



## **Board of Selectmen Ware Town Hall, 126 Main Street, Meeting Room**

**Regular Meeting Minutes  
Tuesday, March 20, 2018 at 7:00 p.m.**

### **Meeting Opened by Chairman Talbot.**

**Present:** Selectman Nancy J. Talbot, Selectman Alan G. Whitney, Selectman Tracy R. Opalinski, Selectman John E. Carroll, Town Manager Stuart Beckley, Clerk Mary L. Midura, Animal Control Officer Sydney Plante, Board of Health Director Judy Metcalf, DPW Director Richard Kilhart, EQLT Cynthia Henshaw

**Absent:** Selectman Michael P. Fountain

### **Opening Remarks, Announcements, and Agenda review by Chair**

#### **Consent Agenda**

- **Approval of Minutes of February 13, 2018**

Selectman Opalinski noted several corrections; Selectman Talbot and Selectman Carroll clarified homeowners/farmers should not be affected by new Storage of Flammables fees.

**Selectman Opalinski made the motion to approve the Minutes of February 13, 2018, with changes; Selectman Whitney seconded the motion. The motion passed on a vote of 4 Yes, 0 No, 1 Absent (Selectman Fountain).**

#### **Old Business**

- **GPS listing – Active Units**

Mr. Beckley submitted a report of the current status of the GPS units. Units will be installed in Fire Chief and Deputy Fire Chief's vehicles on March 21, 2018. No action of the Board is necessary.

#### **Scheduled Appearances**

- **7:05 p.m. Dangerous/Nuisance Dog Hearing**

Chairman Talbot read notice of the hearing. All parties were notified by certified and regular mail. Ms. Lynn Liquornik stated that they do not want to be afraid in their backyard. Wilma was the only dog, of their four, that was attacked by Cotton, with pain and vet bills.

Mr. Wansick noted that Cotton was interactive with his and his sister's children, neighbors, and other neighbors' dogs, with no problems prior. He stated that his new puppy ran up to Wilma, Wilma growled and snapped, and Cotton defended the new puppy. Mr. Wansick noted that he believed this incident was cause and action, not a vendetta, that dogs often scuffle, and he loves animals, offered to care for the dog and pay the vet bills, but that Mr. Maslanka yelled "that dog is gone!" without being willing to discuss the situation. Mr. Wansick stated that no one wants

Cotton labeled as a “vicious dog” and Cotton is a family dog, one of three in the family. Mr. Wansick stated he is willing to put up a fence when the ground thaws.

Animal Control Officer Sydney Plante stated that a six-foot high fence is a good plan, and she does not recommend that Cotton be euthanized, as this accident happened and all parties want to prevent this from happening again. The dog Wilma had wounds on the neck and superficial wounds; these were full bites from a dog at least 100 pounds. Wilma was attacked on her own property, so the owners of Cotton need to make efforts and restrain Cotton from running at large.

Chairman Talbot noted documentation received from the ACO this afternoon include the vet bill. Mr. Wansick stated he has requested the vet bill to try to take care of this and resolve. Chairman Talbot noted the leash laws and “dogs running loose” law.

Mr. Wansick’s sister explained that Cotton was a rescue dog, and Cotton chose Mr. Wansick as a favorite. She did not give Cotton to Mr. Wansick because of problems with the dog; the dog has always been a wonderful family pet.

Chairman Talbot noted the recommendations by the ACO to build a fence and keep Cotton restrained at all times, on and off the property.

The Board of Selectmen postponed a determination of this dog and did not declare Cotton as a nuisance or dangerous.

**Selectman Opalinski made the motion to not declare Cotton as a nuisance or dangerous dog, contingent upon Mr. Wansick taking the following actions:**

- **You shall install a 6-foot high fence with locking gate.**
- **Cotton must be on leash in your yard, until the fence and locking gate have been installed.**
- **Cotton must be restrained at all times on a leash of 6 feet whenever out of your yard.**

**Selectman Whitney seconded the motion. The motion passed on a vote of 4 Yes, 0 No, 1 Absent (Selectman Fountain).**

• **7:15 p.m. East Quabbin Land Trust – Parking Area on Church Street**

Cynthia Henshaw spoke of the upgrade to the railroad bed into the rail trail. The plan is to formalize as parking area, with crossing safety features such as raised dividers, rumble strips, blinking lights. Selectman Carroll questioned safety issues regarding plowing, stating he was not in favor of rumble strips. Selectman Opalinski asked what other communities are doing, citing that a life is more valuable than a plow. Selectman Whitney asked Mr. Kilhart’s opinion. Mr. Kilhart noted that 14 inch rumble strips allows pedestrians to cross, with room for plows, and is worth saving one person. Selectman Talbot noted communities such as Amherst and Northampton also have warning lights before the crosswalk. Resident Bill Jackson questioned the concern for the plows. Denis Ouimette, from Open Space Committee, noted this has been developing for 20 years and is a fantastic move forward. Selectman Carroll stated his opposition to the plan for raised structures.

**Selectman Whitney made the motion to accept the parking request as presented, and to work with EQLT; Selectman Opalinski seconded the motion. The motion passed on a vote of 3 Yes, 1 No (Selectman Carroll), 1 Absent (Selectman Fountain).**

- **Request to Speak: Patrick McAvoy**

Mr. McAvoy presented the request, on behalf of his wife, Bobbi McAvoy, to be placed on the Town insurance. Mr. McAvoy stated that Mrs. McAvoy is a retired, disabled, employee of the Town.

Mr. Beckley noted that Mrs. McAvoy was a call firefighter, and was not eligible for town insurance per MGL 32B. Mr. McAvoy contended that Mrs. McAvoy retired under the disability. Previously, Mr. McAvoy held the insurance for himself and Mrs. McAvoy. Mr. McAvoy explained that Mrs. McAvoy was two years on injured, paid as retired, disability. Mr. McAvoy noted that the Fire Department still has part-time employees not covered or eligible for Town insurance. Mr. McAvoy stated it was disgusting how the call firefighters are not eligible for benefits but put their lives on the line. Selectman Carroll requested the whole file be reviewed and present in-depth facts and information be provided at April 3, 2018 meeting.

**Selectman Carroll made the motion to postpone a decision to April 3, 2018, pending facts and information be presented; Selectman Whitney seconded the motion. The motion passed on a vote of 4 Yes, 0 No, 1 Absent (Selectman Fountain).**

Resident Jen McMartin noted that the Town is a business and should not be responsible if the policy stated the employee was not eligible for Town insurance.

- **Proposal Shared Public Health Nurse Belchertown/Ware; Approval of Intermunicipal Agreement**

Judy Metcalf, Board of Health Director, explained both public health nurses of Ware and Belchertown retired, and the proposal is to share a public health nurse. The pay will be \$26/hour, 20 hours/week, and the person will be employed through Town of Belchertown. Ware will pay employer share after one year. Work will be a 50/50 split, but emergencies do occur, and some activities will be shared such as BMLH opioid meetings. There will be no overtime pay, but comp time can be earned. Belchertown has a personnel by-law regarding strict use of comp time. The document will be finalized and presented to Selectmen soon to be signed.

### **Comments and Concerns of Citizens**

Bill Jackson noted Open Meeting Law and stated that the people are losing their say, hopefully change after election.

Keith Kruckas stated the mailing to residents for the \$50 ambulance fund was a waste to mail out.

John Desmond stated special mailings should go out with tax bills, and questioned the road override, town vehicles and mileage logs. Mr. Beckley noted that Mr. Desmond should submit a Public Records Request.

Mr. Desmond stated that no one checks the mileage; Mr. Beckley noted his higher trust level for department heads. Mr. Desmond stated that almost \$4million leaves the town in employee salaries, and more employees should live in town. Mr. Desmond stated the Town should have residency requirements, and Mr. Beckley should move into town, and live in the Slum and Blight

area. Mr. Desmond stated that a critical review should be done of all departments.

Cathy Cascio stated she is frustrated with the GPS issue, and questioned why these are not installed and turned on.

Jack Cascio questioned if the GPS issue was a union issue; Mr. Beckley noted that most will be installed and turned on by April 21, 2018.

Jen McMartin noted that union personnel drive the vehicles.

Selectman Opalinski noted the budget gap and suggested a subcommittee be formed to study this. Mr. Beckley stated this is a discussion every year at budget meetings, and at this time the gap is approximately \$300-\$400,000. Selectman Whitney noted that Finance Committee addresses this gap. Selectman Opalinski noted that a group to strategize would provide fresh outside eyes to the issue. Selectman Whitney suggested this issue be an agenda item. Chairman Talbot noted the Budget Gap would be placed on the April 3, 2018 agenda.

- **Roads – Ballot Question Forum**

Mr. Beckley provided handouts to explain the \$1million ballot question that provides for stabilization funds for road repairs. Chapter 90 is approximately \$440,000 annually.

Dick Kilhart, DPW Director noted that the Town gave him a list of roads in need of repair. The first proposal is a \$5million bond. The second proposal lists same streets in priority, class and ranking. First proposal lists Babcock Tavern Road as the worst road in need of subsurface, drainage and water and sewer infrastructure. The Town might spend all funds on one road or work to improve entire roadway network. The Town needs to begin the process. Chapter 90 funds can be used for sidewalks, compressor, design.

Mr. Kruckas stated that taxpayers cannot take on any more tax increases.

George Staiti questioned if the increase is continuous. Mr. Beckley noted that Stabilization Funds can only be changed by ballot; the Board of Selectmen can raise by 2 ½ percent or lower.

Cathy Cascio noted that, if we say yes, then we are relinquishing to the Board of Selectmen in perpetuity, it will never go down.

Mr. Beckley noted that he hoped the Board would listen to the DPW recommendations. The Capital Planning Commission has noted an alternative is to borrow on a bond, but that adds interest. The ballot question cannot be changed.

Mr. Jackson noted that 26% of the town are senior citizens and taxes are too high already.

- **Marijuana Ballot Question Language**

Mr. Beckley thanks Mrs. Talbot, town counsel and the Attorney General for helping formulate the language of the ballot question. It is an uncommon bylaw by ballot. If the ballot question passes, the next step is to pass at town meeting. This does not undo state law question 4 that allows people to grow and use legalized, but this would prohibit retail recreational stores in Ware.

Selectman Whitney questioned that the town can charge a town tax; Mr. Beckley noted 6% revenue generating. If the ballot fails, there can be no town meeting action.

## **Old Business**

- **Audit Methods**

Mr. Beckley presented five suggested methods for an audit. Board members agreed on use of Method #5:

*Review by a municipal management independent reviewer. There are several firms or individuals who do this work and would focus on the operations as well as fiscal budget of a department. This is what would come closest to a department "critical review." Cost \$5,000-\$10,000 depending on the department.*

**Selectman Whitney made the motion to use Method #5, on a 4-year rotation, starting with the Fire Department, with this first audit to be completed by the end of the calendar year 2018; Selectman Opalinski seconded the motion. The motion passed on a vote of 4 Yes, 0 No, 1 Absent (Selectman Fountain).**

Selectman Carroll noted that the Fire Department Petty Cash account should be suspended until completion of the audit.

**Selectman Whitney made the motion to Suspend Fire Department Petty Cash Account, until completion of the audit; Selectman Carroll seconded the motion. The motion passed on a vote of 4 Yes, 0 No, 1 Absent (Selectman Fountain).**

## **New Business**

- **Consideration of Opioid Lawsuit**

Mr. Beckley explained that the lawsuit is the Commonwealth and States suing the distributors of opioids. There is no cost to join. Selectman Opalinski noted Ware's reputation. Selectman Talbot agreed that the Town should join this. Mr. Beckley noted that distributors are controlled by Federal law with over \$1billion profits annually. Mr. Beckley will meet with Kopelman and Paige and will obtain town counsel opinion.

- **Approval of Warrant for Annual Town Election Monday, April 9, 2018**

**Selectman Whitney made the motion to approve the warrant for Annual Town Election on Monday, April 9, 2018; Selectman Opalinski seconded the motion. The motion passed on a vote of 4 Yes, 0 No, 1 Absent (Selectman Fountain).**

- **Acceptance of Resignation: Council on Aging, Cindy Wloch**

- **Notice of Vacancy: Council on Aging, Term to Expire June 30, 2020**

**Selectman Opalinski made the motion to dismiss the above items; Selectman Whitney seconded the motion. The motion passed on a vote of 4 Yes, 0 No, 1 Absent (Selectman Fountain).**

- **Reappointment: Board of Registrars, Sheryl A. Adamczyk, Term to Expire March 31, 2021**

**Selectman Whitney made the motion to reappoint Ms. Adamczyk to the Board of Registrars; Selectman Opalinski seconded the motion. The motion passed on a vote of 4 Yes, 0 No, 1 Absent (Selectman Fountain).**

- **Appointment of Election Workers**

**Selectman Opalinski made the motion to appoint the Election Workers; Selectman Whitney seconded the motion. The motion passed on a vote of 4 Yes, 0 No, 1 Absent (Selectman Fountain).**

- **Approval of One-Day Liquor Licenses: Workshop 13 – Friday, March 30, 2018, and Friday, April 13, 2018**

**Selectman Whitney made the motion to approve the One-Day Liquor Licenses; Selectman Carroll seconded the motion. The motion passed on a vote of 3 Yes, 0 No, 1 Abstention (Selectman Opalinski), 1 Absent (Selectman Fountain).**

- **Approval of Special Event Permit: 2018 Gospel and Jazz Fest, Saturday, April 21, 2018**

**Selectman Whitney made the motion to approve the Special Event Permit; Selectman Opalinski seconded the motion. The motion passed on a vote of 4 Yes, 0 No, 1 Absent (Selectman Fountain).**

- **Approval of Special Event Permit: Eggstravaganza, Saturday, March 24, 2018**

Brandy Brusco was present to invite all citizens to the Eggstravaganza. All proceeds will benefit the Ware Dog Park. The community has generously made donations for this event, and the organizers hope to fill a truck with needed items for two animal shelters. The 501(c) 3 status approval is still pending.

**Selectman Opalinski made the motion to approve the Special Event Permit; Selectman Whitney seconded the motion. The motion passed on a vote of 4 Yes, 0 No, 1 Absent (Selectman Fountain).**

### **Town Manager Report**

Upcoming Dates:

April 9 – Town Election

April 21 – Clean Up Ware

May 14 – Town Meeting

***Budget.*** The Budget was distributed to Board boxes along with a budget cover message. The Finance Committee's last scheduled review meeting is March 27.

The Capital Planning committee is meeting with departments and will make recommendations during the first week of April. The available funds are approximately \$300,000.

The Historical Commission is working to submit a grant for an architectural envelope study of the Town Hall. This would be a 50% grant and likely cost \$15,000 to \$20,000.

***Reminder: April 10 – Town Meeting Warrant closes for submittal of articles.***

Mr. Beckley noted that the Sergeant's test will be on March 27, 2018. There are three applications.

Interviews will be held soon for Cemetery position and Deputy DPW.

**Documents presented at meeting:** Information regarding Dog Hearing, MGL Chapter 140, Section 157, EQLT revised map, information regarding McAvoy request for health insurance, revised Inter-municipal Agreement Public Nurse for Belchertown/Ware, Road Stabilization Report, GPS units report, Budget report, Opioid Litigation Report, Town Warrant, Ballot question RE: marijuana, Audit Methods Report, Council on Aging information, Reappointment of Board of Registrars member, Letter RE: Election Workers, One-Day Liquor License applications, Special Event Permit applications, Town Manager Report.

**Selectman Opalinski made the motion to Adjourn Regular Session at 10:00 p.m.;**  
**Selectman Whitney seconded the motion. The motion passed on a vote of 4 Yes, 0 No, 1 Absent (Selectman Fountain).**

Attest: *Mary L. Midura*  
Mary L. Midura, Executive Assistant