

Groveland Board of Selectmen  
Meeting Minutes  
September 18, 2017

Present: Chair Michael Wood, Selectman Ed Watson, Selectman Bill Dunn, Selectwoman Lisa Dube-Carpenter, Selectman Bill O'Neil

Absent: None

Others Present: Denise Dembkoski (Finance Director)

Recorder: Melanie Rich

The meeting was called to order at 6:30 p.m.

**RESIDENT/PUBLIC COMMENTS:**

Mike Dempsey (Veasey Park using Goats to Go Service) – Farm animals arrived at Veasey Park on August 21<sup>st</sup> and will remain for approximately 4-5 weeks. The sheep eat the grass, plants and weeds on the hill. They were brought in by “Goats to Go” of Georgetown (GoatsToGo.farm). They are donating the use of the farm animals to clear the field; we normally pay someone to cut the field once a year; they are happy with the job that is being done and the fact they are saving money.

**APPROVAL OF WARRANTS:**

Selectman O'Neil made a motion to approve PW#18-11 in the amount of \$161,014.03; Selectman Watson seconded; voted 5-0-0; warrant approved.

Selectman O'Neil made a motion to approve BW#18-11 in the amount of \$637,409.32; Selectman Dunn seconded; voted 5-0-0; warrant approved.

**RECOGNITION:**

July 2017 Volunteer of the Month (James Freer) – Selectman O'Neil read the citation and said Mr. Freer is one of the most truly deserving people in the town to receive the reward; the board agreed.

**APPOINTMENTS:**

Selectman O'Neil made a motion to appoint Lauren King to the Groveland Recreation Committee through June 30, 2018; Selectman Dunn seconded; voted 5-0-0.

Selectman Watson made a motion to appoint Michael Meagher to the Open Space and Trails Committee through June 30, 2018; Selectman O'Neil seconded; voted 5-0-0.

**DISCUSSION AND POSSIBLE VOTE:**

Acknowledge Receipt of and Review Open Meeting Law Complaint of Lisa Dube-Carpenter, received September 5, 2017 and Vote to Resolve – Selectwoman Carpenter recused herself from the discussion. Chair Wood has read the complaint that Ms. Carpenter filed and understands her concern. In the email sent from the Finance Director, who is not a board member, said she cannot violate the Open Meeting Law. She specifically wrote “please reply only to me” to try and assure compliance with the law. No member “replied all” or to anyone else but the Finance Director. Therefore, the Chair does not believe any deliberations or violations took place. However, while he did not believe there were any deliberations or intentions to violate the Open Meeting Law, he can understand where it may be perceived to be polling the board members and therefore not allowed. Therefore, as part of the resolution to this complaint, he asked the board members to publicly discuss the matter that was before the board via the August 8<sup>th</sup> email and to have a public dialogue

and take a formal public vote for the record. In addition, and although the process has been handled this way for years, again with no intention of violating the Open Meeting Law, going forward board members should refrain from asking the Finance Director or any employee from asking the entire board a question via email. He asked for a motion to resolve this Open Meeting Law Complaint by publicly discussing and voting the matter that was emailed to the board members on August 8, 2017, and, in addition, vote to allow the Chair to formally respond to the Open Meeting Law Complaint identifying the steps taken to rectify the matter and the solution to avoid it going forward.

As part of the agenda to resolve to the Open Meeting Law Complaint, Chair Wood made public the topic of August 8<sup>th</sup> email and asked the board members to reiterate any thoughts they made about the situation via email and to state their position publicly. Selectman Dunn made a motion to resolve the Open Meeting Complaint put forward by Lisa Dube-Carpenter; Selectman O'Neil seconded; voted 4-0-1 (Carpenter abstained). Selectwoman Carpenter asked if she was permitted to take part in the second discussion. Ms. Dembkoski did not see an issue with her participating in the discussion on the original matter and not the resolution of the complaint, but it would be up to the Chair.

The timeline was as follows: On August 7<sup>th</sup> Ms. Dembkoski was informed that Jeff & Maria's Ice Cream on Salem Street was hosting an annual all-nighter at their establishment to have a late-night bash until 2AM. The event was taking place on August 16<sup>th</sup>. It was a Monday and it was late in the day and she hadn't done any research or talked with anyone. On Tuesday morning, she pulled their ZBA Decision, Common Victualler License, Entertainment License and the Mass General Law they would have been required to file. She wrote a letter to the owners of Jeff & Maria's letting them know they were in violation of several of their Town of Groveland permits and licenses and that in order to do any type of late night party, or anything after 10PM, they would need permission from several boards and committees. She said any future violation would be addressed. She emailed the owners and sent a copy to the board informing them what was taking place. Jeff called informing her that they have a substantial financial interest involved, they have made several down payments, they had D.J.s, food on order, etc., and it would be a huge loss to their business if they had to cancel a week out, but if he had to cancel he needed to know immediately. Ms. Dembkoski spoke to the Chairman who said he would be okay allowing them to proceed provided any further attempts at having an event past 10PM they would be required to take the steps to get the required permits and licensing. He asked her to let the board know and see what their thoughts were. She sent an email to the board saying if you had any objections to this way of proceeding please reply only to me. Selectwoman Carpenter responded first with a thank you. Selectman Dunn responded and said he didn't have any problem provided they go to the ZBA and get their license in the future. Selectwoman Carpenter responded again and said she was not comfortable with that conversation taking place. Selectman O'Neil responded that he did not have any objections to the matter. The event took place as scheduled as originally planned.

Chair Wood said from his perspective the idea was not to adversely affect the business in town given that he has done this event for several years and was unaware of the steps he needed to take to get permitting for this type of event. Given his financial obligations that he put towards this event and the people were anticipating coming to this event, we needed to act quickly. The Chair did not think we were violating the Open Meeting Law because again, as he stated, this process had been handled this way for years. His idea was to acknowledge that this is something he is looking to have done, rectify it going forward, make sure the board was aware of it, and move on. It wasn't malicious, there was no intent to violate the Open Meeting Law, it was just trying to help out a business and not have them adversely affected financially from it.

Selectman O'Neil said basically he had the same point after reviewing the email; the business was holding the event for the 4<sup>th</sup> time, there were never any complaints, and the business owner said he spoke with a Selectman to get approval. Obviously, someone gave him the ok to go, when in fact that Selectperson had no authority to do that whatsoever and put the rest of us in a bind as well as putting the particular business owner in a bind because he made an enormous financial investment. Selectman O'Neil did not see a

problem with it; he wasn't aware that it was going to be such a violation. The bigger question he had was if this was a problem with the Selectmen in the email, why wasn't it brought up then. Why did it become an issue on September 5<sup>th</sup>? He was confused by the timing and the individuals named, specifically the individual not named.

Selectman Dunn said he did get an email from the Finance Director stating what the thoughts were. He said yes; he understood it that this person had done this party in the past and he didn't think it was a big deal. He did not deliberate with any of the board members; never talked, never texted, never emailed anyone other than to tell the Finance Director that he didn't have a problem with it. He felt the business owner was a paying business person in town, why harm him. Selectman Dunn said it really bothers him why we spend so much time every week going between board members and what we are doing wrong. We have an Open Meeting Law Complaint, he doesn't understand what is going on. He said rather than going to an Open Meeting Law Complaint, he would rather have the party who filed the complaint come to us and ask for an agenda item to discuss it, why go to this extent. He doesn't believe he did anything to break the law or to hurt anyone. His main goal was to protect that business and help him. He was voted by the townspeople, he works for the townspeople as well as the business people. He doesn't feel bad about what he did.

Selectwoman Carpenter said she did try to bring it before the board at the August 21st meeting and was told it was not an Open Meeting Violation and that she should file a complaint if she didn't agree with that. Selectman O'Neil why did she wait 2 weeks. She stated because the law provides 30 days within which to file the complaint; she followed the procedure; there was no meeting after that so she filed it at a time where it could be addressed at the next meeting and within the 30-day requirement. Selectman O'Neil asked again, if it was such an issue on August 8<sup>th</sup>, why did you not compel the board to convene and address the matter on August 9<sup>th</sup>, 10<sup>th</sup>, etc. She felt she did try to do that and thought she and him disagree on the resolution. There was not any opportunity for people to say that this is not something that should happen; it was a defensive stance that this was a business owner and that because of that it was ok to violate the Open Meeting Law in that circumstance. Selectman O'Neil felt there was ample time to bring it up. It was brought it up after-the-fact on August 21<sup>st</sup>; the event was August 16<sup>th</sup>. He asked her was there no time between the 8<sup>th</sup> and the 16<sup>th</sup> to view her displeasure. She said she voiced it to Ms. Dembkoski in her email, but you can't communicate with the rest of the members because that would be a violation. Ms. Dembkoski said she could communicate with the Chairman, that is not a violation. Chair Wood said if this did transpire and Selectwoman Carpenter felt it was possibly an Open Meeting Violation, she could have called him directly with her concerns instead of filing an Open Meeting Complaint; a simple conversation would have stopped this.

Selectman Watson said when he received the email and read that the Chair had already given his consent and wanted to reach out to everyone else to see if anyone had any objections to it to please let the Finance Director know as soon as possible, he read that as asking if anyone had any problem with the granting of the permit; he didn't read it as any objections to the process. He did have problem with the process; it was brought to our attention on the 7<sup>th</sup> or 8<sup>th</sup>; we could have scheduled a special meeting and a vote taken in public rather than handling it this way. We didn't need five members of the board to have a special meeting. Selectman Watson said no one was asked if they were available for a meeting between the 8<sup>th</sup> and 16<sup>th</sup>. The Chair asked Selectman Watson if he made that suggestion; he did not.

Ms. Dembkoski commented that the establishment owner needed an answer by that Wednesday or he was going to be out financially which is why she took it as an urgent matter; he needed an answer. Chair Wood said having an emergency meeting did not meet one of the three criteria and it would not have been classified as an emergency meeting.

Selectman Dunn asked who can legally talk to who. Ms. Dembkoski said she can email all of the board; there is no violation of her communicating with the board. They cannot respond to other board members.

They can respond to her, but she cannot pose questions to the board. Selectwoman Carpenter asked Ms. Dembkoski where she was citing that language about what constitutes an emergency meeting (public health or weather) because she does not think that is accurate. Ms. Dembkoski said has been told several times in the past it is Attorney General's position that emergency meetings are only permitted when there is a matter of public safety or weather emergency. Selectwoman Carpenter said she spoke with Secretary of State on the matter, and said she knows from being on previous boards that that is not the protocol that she followed.

Selectman Dunn doesn't know how we go forward to do the business for the townspeople; he doesn't know how much money has been spent on town counsel. He said as a board we need to get a good grip on this and figure something out. Selectwoman Carpenter requested to find out what the protocol is because she doesn't believe the BOS should be getting Town Counsel's advice on Open Meeting Laws. She stated that we have a responsibility to be aware of the Open Meeting Laws are and, to her knowledge, are not supposed to access Town Counsel for that purpose. She would be interested to hear what the protocol is for when Town Counsel is accessed, and is there something in writing about that because she is aware that in the past when Open Meeting Law violations have occurred, individuals were not permitted to consult Town Counsel. Ms. Dembkoski told her there is no protocol for when Town Counsel can be spoken to, it is at the direction of the Chair. She said in every community she has worked in, Town Counsel represents the BOS and the town. If an Open Meeting Law Complaint is filed against this board, or any Board of Selectmen, they have always utilized Town Counsel to assist on that matter. This town does not have a process of when Town Counsel can be utilized; again, it is at the direction of the Chair. That is the policy and has been the long-time policy in this community; it is a cost savings measure. The policy can be found on the town's website. Selectwoman Carpenter wants a discussion about the policy as an agenda item. She said the role of the Chair doesn't include asking the Chair for permission to speak to Town Counsel.

Selectman Dunn said one reason that no board member can talk directly to Town Counsel was to control spending. It's also so repetitive answers are not being given; it all goes through one source. Selectwoman Carpenter wanted to see how that came about; historically it wasn't that way. Selectman Watson said when he was first elected they received a letter from Town Counsel congratulating them on their election and was told to call him anytime with questions. He never mentioned anything about going through the Chairman or Finance Director. Selectwoman Carpenter said the policy on the website became effective August 11, 2014. Ms. Dembkoski said it was in place before that, but they added her as the Finance Director and removed the Administrative Assistant.

Selectman O'Neil made a motion that we allow Jeff & Marias event that is planned for August 16<sup>th</sup> to take place in order to prevent any undue financial harm to come to his business with the understanding that he was given approval by someone on this board and with further understanding that unilateral approval is not allowed and any events of this nature are to come before this board and the ZBA for approval and ratification; Selectman Dunn seconded. Discussion: Selectman Watson said there was too much verbiage in the motion that doesn't relate exactly to the motion. It should be as simple as a motion made to approve of the event on the 16<sup>th</sup>. Selectman O'Neil agreed, but unfortunately it was complicated by someone who gave him approval. That's where the complication comes in; that's the root cause. We wouldn't be wasting our time if someone hadn't given him permission; he does not believe the business owner would have moved forward with this type of event without getting the ok from someone, so he thinks the language needs to be in there so it doesn't happen again. Selectwoman Carpenter commented that there is an allegation that they were given permission by a Selectmen but doesn't think it was confirmed and Selectman Watson denied that that was the case, so we are operating on a premise we don't know is accurate. Selectman O'Neil asked if the owner could come in and talk to us. Selectman Dunn thinks enough has been said, people watching know where we are at, he will go with his motion and say he has to come before this board and the Zoning Board and no other party can have input. A friendly amendment was made by Selectman Dunn. The motion is to allow Jeff & Maria's planned event on August 16<sup>th</sup> to take place to not cause them financial harm and in the future, they will must seek proper approval from the whole Board of Selectmen and ZBA. Voted 4-0-1 (Carpenter abstained).

Medical Cannabis Cultivation (no dispensary) Discussion – Selectman O’Neil felt the discussion was needed to eliminate miscommunication, hearsay, etc. and get to the facts. The fact of the matter is that it is about money. He talked about an article that says the opioid addiction was started by the pharmaceutical companies themselves. He said we have been sold a bill of goods that is no good; the public has been misled. The companies have been lying for years about their potency. They were designed for end of life use. Opioids overdoses occur minute. According to the World Health Organization and the CDC, there hasn’t been one clinically documented case of a marijuana overdose. He also asked the DWI (Driving While Impaired) statistics from Chief Gillen. The results were 8 arrests in the past 18 months; zero for marijuana. Georgetown has had a facility for two years and there has been no increase in crime. We are talking about a cultivation center only; the supply side. He thinks the time is right and we should be in the forefront of it and have discussions that includes facts, not fiction.

Selectman Watson did some research and said the FDA has not approved medical marijuana as a safe and effective drug. Their role in the regulation of drugs, including marijuana, also includes applications to market drugs, to determine whether the proposed drug products are safe and effective for their intended indications. The lack of FDA approval means the purity and potency may vary considerably. There are consequences for college students as TSA workers. He does not believe we create anything that could potentially cause people to become addicted and could not approve that kind of action. Selectman O’Neil said the FDA is a joke.

Selectman Dunn wanted to discuss the medical cannabis cultivation (no dispensary) and wanted to make a motion that the town does not allow a dispensary in Groveland; he doesn’t think it is the right thing for Groveland. He as well as Selectman O’Neil and others, have been personally touched by people passing away from opioid overdoses. Selectman Dunn made a motion that there will be no dispensaries in the Town of Groveland; Selectwoman Carpenter seconded. Selectman Watson asked for an amendment to include “no retail sales, no testing, and no social clubs in the Town of Groveland”. Ms. Dembkoski said the board can vote as they like, but they still have to follow the process she gave the board; it requires a town meeting and a vote of the town because recreational marijuana is going to happen. There are steps the town needs to take in order to avoid that. Selectman Dunn withdrew his previous motion and made a motion to put on the spring town ballot something that says we do not allow dispensaries in the town. Selectman Watson asked to amend the motion to read “ban all recreational and medical marijuana cultivation, manufacturer, testing, retail sales and social clubs in the Town of Groveland”; Selectwoman Carpenter seconded. Discussion: Selectman O’Neil can’t support such a wide range of prohibition. The Chair suggested having companies come in to have a factual conversation about what it means, what are the benefits, and what the risks are. Selectman Dunn wants to make the best deal that benefits the town just as he would for any type of business. Chair Wood said the state is going to mandate what you can and cannot do as far as benefitting. Nothing is going to come in without the board’s approval or disapproval so voting on anything tonight is irrelevant. Selectwoman Carpenter does not think the information from Chief Gillen is accurate because there is no mechanism to test for impairment for marijuana. Ms. Dembkoski said there is testing for marijuana impairment but the town is not trained for it. About the FDA, she agrees they are very unsafe when abused, but if taken according to the prescriptions, they are safe. She is not in support of the community being one of the sites for a dispensary or grow facility. The vote is for Selectman Watson’s amendment which is to ban marijuana, cultivation, testing, medical cannabis, social clubs, manufacturing, recreation, dispensaries and retail sales in the Town of Groveland. Voted 3-2-0. Selectman Dunn’s motion is to put it on the spring ballot to not have anything. Voted: 3-1-1. Ms. Dembkoski does not know if they can legally ban everything. She believes towns may put a moratorium for a period of time. Selectwoman Carpenter does not think it is illegal to permanently ban.

Elm Park/Square Committee – Selectwoman Carpenter said there are eight candidates for seven positions. She would like all eight to meet and discuss who would be the voting members and bring that back to the board; all should be able to participate. The candidates were compiled by a message on the website to send

in letters of interest. Selectwoman Carpenter thought they should go to her because she was in charge even though the process for appointment for any board or committee is to go through Ms. Dembkoski who then brings them to the board and not filtered through one board member. Selectwoman Carpenter asked if that was a rule in place; she wanted to see it in writing. Selectman Dunn suggested all eight appear before the board for discussion; the Chair suggested they submit a letter of interest and qualifications to review before the meeting. Ms. Dembkoski asked how they will figure out which seven to appoint. Chair Wood said it is the charge of the board to appoint or not appoint a person for whatever reason and, as Selectman Watson stated last year, we don't need a reason to approve or deny an appointment. Mike Dempsey suggested all eight because there will be plenty of work to do. Selectman Dunn made a motion to accept all the applications, review them, and make seven appointments; Chair Wood seconded. Discussion: Selectman O'Neil believes an odd number works best for any committee. Selectman Watson said to make it simple and appoint all eight people. Voted 3-2-0.

### **VOTES OF THE BOARD:**

Selectman Watson made a motion to approve the August 21, 2017 Meeting Minutes; Selectman Dunn seconded; voted 4-0-1. With Selectwoman Carpenter abstaining.

### **OLD BUSINESS (Unfinished Business):**

Selectman Dunn said the hot topping being done looks good. He thanked the Highway Department for getting the crews out and making the streets safe. Governors Road is finally hot topped. The Route 97 project is moving along; it looks as though it's near completion.

Selectwoman Carpenter would like a copy of the questions that were forwarded to the Library Trustees to answer. Chair Wood read them aloud to her.

Selectman O'Neil asked about the Pines bathrooms; no progress; paving has been taking place. He also asked if there was any response to the Chair regarding the questions he forwarded to the Library Trustees. Chair Wood sent the email on August 21<sup>st</sup> and to date, no reply. Ms. Dembkoski did receive an email from the Chairman. They have a woman who has been serving on the Search Committee who would like to submit her name for the vacant position on the board.

### **CORRESPONDENCE:**

1. September 5, 2017 Meeting Minutes.
2. September 5, 2017 Executive Session Meeting Minutes.

Selectman Watson said they received an email about a resignation from someone on the Library Trustees. He didn't see it in the correspondence or discussion and possible votes to accept the resignation. Ms. Dembkoski said she is an elected official and was not appointed by the Selectmen, therefore, there is nothing for the Board to accept; the notice was forwarded to her by the Town Clerk after the agenda was posted. There was no resignation necessary according to State Elections Office; in accordance with the law, the position became vacant the day she moved out of town.

### **FINANCE DIRECTOR'S TIME:**

Ms. Dembkoski said that Melanie Rich, the woman who does our minutes, has stated her intent to no longer do the minutes. She has multiple part-time jobs and is finding it difficult to fit this in her schedule. She will stay on until we find a replacement. She wished her well. An email was sent to Listserv; she will review the minutes submitted and hopes to have a candidate soon. Melanie has done a great job for the last several years and we will miss her doing our minutes. Selectman Watson said she was very timely in getting the

minutes back to the board. She's done a great job and should be commended for it. Ms. Dembkoski will certainly write a letter of recommendation if she ever needs it.

Monday, September 25<sup>th</sup> the "Touch a Truck" event will take place at the Pines.

We are in the planning stages for our 3<sup>rd</sup> annual Pumpkin Fest. We are looking at possibly October 26<sup>th</sup>; the date will be finalized after the committee meets.

The School Committee who was slated to be on the agenda tonight asked to reschedule their presentation. They will let us know when they are available to come back to discuss the high school project.

We received five responses from the Council on Aging design study RFQ. The Council on Aging Building Committee is meeting to review them to select one to provide the design study.

Ms. Dembkoski acknowledged the passing of Peter Bevelacqua (Norwood Insurance), a long-time resident.

#### **SELECTMEN'S TIME:**

Selectman O'Neil said the High School Building Committee met; there are no numbers or plans finalized; it is still in the discussion stages and is moving ahead. Ms. Dembkoski added that it would probably be a year before numbers would be finalized.

Selectwoman Carpenter said a thank you to the members of the Groveland utilities who have gone to Florida to help with Hurricane Irma. She would like agenda items to discuss (1) the 8/29 meeting that was held with the Lieutenant Governor, and (2) the Personnel Bylaws.

Selectman Dunn asked for an update on the Town Planner position. Ms. Dembkoski has received a few resumes; she will start reviewing them after the September 25<sup>th</sup> posting ends.

Selectman Watson would like to see a future agenda item to bring back public comment without having to notify the Finance Director prior to a meeting. He said a thank you and congratulations to Bob Polizzoti and Frank Bryan; the cemetery looks very good.

Chair Wood cautioned the members of the board that the contents of an executive sessions are to conduct public business for the good of the public. The discussions that take place in executive sessions are privileged based on one of the ten exceptions to the Open Meeting Laws. Therefore, he would admonish any board member disseminating or discussing executive session matters outside that environment.

The next regular meeting will be held **Monday, October 2, 2017** at 6:30 p.m.

Selectman Watson made a motion to adjourn; Selectman Dunn seconded; voted 5-0-0. The meeting was adjourned at 8:39 p.m.

\*\*\* Unanimously Approved on October 16, 2017 \*\*\*