and Liquor Licenses. Right now, these have gotten somewhat conflated with how the board is obligated to approaching liquor licenses, and they are not the same, with the Entertainment Licenses now linked by Law to the Liquor Licenses. So, once we have granted certain conditions under an annual Entertainment License (linked to a Liquor License) it is extremely difficult to pull the conditions back (make them more restrictive). The board needs to figure out what the limit is. Mr. Handler responded that he isn't saying there is or isn't a problem but trying to gather more information on where the Select Board might have some influence. He asked if we have any idea of the number of complains and violations specific to noise in 2025. Mr. Howell responded that we could gather that data.

Mr. Handler asked that when the word zone is used, is it specific to Harwich Port. Mr. Howell responded that is what he was anticipating and that is where the problem really is. It has been a very successful entertainment area but with that it has gotten to the point where there is a lot of noise that doesn't seem to be abating. Mr. Handler asked if we are intending to craft a policy for Harwich Port and not the rest of Harwich. Mr. Howell responded yes. We already restrict several licenses in Harwich Port who are allowed acoustic only.

Mr. Kelleher said that he likes the Falmouth policy and that it might be worthwhile for some of the bars to look at it. What has come up recently is crowd noise as well as outdoor entertainment after a certain hour. Live amplified outdoor music does seem to be a problem and Mr. Kelleher said that maybe allow it from 5:00 p.m. – 8:00 p.m. and limit the days. He added that the previous Select Board did a wonderful job and we have closed the gap to where things have improved.

Ms. Doucette said that she understands that this is a starting point and agreed that the Wellesley policy was more in depth, where Falmouth was more simplified. She suggested that tweaks could be made based on letters that have been received from the public. Working together with the board and the town residents we could come up with a more amicable regulation.

Mr. Piekarski noted that he did not have a chance to read either of the policies but that in his opinion, there are things that are not working. As he stated last week, the number of calls and complaints being made to public safety are getting to a level that is not acceptable to him and that those calls take away from the actual responsibilities of the public safety departments, especially when the calls are unfounded. The other bothersome part for him is when one licensee calls on another. Mr. Piekarski feels that we need to decide if we want to have restaurants that serve alcohol or nightclubs that serve some food. While the board can talk specifically about Harwich Port right now, Mr. Piekarski did not want to lose site of what has gone on in West Harwich and what could go on in the future.

Richard Waystack was present and asked that the business community also be brought into the discussion. People bought homes knowing that they were buying them in the commercial district. He feels that we cannot be a community that says no to business and that it is essential for everyone to work together. Mr. Howell responded that there will be public hearings on what type of policy will be created. The type of businesses in Harwich Port are generating a different kind of noise than the businesses that used to be there.

Mr. Handler said economic support and the development of Harwich is extremely important to him and equally as important are the residents and the ability for them to have a comfortable place to enjoy. He proposed for the Select Board to discuss the formation of a sub-committee, adding that he would be happy to be on the committee and would like Mr. Kelleher to be on it as well, noting that it is important to have a discussion with the stakeholders. The sub-committee could report back to the Select Board over the next several months to gain some information. Mr. Handler also proposed a suggestion of having 2 Police Department members on foot from 8:30 p.m. – 10:00 p.m. from June through September 5th on Thursday, Friday and Saturday nights, which might make the businesses and residents more comfortable. He agreed that the unfounded complaints are a waste and that the businesses side by side that call on each other are not helping the case. Mr. Howell noted that if we are going to have the discussion about the deployment of assets, that the Police Chief would need to be involved.

Mr. Piekarski said that he would not be on board with a sub-committee at this point and that in the end, if we do this well, both sides will be unhappy.

Mr. Schiavi said that that in Harwich Port we have our business community and residents and that they need to co-exist. He suggested having a business and resident roundtable and that sometimes the best solutions come from outside, so that the board can take them into consideration. Mr. Schiavi also noted that other towns have used community impact officers for situations like these.

Taylor Powell, owner of Perks was present and said that he has had music for 15 years and that the town was busy even before his time. He said that he would entertain having a police detail. Mr. Powell knows that people buy close to town because they love the music and like being closer to town. The town supports a music stroll where we can be loud from 5:00 p.m. – 8:00 p.m., but now we are complaining that we are too busy, which doesn't make sense to him. Mr. Powell said that he would be happy to sit down at a roundtable and has suggestion that can make this better. Mr. Powell feels that there is a big problem with the anonymous calls that are unfounded. He noted that maybe there is a solution where the police aren't involved and suggested maybe an expansion of the 150' buffer. Mr. Powell noted that he does not call on other businesses and hopes that everyone does well in Harwich. He would like to see an economic study done based on the music and added that his establishment does their best to control the sound. Mr. Howell responded that we need to come up with a reasonable solution and that we are going to try and explore the options and get everyone to come to a meeting where they can express their opinions. Mr. Powell responded that he does not want to go backwards and feels that there are a lot of people who will not come to those meetings and will not speak up.

Walter Mason from Miles Street was present and said that he moved to the Harwich Port from the other side of Harwich because of what Harwich Port has become. Mr. Mason was on the noise committee, and he does not see that music is such a big problem downtown. He feels that there is a solution that is good for everyone. Mr. Howell responded that the board has had recent requests for outdoor entertainment that was amplified from 10:00 p.m. – 11:00 p.m. Mr. Mason feels that the board needs to decide what the cut off is and he does not think that non-amplification is the answer.

Ted Wyman, musician from Dennis was present. He commented that he does between 300-500 shows a year and a lot of them are in Harwich. He asked that when there is talk about a sub-committee that the musicians are included as well.

Mr. Howell wants to hear from each member of the Select Board as to what their biggest concern is that they would like to see addressed and have those comments submitted to him. He noted that if a member is coming up with a problem, that they also need to come up with a potential solution.

Mr. Piekarski said that he likes the idea of bringing folks who are part of this situation together. He would like for the Select Board to explore that first, more so than members individual concerns. Mr. Piekarski appreciated Mr. Powell coming to the meeting tonight and that if more folks like that come together in a room, that will work better than the Select Board seeing what sticks. He asked how the board can make this group come together and who would be part of the group.

Mr. Kelleher noted that the board receives letters from residents and asked if those letters, with appropriate redactions, be sent to the establishments, so that they can see the feedback and can be aware of the resident's viewpoints.

Mr. Howell said that this topic would be brought back.

C. Acting Town Administrator to present a recommendation on the license agreements for Dockside Restaurant at the harbor

Mr. Schiavi reviewed the request for the lease renewal that has been requested by the establishment. Both the Harbor and Health Departments have provided positive comments about the establishment. Mr. Schiavi recommended approval of the one-year extension. He added that at some point, the board will need to discuss the building and maintenance. Mr. Howell responded that this establishment inherited the equipment from the prior lessee and that they are not responsible for the upkeep and maintenance.

Mr. Piekarski moved to approve the request for a one-year extension of the license agreement for Dockside Restaurant at Saquatucket Harbor, 2nd by Mr. Handler and approved 5-0-0.

D. Initial review of draft budget guidance

Mr. Howell said that the information provided in the packet is there for the board to say what they would like and provide any possible edits.

Mr. Piekarski said that he does not have any recommendations for tonight but would like a chance to go over it again.

Mr. Schiavi had a department head meeting this morning where the budget was discussed. Internally, staff is gearing up for this as soon as the budget guidance is released.

At the September 22nd meeting, Mr. Schiavi and Interim Finance Director Eric Kinsherf will provide the current year financial assessment. Free cash will be certified by early November and then there will be a full presentation made to the board about FY25. Staff is lining up everything that will give all indications of what we will be looking at for FY27 trend analyses, which will be important for finalizing the budget for next year.

Mr. Handler also said that he would like more time to review the guidance but stated that the overall message is a solid one. He appreciates the notes about protecting and investing in our current assets, both workforce and infrastructure.

Mr. Howell asked the members to send him whatever comments they have.

E. Discussion on next steps regarding the Monomoy Regional School Committee Agreement

Mr. Howell said that we are not at the point of approaching the Chatham Select Board yet, nor do we know who will be the representatives from Chatham. Mr. Piekarski had mapped out a process and he would like to know where we are at and if the committee has come up with anything. Mr. Handler responded that the committee would like to know the "why" from Harwich. Mr. Howell responded that they do not need to know the "why". Inside the agreement, they have to re-evaluate where they are and there is a requirement in the agreement for them to do that. The question is how deep they want to get. Mr. Handler responded that he was hopeful that his email to the Select Board would have been in the packet and he does not see why Harwich would not work collaboratively with the school committee with respect to their request. Mr. Handler added that he has been getting calls from the public about answering to the school committee. Mr. Howell said that we do not need to provide a why at this point beyond that we are at the juncture that we cannot sustain a 7% or 8% increase without an override. Mr. Handler responded that the committee is looking for more information other than the fact that Harwich cannot afford it. Mr. Handler read his email into the record.

Mr. Howell reported that Mr. Schiavi met with Dr. Carpenter from Monomoy. Mr. Schiavi commented that they did not get into a lot of detail about the agreement other than him trying to understand the process. Their budget development process is much like ours.

Mr. Howell said that it is not just what burden that we can or cannot sustain for Harwich. If this starts becoming a problem and Harwich is funding almost 80% of the budget, it will become a problem for the students in Chatham as well. One previous solution was to share capital items 50/50. They why is that we are hurdling towards a position where if we are responsible for 80% of their budget, we cannot sustain that in our budget. Mr. Handler agreed with what Mr. Howell is saying but feels that we are sitting idle in doing nothing. The school committee asked a month ago for more information. They are an elected board with a huge responsibility and all they are asking from Harwich is communication and collaboration, which is not being given. Mr. Handler again wanted to know what information we can provide them as to the "why".

Mr. Kelleher feels that the basics are there and asked if we can work with the Accounting Department to come up with a projection. Mr. Howell asked staff to work on that.

Mr. Piekarski asked if Harwich received a written response from the school committee or department. Mr. Handler responded that he was not sure the response was written, but that they did speak about it at their meeting and that he sent an email. It is possible that in their opinion, that was sufficient.

Mr. Piekarski didn't remember seeing a formal ask and didn't know if the committee engaged in conversation with Mr. Handler. Mr. Piekarski said that he has no problem trying to provide an answer to the "why" but he is not convinced that we are going to be able to give them the exact dollar numbers that they may or may not be looking for. Harwich has a concern and we are trying to eliminate hitting a wall. Harwich wants to support the schools but needs to do it in an intelligent way where we can also support the rest of the community. Mr. Piekarski is not sure that Harwich can get as granular with the information as the committee would like.

Mr. Handler said that at the end of the day, the Select Board needs a plan. Harwich was the one who requested a review of the agreement. Since July 1st, he has been asking for this to be on an agenda. We don't know what the school committee is asking for and we have not reached out to them to find out what they might be looking for. Mr. Piekarski said that he was waiting for a response from the school committee. Mr. Handler responded that we need to work together on this or we are going to sit idle for the next 2 months and then will be in the budget cycle, where we will have lost any chance to negotiate.

Mr. Howell said that we had heard from them last year with a claim that Harwich never told them before their budget was formulated that this was going to be a problem. Mr. Howell added that this has been addressed, but maybe not in the way that Mr. Handler wants. Chatham has not responded to our letter. If it comes to a certain point, this may have to go before Town Meeting. Harwich needs to find out if Chatham is going to reply in writing so that we can reply in kind. Mr. Piekarski said that if their avenue was to send their message back through the liaison, he is fine with that. He is happy to work on crafting a response on the "why". Mr. Howell asked Mr. Piekarski to draft a letter. Mr. Piekarski said that he would not be able to do that until October. Mr. Howell then asked Mr. Schiavi to work on a narrative.

F. Vote to approve a special permit application for a one-day liquor license (wines & malt) for Anthony Pagliaro, for an event to be held on September 20, 2025, from 5:00 p.m. – 10:00 p.m., event to be held at 15 Great Western Road

Mr. Kelleher moved to approve a special permit application for a one-day liquor license (wines & malt) for Anthony Pagliaro, for an event to be held on September 20, 2025, from 5:00 p.m. – 10:00 p.m., event to be held at 15 Great Western Road, 2nd by Mr. Piekarski and approved 5-0-0.

OLD BUSINESS

A. Discussion and possible vote on legal services request for proposals

Mr. Schiavi reviewed the changes that were made to the document. Mr. Howell indicated that in the end the board will end up interviewing the respondents.

Mr. Piekarski moved to approve the legal services request for proposals as provided in the packet, 2nd by Mr. Kelleher and approved 5-0-0.

B. Discussion of the makeup and construct of the Town Administrator Screening Committee

Mr. Howell said that all board members have submitted their choices for the screening committee and that the names will be passed along to the search firm.

The names put forward were Norm Clarke, Karen Doucette, Duncan Berry, Sandra Hall and Jack Mawn.

C. Discussion on refinements to the Finance Director search process

Mr. Schiavi outlined the hybrid process as outlined in the packet. He suggested that when interviews are held, that they are done as stand-alone meetings.

Mr. Piekarski moved to approve the in-house recruitment process for the Finance Director as outlined by the Town Administrator as option # 3, 2nd by Ms. Doucette and approved 5-0-0.

Mr. Piekarski moved to approve the recommended salary for the Finance Director advertisement of $170,000 +/- (negotiable for exceptionally qualified applicants), 2nd by Ms. Doucette and approved 5-0-0.

CONTRACTS

A. Review and approve contract with Northeast Nursery Inc. in the amount of $715,377.36 for supplies and materials for the Cranberry Valley Golf Course irrigation upgrade.

The golf course currently has a lightening protection system, this project intends to upgrade and replace the existing twenty-year old system. The project was divided into 2 contracts, one for materials and one for construction. Lastly, the Invitation for Bids was drafted using the specifications provided by the Golf Superintendent, who recommends execution of the contract. Mr. Schiavi also recommended approval of the contract.

Mr. Piekarski moved to approve contract with Northeast Nursery Inc. in the amount of $715,377.36 for supplies and materials for the Cranberry Valley Golf Course irrigation upgrade, 2nd by Mr. Kelleher and approved 5-0-0.

TOWN ADMINISTRATOR'S REPORT

Mr. Schiavi announced the appointment of James Adamsons as Dockhand for the Town of Harwich. He also reported that we have our SNP call scheduled for 10/1 for the borrowing band anticipation note that will fund the non-SRF part of Great Sand Lakes, 2 ambulances, a pumper and the Chatham IMA payment that we have coming up.

SELECT BOARD MEMBER REPORT

Mr. Handler said that he has questions on the Assistant Town Administrator position. Section 4.4.1 specifies that the Town Administrator will appoint this position. Mr. Handler asked if this has been advertised and what are the next steps. Mr. Schiavi responded that if he were the permanent Town Administrator, this would have been done already. In this instance, he would defer to the Select Board as to how they wish to proceed. Mr. Handler said that the board will be meeting on September 22nd and that Ms. Eldredge's last day is September 26th. He would like to see this on next week's agenda. Mr. Handler also said that he submitted questions on the Affordable Housing Trust and if there are any updates on the opinions from counsel that he does not have. Mr. Schiavi said that he would follow up on this. Mr. Handler noted that the next meeting for the trust is on October 6th. Mr. Howell said that the policy that was promulgated for access to legal counsel applies to the trust as does everyone else.

Mr. Kelleher said that he saw the Senior Softball League in town this week. The thanked Mr. Khachadorian for overseeing that league and thanked the highway department for overseeing our facilities.

Mr. Piekarski noted that Jennifer Mince had signed off on a couple of documents provided in the packet. He asked if she was assigned to Harwich under Mr. Kinsherf's firm. Mr. Schiavi responded that she has been assigned to Harwich.

Mr. Piekarski asked to have a generalized update on the phase 3A sewer project in the next couple of meetings.

CORRESPONDENCE

ADJOURNMENT

Mr. Handler moved to adjourn the regular meeting of the Select Board at 8:27 p.m., 2nd by Mr. Kelleher and approved 5-0-0.

Respectfully submitted,

Jennifer Clarke
Executive Assistant