

TOWN OF SCITUATE
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Advisory Committee Meeting Minutes
Tuesday, September 14, 2021
Zoom Video/Audio Conference – 7:00 pm

Pursuant to Chapter 20 of the Acts of 2021, Scituate Advisory Committee Members held the September 14, 2021 meeting via Zoom Video and/or Audio (Dial-for those with only phone access). All participants participated remotely.

Committee Members Present: Jerry Kelly; Chair, Jamie Gilmore, Missy Seidel, Elise Russo, Lynda Ferguson, Dan McGuiggin, Patrice Metro, Lincoln Heineman and Michael Westort

Committee Members Not in Attendance:

Also in Attendance: Nancy Holt, Finance Director/Town Accountant; Jim Boudreau, Town Administrator; Karen Connolly, Select Board Chair; Keith Saunders, Petitioner

Mr. Kelly called the meeting to order at 7:00 p.m. Mr. Kelly made a motion to accept the agenda which was seconded by Mr. Gilmore and voted unanimously in favor (6-0) by roll call vote; Mr. Kelly-yes, Mr. McGuiggin-yes, Ms. Russo-yes, Ms. Seidel-yes, Ms. Ferguson-yes and Mr. Gilmore-yes.

Mr. Westort joined the meeting.

Mr. Kelly called for a motion to accept the minutes of the July 12, 2021 meetings seconded by Mr. Gilmore. The minutes were voted in favor (6-0-1) by roll call vote for July 12, 2021; Mr. Kelly-yes, Mr. McGuiggin-yes, Ms. Ferguson-yes, Ms. Seidel-yes, Mr. Westort-yes, Ms. Russo-abstain and Mr. Gilmore-yes.

Re-Organization of Committee

Mr. Kelly asked for discussion on the re-organization of the Advisory Committee and Mr. Westort asked if Mr. Kelly would like to continue as a chairman and he replied no. Mr. Gilmore asked for clarification in the procedure for re-organization. Mr. Westort said he did not have the capacity to take on a chairmanship position.

Ms. Russo noted that Ms. Metro wanted to participate in the re-organization of the meeting and suggested the members wait for the absent members to join the meeting.

Motion made by Mr. Gilmore to move the agenda item to the end of the meeting which was seconded by Mr. Westort and voted unanimously in favor (7-0) by roll call vote; Mr. Kelly-yes, Mr. McGuiggin-yes, Ms. Ferguson-yes, Ms. Seidel-yes, Mr. Westort-yes, Ms. Russo-yes and Mr. Gilmore-yes.

Mr. Kelly asked Ms. Holt to explain the difference between a special town meeting and an annual town meeting. Ms. Holt noted that the general business of the town such as budgets occurred at an annual town meeting and a special was usually for unforeseen, emergency and fiscal year close-out issues but it varied by municipality. Ms. Russo asked if petition articles had to be a specific topic in order to be brought forward and Ms. Holt said no, it just requires the requisite number of signatures. Ms. Russo asked about the school feasibility study and the timing on the special town meeting warrant rather than an annual town meeting. Ms. Holt noted that the School Department could provide more information on the timing.

Mr. Kelly asked about the Community Preservation and Capital Planning articles and Ms. Holt explained the current situation with the meeting schedule for those two committees and options when they could appear before Advisory Committee. Mr. Gilmore noted that the Committee should wait until the reports are received from those committees before any votes are taken.

Mr. Kelly asked when the write-ups were due and Ms. Holt replied the booklet needed to be available on October 8, 2021. Mr. Kelly stated that the member write-ups for each article would then be due by October 1, 2021 to accommodate that deadline.

Discuss/Vote/Assign October 26, 2021 Special Town Meeting Articles

Article 1 – Unpaid Bills of \$5,594.04. Mr. Kelly summarized the bills and asked if there was any discussion and there was none from the committee.

Article 2 – FY 2022 Budget Reconciliations. Mr. Kelly reviewed the components of the article and asked for questions. Mr. Westort asked about the increase in insurance costs. Ms. Holt replied that there were more claims but nothing out of the ordinary and the main driver was the difficulty of our insurer to obtain reinsurance and those corresponding increases were passed along to Scituate.

Article 3 – Transfers to Reserves. Mr. Kelly asked about the OPEB Liability transfer and Ms. Holt responded that the proposed amount was the same formula used at the prior year's special town meeting of meals tax receipts over estimate and room occupancy tax receipts. Mr. Westort asked about the \$100,000 to be set aside for the SPED Reserve and the source of those funds to which Ms. Holt replied that the source was Free Cash.

Mr. Gilmore made a motion to approve articles 1-3 which was seconded by Ms. Russo voted (7-0) in favor by roll call vote; Mr. Kelly-yes, Mr. McGuiggin-yes, Ms. Ferguson-yes, Ms. Seidel-yes, Mr. Westort-yes, Ms. Russo-yes and Mr. Gilmore-yes.

Article 7 – Local Option Acceptance Deferral of Water Charges and Article 8 – Local Option Acceptance Deferral of Sewer Charges. Mr. Kelly noted that in order to qualify an elderly person has to qualify for a clause 41a deferral. Mr. Westort expressed concern about residents that might defer taxes at their peril. Ms. Holt noted that Assessors and Treasurer Collector staff would make a referral to the Social Services Manager and/or Council on Aging staff for any perceived elder at risk. Ms. Ferguson asked for confirmation of annual application to which Ms. Holt replied in the affirmative.

Mr. Gilmore made a motion to approve articles 7 and 8 which was seconded by Ms. Russo voted (7-0) in favor by roll call vote; Mr. Kelly-yes, Mr. McGuiggin-yes, Ms. Ferguson-yes, Ms. Seidel-yes, Mr. Westort-yes, Ms. Russo-yes and Mr. Gilmore-yes.

Article 9 – Endorsement of the Master Plan. Mr. Kelly noted that the master plan was very well written and over 100 pages in length and does a good job of expressing the challenges of living in Scituate. He noted the different focuses of the plan included sea level rise and climate change, especially the \$280M cited as funding to combat those items. Ms. Russo asked why it was not at the annual meeting. Mr. Westort asked for more time to read the master plan which was supported by Mr. Gilmore.

Mr. Kelly make a motion to delay consideration of Article 9 to the next meeting seconded by Mr. Westort voted (7-0) in favor by roll call vote; Mr. Kelly-yes, Mr. McGuiggin-yes, Ms. Ferguson-yes, Ms. Seidel-yes, Mr. Westort-yes, Ms. Russo-yes and Mr. Gilmore-yes.

Article 4 – Feasibility Study & Schematic Design of Hatherly Elementary School.
Mr. Kelly asked that the School Department present Article 4 to the Committee at their next meeting.

Article 5 – Capital Plan

Mr. Kelly noted he was going to ask Capital Planning Committee to join them next week. Ms. Russo asked if the \$3M for water mains was additional to the amount voted at the spring town meeting. Ms. Holt noted that it was future projects and not for the current projects. Mr. Gilmore asked if the water main projects were going to continue at this level and Ms., Holt noted that it is on the capital plan for \$2M for the next five years. Mr. Kelly asked for DPW Director, Kevin Cafferty to appear at the next meeting to provide an update on the water main replacement program.

Article 6 Community Preservation

Mr. Kelly noted they would be discussing the projects with the Community Preservation Committee chair at the next meeting. Ms. Seidel asked if the Border St dollar amount was available and Ms. Holt replied that Border St and Little League were to be before the Community Preservation Committee on 10/14/21.

Review Fall Special Town Meeting Deadlines

Mr. Kelly noted that the write-ups are due October 1, 2021.

Review FY23 Budget Calendar

Mr. Kelly stated that he sent the budget calendar to members. Mr. Kelly asked members to reserve all Thursday nights during that period even if nothing is on the calendar in case of weather or COVID issues which was confirmed by Ms. Russo.

Ms. Metro joined the meeting.

Mr. Kelly invited the petitioner, Keith Saunders, to present Article #10 – Petition to the Legislature for special legislation for up to 3 marijuana establishments. Mr. Saunders noted that in 2016, Massachusetts voted marijuana. Mr. Saunders noted that at the first town meeting after passage the voters passed to continue a moratorium on marijuana for various reasons and concerns. He noted that in the subsequent years, revenue increases in a community when a store is opened and not negative concerns. He further noted that cannabis has been available for many years through other sources and as prices begin to mirror the other sources, people will take advantage of the clean and regulated options. He mentioned that when delivery becomes available, Scituate will not benefit from any tax that could be charged despite still being able to use cannabis with the town. He noted this was not different from any other small business. Mr. Saunders noted that by his conservative estimate not including seasonal residents and local communities. He stated that the moratorium was based on perceptions of what is driving crime and that it has not come to pass. He believes that by not taking advantage of this revenue source it is putting more pressure on real estate taxes. He noted that by allowing these establishments, other businesses will also benefit. Mr. Kelly asked for Mr. Saunders estimate of revenue which he responded less than \$90,000 but it might be as high as \$130,000. Mr. Kelly asked why three establishments and Mr. Saunders replied that there are 29 liquor licenses so 1 to every ten of those. He also pointed out the at Scituate could not support three retail establishments but there were other businesses such as testing facilities.

Mr. Heineman joined the meeting.

Mr. Gilmore asked why not just remove the moratorium rather than the special legislation for a Home Rule petition. Mr. Saunders noted that this would ensconce it in law whereas the other could be revised by town meeting every few years. Mr. Saunders noted that Richard Bowen was the attorney assisting with this legislation. Mr. Gilmore inquired why the moratorium was not being rescinded at the same time. Mr. Gilmore noted that he was in favor of regulation such as the liquor stores currently have to avert criminal behavior. Mr. Gilmore asked Ms. Holt for the amount of the meals tax in the first year. Ms. Holt replied the estimate was \$230,000 and the actual was approximately \$240,000.

Ms. Russo asked for clarification on Mr. Saunders formula which he supplied. She further asked for the definition as a marijuana establishment to which Mr. Saunders responded, cultivators, cooperatives, testing facilities, delivery services, retail stores, manufacturing facility, social consumption and other related businesses. Ms. Russo asked if one person could own all three and Mr. Saunders noted that the maximum number of licenses to an individual holder is three and there would be some diversity as a cultivator cannot also be a testing facility. She asked which surrounding towns have establishments. Mr. Saunders noted that Rockland has two dispensaries, Marshfield is opening a second one and another community has a cultivator. Ms.

Metro asked Mr. Saunders to confirm the three license limit across the Commonwealth. Ms. Metro asked how long the retailers have been opened and Ms. Saunders noted since the fall of 2018. Ms. Metro if article #10 (special legislation) was required for article #11 (zoning changes). Mr. Saunders noted that it makes no sense to do the zoning if the moratorium is not lifted by the special legislation. She asked if we needed to wait for the Commonwealth's action on the special legislation first and Mr. Saunders replied that there had not been any action on the state level to block communities.

Mr. Gilmore commented again that the moratorium is not proposed to be lifted in the current language and it should be come first. Mr. Saunders noted that it was through Home Rule that the moratorium was allowed to be put in place.

Mr. Heineman asked why this would be a home rule petition rather than removal of the general bylaws relevant to the moratorium. Mr. Saunders replied that the special legislation was to avoid a community from changing its minds. Mr. Heineman asked why we don't follow what other communities have done instead of going the special legislation route. Mr. Saunders asked Valerio Romano to address this issue as an attorney. Mr. Romano stated he felt that Scituate actually had a ban and not a moratorium. Mr. Romano said the Legislature is not relevant. Mr. Romano noted that he co-authored the ballot initiative to legalize marijuana and his practice is dedicated to cannabis licensing. Mr. Romano said that article #10 is not relevant to what Scituate needs to do to allow these establishments. He stated that a general bylaw and a zoning bylaw change is needed. Mr. Romano volunteered to assist to re-write the article with the petitioner. Mr. Kelly pointed out that the warrant was closed and asked Ms. Holt for clarification. Ms. Holt stated that the petitioner could offer an amendment with the only concerns as to whether it would be out of scope.

Ms. Russo asked why the petitioners brought it to a special town meeting rather than an annual town meeting. Mr. Saunders replied that the marijuana reform movement was 67 years old and it was not the time to wait.

Ms. Metro asked Mr. Romano if he was a resident. Mr. Romano replied that he is a current resident of Cohasset and a past resident of Scituate and he has recently been retained by the petitioner for his assistance. Ms. Metro asked if he as Mr. Saunders attorney and he stated that he was an advocate.

Ms. Annmarie Galvin commented that Mr. Saunders said he was working with Mr. Romano but Mr. Romano did not seem to agree. She pointed out that Attorney Bowen was well versed in zoning bylaws and the state legislation so she questioned why it was brought forward this way.

Ms. April O'Connor identified herself as one of the petitioners and she commented that she was the one that asked Val to join the meeting today. She responded to Ms. Metro's comments that there was a licensing process to which businesses need to adhere to move forward in the industry. Mr. Romano noted that there are community host agreements between the business and the community to provide the municipality with control to allow who cites their business in town.

Mr. Kelly noted that he had received correspondence from Val Baker and invited her to speak. Ms. Baker noted that she had contacted the chair and another member as well as legislators and relevant to this legislation and her concern that this should be doing at town meeting and not by the Legislature. Ms. Baker asked if the article could be amended and Mr. Kelly replied that yes it could be amended if the Moderator found if it was within scope. Ms. Ferguson was concerned that the potential amendments being discussed would be found to be outside of the scope. Mr. Heineman advised Ms. O'Connor to reach out to the Moderator in advance of town meeting to discuss the changes to article #10.

Mr. Boudreau clarified that the ban in the general bylaws has to be eliminated and then a zoning bylaw to address where an establishment could be sited. The question is whether the changes to article #10 would be with scope.

Ms. Ferguson asked about the cost and Mr. Saunders noted that it is still very expensive but it should be adjusting down as the market adjusts. Mr. Saunders stated that currently 30% of the cannabis being sold is through the Commonwealth licensed venues.

Mr. Kelly recognized Mr. Westort who disclosed that he is a marijuana establishment owner in Rockland and opening another in Marshfield and that Mr. Romano is his attorney and he is not part of the petition. Mr. Westort stated that he felt that Mr. Saunders estimates were reasonable. He further invited any members to ask him questions and pointed out that he would be abstaining from any votes on the matter. Ms. Ferguson asked if it was just three retail establishments or any marijuana associated businesses. Mr. Saunders noted that it was three licenses for any marijuana associated business. He believed that retail would locate in Scituate as it is an underserved market.

Ms. Seidel asked for confirmation that the revenue comes from the retail establishment. Mr. Saunders confirmed that the 3% comes from retail. Mr. Westort and Mr. Romano both noted that the community host agreement could impose 3% on any of the businesses and not just retail establishments. Mr. Boudreau noted that everything the petitioners are talking about are legal activities. The question for the Advisory Committee and the citizens is whether you want it to be sold in Scituate.

Mr. Gilmore recommended that the article be postponed. Mr. Kelly asked the petitioner to return to the Advisory Committee with the amended article #10. Ms. Metro asked if it is still an all cash business. Mr. Westort said you cannot use credit cards so you have to use cash and a cashless ATM. Mr. Saunders there is pending legislation to address this issue. He noted that the town where his business is located receives 3% from the Commonwealth and 3% through the host community agreement. Ms. Annmarie Galvin noted to the chair that the Planning Board hearing was continued until mid-October. Mr. Kelly noted that the Advisory Committee cannot consider article #11 until town meeting night.

Mr. Gilmore made a motion to table article 11 to town meeting night after Planning Board concludes its hearing which was seconded by Mr. McGuiggin and voted majority in favor (8-0-1) by roll call vote; Mr. Kelly-yes, Mr. McGuiggin-yes, Ms. Ferguson-yes, Ms. Seidel-

yes, Mr. Westort-abstain, Mr. Heineman-yes, Ms. Russo-yes, Ms. Metro and Mr. Gilmore-yes.

Re-organization of Advisory Committee

Mr. Heineman nominated Jamie Gilmore which was seconded by Mr. McGuiggin and voted unanimously in favor (9-0) by roll call vote; Mr. Kelly-yes, Mr. McGuiggin-yes, Ms. Ferguson-yes, Ms. Seidel-yes, Mr. Westort-yes, Mr. Heineman-yes, Ms. Russo-yes, Ms. Metro and Mr. Gilmore-yes.

Mr. Heineman nominated Elise Russo for Vice-Chairman which was seconded by Mr. Gilmore and voted unanimously in favor (9-0) by roll call vote; Mr. Kelly-yes, Mr. McGuiggin-yes, Ms. Ferguson-yes, Ms. Seidel-yes, Mr. Westort-yes, Mr. Heineman-yes, Ms. Russo-yes, Ms. Metro and Mr. Gilmore-yes.

Review/Vote FY22 Agendas for FY23 Budget Cycle

Mr. Kelly made a motion to post all FY23 budget season agendas which was seconded Mr. Gilmore and voted unanimously in favor (9-0) by roll call vote; Mr. Kelly-yes, Mr. McGuiggin-yes, Ms. Ferguson-yes, Ms. Seidel-yes, Mr. Westort-yes, Mr. Heineman-yes, Ms. Russo-yes, Ms. Metro and Mr. Gilmore-yes.

Mr. Kelly made a motion to adjourn the meeting which was seconded by Ms. Russo at 9:18 p.m.; the Committee voted unanimously in favor (9-0) by roll call vote; Mr. Kelly-yes, Mr. McGuiggin-yes, Ms. Ferguson-yes, Ms. Seidel-yes, Mr. Westort-yes, Mr. Heineman-yes, Ms. Russo-yes, Ms. Metro and Mr. Gilmore-yes.

Respectfully Submitted,

Nancy Holt
Recorder