

BOARD OF SELECTMEN REGULAR MEETING
Tuesday June 5, 2018 7:00pm

A meeting of the Board of Selectmen was held on Tuesday, June 5, 2018 in the Assembly Hall. (Due to recording being unclear hear, for transcribing purposes we have referenced some of the participants as 'Residents').

Members present: First Selectman Michael Criss, Selectman Evan Brunetti, Selectman Rick Fowler.

Attendees: Numerous Public Members, Town Atty. Michael Rybak, BOF Chairman Peter Thierry, Josie Albertson Grove – Republican American

Call Meeting to Order

Mr. Criss called the meeting to order at 7:16 pm.

Request to Add Items to Agenda

Mr. Criss asked for a motion to add two items to the Agenda. One is to add 'Request for Tax Refunds' and the other is the 'Approval of Writing off Small Balances'. Mr. Brunetti made a motion to add the Request of Tax Refunds. Mr. Fowler seconded. All in favor. Motion carries. Mr. Fowler made a motion to add the Approval of writing off small business balances. Mr. Brunetti seconded. All in favor. Motion carries.

Minutes of Previous Meeting

Mr. Brunetti made a motion to approve the previous minutes. Mr. Fowler seconded. All in favor. Motion carries.

Appointments and Resignations

Mr. Criss: "I want to note that Atty. Rybak is here, thank you for coming tonight (addressing Atty. Rybak). You both got a list of the vacancies of the Boards and Commissions (addressing the selectmen). We have Agricultural Committee one (1) vacancy, the Board of Finance one (1) vacancy, the Commission on Aging one (1) vacancy, the Economic Development Committee one (1) vacancy, the Historic District Commission two (2) vacancies. Alternate seats: Planning Commission one (1) alternate vacancy, WPCA one (1) alternate vacancy, ZBA two (2) alternate vacancies. We probably have one (1) on Zoning Board of Appeals but we did not get a resignation letter on that one. Those are the committees that we've had open until the next municipal election which is in 2019. Some run to 2020 and 2021. With that being said, I know there were some questions as to why the Board of Finance vacancy is still listed and I will run through that as best as I can. I know Mike Rybak is here to clarify if I talk out of school.

On April 3rd, 2018 an email was sent by George Nashe to Peter Thierry stating his resignation. On April 4th, 2018 a legal opinion was rendered by the town attorney to the First Selectman advising that the Board of Finance has thirty (30) days to appoint with call of a special meeting and the 30 days would expire on May 14th, 2018. On April 13th a resignation letter was turned in by republican George Nashe to the Town Clerk which started his thirty (30) day clock at that time. On May 3rd, 2018 the Town Clerk received a call from a member of the Board of Finance to contact Ted Bromley from the Secretary of State Office to ask him when the actual deadline was over. Ted Bromley confirmed that the Board of Finance deadline was May 14th because Sunday, May 13th was the

30th day, but because no one meets on a Sunday, Monday the 14th would be the last day. On May 8th, 2018 the town attorney advised against any use of telephone participation by an absent member, telephone polling by the Board of Finance is limited by statute to be specified appropriations in transfers only; any other telephone use would result in an FOIA complaint. On May 9th, 2018 legal opinion from the town attorney was issued to the Board of Finance for further clarification notifying them that if they made an appointment after the thirty (30) day mark they would be violating state statute 7-107. On May 13th, 2018, although a Sunday, rolled into May 14th, 2018 would've been the last day the Board of Finance could legally make an appointment to fill the vacancy; the Board of Finance had a lack of quorum at that meeting. On May 15th, 2018 the Board of Finance appointed Chip Booth to fill the vacancy. On May 15th, 2018 this was the 32nd day and exceeded the expiration date by two days. On May 16th, 2018 due to a possible, potential legal challenge and FOIA requested complaint, the town attorney advised the First Selectman at the next BOS meeting on June 5th, 2018 that the Board of Selectmen would need to appoint in place of, or reappoint and consider, Chip Booth to legally have him binding as a voting member of the board. He also advised the Town Clerk to not swear in, at that time, Chip Booth. Therefore any votes he participated in could be legally challenged and overturned easily if the Board of Finance proceeded. Considering the facts above, it is in the Board of Selectmens duty to ensure continuity on all boards and protect the boards from violating state statute and potential legal ramifications. Therefore, I would suggest to the Board of Selectmen that each party nominate people for the vacancy and also ask that based on Ms. Davis' letter to Board of Selectmen that we also under those nominations consider Chip Booth as a recommendation to the Board of Finance as well.

Now as you know, the Board of Selectman, what we typically do is, I'll ask both parties if there are any names that you want to put up. If you do, and it gets a seconded, that becomes the person we appoint. And again, I would like to reiterate Ms. Davis' request to consider Chip Booth in those nominations if you don't have names already. If you do have names already or would like to think about it, I am open to that as well."

Mr. Thierry: "Did all board members get Ms. Davis' letter?"

Mr. Criss: "Yes they did."

Mr. Thierry: "Alright, so you are aware of what has gone on in the past. And you have seen the minutes from the board of finance that he is put on as a member."

Mr. Criss: "Yes."

Mr. Thierry: "Okay."

Mr. Brunetti: "After consultation from prior representatives we have somebody who is very interested in filling the seat for the Board of Finance. It's a Mr. Charles Casella. He and his wife have been here for twelve (12) years. He is a twenty-seven (27) year practicing attorney. I think he would be a very good candidate for the board. So, I make a motion to accept his interest and appoint him to the board."

Mr. Criss: "Are there any other nominations?"

Mr. Fowler: "Yes. I would like to nominate Chip Booth. A number of people in town, I have spoken to them, they want him there. We saw what was spoken at the last Board of Finance meeting. I think he would serve well and we would be honoring the towns people. And I think maybe, if Mr. Casella is still interested in becoming a part of the Board of Finance, maybe we can do that the next election. It's important to remember that this is filling this vacancy until the next election. So I would nominate Chip."

Mr. Thierry: "I would hope that the board would consider putting someone on the board that can make it to meetings. Currently we have two (2) recent members who can't find time to come to meetings so I can have quorum. I know it is tough now, and there is a lot going on, but with a thirty (30) day period I would've thought at least I could get a quorum with members. I find it rather disappointing. I hope whoever you nominate is available for meeting."

Mr. Criss: "Okay. So with that said, is there a second nomination for Chip Booth? Rick you made the motion for Chip, is there a second?"

Nancy Schnyer: "Mike, I know for a fact that those two gentlemen that did not show up for the Board of Finance meetings were encouraged not to show up. They had thirty (30) days to show up to one (1) meeting that could've taken five minutes; now the Board of Finance's choice is in jeopardy. A man that has served for twenty (20) years on the Board of Finance. That's my statement."

Resident: "From what I understand, the way the State of CT, the minority representation happens for a reason. The actions that were taken kind of thwart minority representation. Maybe you are letter of the law following the law, but it feels very yucky. I would hope that there is minority representation and that and on the committees the people make the best decision for the town and not just a particular party."

Stasia Motuzick: "I just want to comment that for the twenty (20) years Chip Booth was on the Board of Finance I found him very professional. My job was to present the library budget to the Board of Finance. There were times they disagreed with me and cut the budget but he did it in a very professional way. I think he served the town well and I think he still can serve the town well. He's a business man and has been on many boards for Torrington. I think he should still stay on the Board of Finance."

Resident: "Can I ask Peter? Since Chip has been a regular member has he been good at his attendance?"

Mr. Thierry: "Oh yeah. He had very good attendance, most of the members do. I have one member that hasn't gone to 22%, hasn't shown up. The other members are in the single digits, they show up and I usually can count on getting four (4) members a meeting."

Rosemary Simko: "In the past Chip Booth has been crossed-endorsed by both parties – democrats & republicans – and has easily won his elections. Now, all of a sudden, it seems as though, our town, all of a sudden has great divide and we're smacking for partisan politics. And it certainly seems that that's the way this whole endeavor has been carried out and that's an embarrassment to our town and the way that it's run."

Mr. Criss: "I will acknowledge that it was an embarrassment for members not to show up when they have a responsibility to show up. I also will acknowledge, from what I understand, and the emails that were sent to me, that they made the Board of Finance Chairman aware that they couldn't make those meetings and those meetings were still called even though they knew there was no quorum. So I would agree that politics played a heavy role on both ends."

Mr. Thierry: "The only problem I had was trying to do the best job for the town and that is trying to get a member so I can carry on the business with the Board of Finance. I think it's a little disappointing that it appears as though the Board of Selectmen is looking to put their people on the Board of Finance. The two boards should be separate, working together for the goodness of the town. But we still should be separate parts of the government like the senate, like the house – two different working together for the same goal. It just doesn't appear to be that way."

Mr. Fowler: "I think we have departed from our normal procedure here tonight in having people comment. I welcome that, but I know we haven't done that. I think that raises some of the stuff in the bog to a level so that we can see what is happening out there which is unrest. I welcome that, I understand there is a reason to keep it concise to the rules. Personally I feel that I want us, as the Board of Selectmen, to reconsider reappointing Chip, I think it would go a long way in healing a rift and to getting the Board of Finance back in gear again. Again, if Mr. Casella wants to become involved in town government I welcome that. But, I think to appoint him at this time would be fractious and I would encourage him to run in the next election. Those are my thoughts. What I see has happened is that the staff has been split and that won't work. It's not only going to have ripple effects out in the community but it will have tsunami effects as well. So I am going to ask you too to reconsider."

Mr. Brunetti: "I stand by my nomination. And it is healthy for boards and commissions to have fresh members routinely; it keeps interest and it keeps eyes fresh in the community. Speaking as someone new to politics and new to town governments, I think sometimes when people are given the chance they do shine, so we will have the best of hopes for all of our nominees. That's what the election process is for too – to affirm or to remove folks that we disagree with."

Mr. Criss: "So with the motion made for Chip and no second and with a motion for Charles and no second. There is a motion made for both. Is there a motion made for Charles Casella? Then I will second Charles Casella. All in favor?"

Mr. Brunetti: "I."

Mr. Criss: "Opposed? So moved. We also have Agricultural Committee. We also have one vacant seat in the A Committee. Do you have anybody? Anyone for the Commission of Aging? Anything for the Economic Development Commission? Anything for the Historic District Commission? Anything for the Planning Commission Alternate seat? WPCA alternate seat ends for 2018. ZBA, two alternate vacant seats and one full time member seat go to 2020, two (2) of them expire in 2019. Since there is nothing at this time, please keep this list, go back to your parties, and continue to ask for names because I would like to get these seats filled before the end of the year."

Public Participation

None.

New Business:

Request for Tax Refunds – Mr. Brunetti made a motion to issue the refunds. Mr. Fowler seconded that. All in favor. Motion carries.

Approval of Writing Off Small Balances – Every year the tax office comes to us with any amounts that are typically five dollars (\$5.00) and under and we have to sign off on it. This year the list totals \$43.59 that is being requested to write off. Mr. Brunetti made a motion to accept. Mr. Fowler seconded. All in favor. Motion carries.

Wilcox Property – Mr. Criss asked Atty. Rybak to comment on the solar panel idea for the Wilcox Property. His question is in regards to the stage of the process the town is in right now with being ready to sell it; is it viable? Atty. Rybak commented: 'The terms of the process at this point, a town meeting or a town board is always free to reverse itself and change course provided the vested rights of third parties have not intervened, meaning someone actually had a deposit on the property. So in this particular case it is still in the talking stage. There are still a couple of issues that you will have to deal with if you go down that road. One is you need to look into the cost of demolishing and abating the property because you can't insure it anymore. It is a liability, it is a blighted property. The Board of Finance and The Board of Selectmen would have to look at those two issues. Secondly, if the town is going to investigate the solar panel right there, you would have to know more, obviously, about the economics of it and you need to consult the Planning Commission and the Zoning Commission in terms of proper use of the property. Are they likely to grant a special permit because the town is subject to zoning just like anybody else? You can go in another direction. You did kind of promise people that the Wilcox Property would be sold along to offset the purchase of the Thierry property. The town's thinking was that we can pay for some of Thierry by selling what appeared to be a white elephant at Wilcox. If the Board of Finance is willing to forgive that idea and move in another direction, I think we can probably consider this. Because there seems to be public interest in it you would want to investigate it a little bit. I'm sure the state is encouraging solar.' Mr. Criss asked how people felt about this particular part of the project that is already in motion. As of July 1st the building will not be insured anymore. Mr. Fowler made a motion to table this until the next meeting. Mr. Brunetti seconded. All were in favor. Motion carries.

Ordinances – Mr. Criss provided a copy of ordinances that Atty. Rybak drafted, which Mr. Criss felt were needed after the issue that happened with the Board of Finance this past year. We realized that the Board of Finance only has one ordinance and that is to establish the Board of Finance back in 1949, sec 7-340. He would like to propose for the next town meeting the possibility of passing an ordinance that authorizes the Board of Finance to have two (2) alternate members appointed. I think this is going to alleviate this happening ever again. When members don't show up they need to be replaced with someone else. All other boards and commissions in this town have that. Mr. Criss read the ordinance. Mr. Brunetti added that having alternates is a great way to introduce new people onto the board. Mr. Fowler made a motion to approve this ordinance as drafted by Atty. Rybak. Mr. Brunetti seconded. All in favor. Motion carries.

First Selectman's Report – Mr. Criss shared that the House Bill 5171 about restricting the governor from cutting ECS money has been vetoed. Mr. Criss will continue to keep the town updated.

Correspondence – Correspondence from Suzanne Stich from the Recreation Commission to look for options for long term and short term tennis courts and pickle ball courts. They are asking the BOS to work with them on these proposals. Tennis courts & pickle ball courts are in disrepair; the estimate is \$228,000 to repair them. To rebuild them is \$240,000. Their short-term proposal is to repurpose the basketball courts that are located at the town hall sports complex, install sleeves for permanent nets on two pickle ball courts and leave basketball stations and hoops on one basketball court. Mr. Criss expressed his concern that this is a memorial basketball court and that making permanent adjustments may not be appropriate at this time. The long-term proposal is possibly looking at the Thierry Property where the house once was. Parking may be an issue. These are some thoughts of what they are looking at and for us to think about moving forward. We do have about \$120,000 in the tennis court fund.

Executive Session – Legal – Mr. Brunetti made a motion to go into Executive Session at 7:55 pm. Mr. Fowler made seconded. All in favor. Motion carries. Mr. Fowler made a motion to come out of Executive Session at 8:05pm. Mr. Brunetti seconded. All in favor. Motion carries. No action taken.

Adjournment – Mr. Fowler made a motion to Adjourn at 8:06pm. Mr. Brunetti seconded. All in favor. Motion carries.

RECEIVED FOR RECORD AT HARWINTON CT
ON 06/12/18 AT 2:24 PM
ATTEST NANCY E. ELDRIDGE TOWN CLERK