



# MINUTES

## BOARD OF SELECTMEN

### IN BOARD OF SELECTMEN TUESDAY, FEBRUARY 7, 2017 6<sup>th</sup> FLOOR HEARING ROOM

Present: Selectman Neil Wishinsky, Selectman Nancy Daly  
Selectman Benjamin J. Franco, Selectman Nancy S.  
Heller, Selectman Bernard W. Greene

#### OPEN SESSION

Question of whether the Board of Selectmen shall enter into Executive Session for the purpose of discussing strategy with respect to litigation in the matter of Churchill Paes v. the Town of Brookline, et al.

In Open Session- the Chair must state the purpose for Executive Session, stating all subjects that may be revealed without compromising the purpose for which the Executive Session was called.

The Chair then stated the reason(s) for the Executive Session:

*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. G.L. c. 30A, §§ 21(a)(3)*

The Board of Selectmen, during a properly constituted and noticed meeting:

VOTED: to go into Executive Session

Roll Call Vote: Voting in the Affirmative:

Wishinsky, Daly, Franco, Heller, Greene

The Board will reconvene in Open Session.

#### PROPOSED EXECUTIVE SESSION

##### LITIGATION

For the purpose of discussing strategy with respect to litigation in the matter of Dawn Churchill Paes v. the Town of Brookline, et al, MCAD Docket No. 13BEM00204, and related matters.

## ANNOUNCEMENTS/UPDATES

### [Selectmen to announce recent and/or upcoming Events of Community Interest.](#)

The PAYT program is starting its public announcements starting with cart size selection.

The Pan Asian Lunar New Year's celebration was another great and successful event. Selectman Daly acknowledged the efforts of Chris Chanyasulkit of the Diversity, Inclusion and Community Relations Department; she really brought the event to life

The Senior Tax Committee has convened.

Selectman Greene announced that he attended Frank Farlow's memorial service and quoted a passage Frank's son gave, it was both moving and fitting in remembering Mr. Farlow, an active Brookline citizen.

Town Administrator Kleckner is in Washington D.C. attending a conference relating to local government.

## PUBLIC COMMENT

### [Public Comment period for citizens who requested to speak to the Board regarding Town issues not on the Calendar.](#)

*Up to fifteen minutes for public comment on matters not appearing on this Calendar shall be scheduled each meeting. Persons wishing to speak may sign up in advance beginning on the Friday preceding the meeting or may sign up in person at the meeting. Speakers will be taken up in the order they sign up. Advance registration is available by calling the Selectmen's office at 617-730-2211 or by e-mail at [sorsini@brooklinema.gov](mailto:sorsini@brooklinema.gov). The full Policy on Public Comment is available at <http://www.brooklinema.gov/376/Meeting-Policies>*

Ray Schwartz, Babcock St. Spoke about the Transportation Board's reaction to the Babcock Street bicycle lane project. He noted lack of minutes and open meeting law offenses. He also spoke about improper signage on Babcock Street that has not been rectified.

Chairman Wishinsky said that he observed a recent Transportation Board meeting and noted that public comment was solicited and encouraged.

## MISCELLANEOUS

Approval of miscellaneous items, licenses, vouchers, and contracts.

### [Question of approving the minutes of January 31, 2017.](#)

The minutes of January 31, 2017 were approved as amended.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

## CALENDAR

Review and potential vote on Calendar Items

## INTERIM HEALTH DEPARTMENT DIRECTOR

Question of appointing Pat Maloney (Director of Environmental Health) as Acting Director of the Health Department effective Tuesday, February 7, 2017.

Deputy Town Administrator Melissa Goff stated that the Town Administrator's memo indicates that the screening panel has identified candidates that are being evaluated. They are close to a recommendation.

Selectman Greene asked about the screening panel and if there are any Asian members to reflect a large part of our community. He also addressed capturing a diverse applicant pool.

Director of Human Resources Sandra DeBow replied that there is not an Asian panel member, but the panel is very diverse and includes members of the community. She added that they received resumes from a very broad candidate pool.

On motion it was,

Voted to appoint Pat Maloney (Director of Environmental Health) as Acting Director of the Health Department effective Tuesday, February 7, 2017.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

## RECREATION DEPARTMENT – PERSONNEL

Question of authorizing the filling of the Assistant Recreation Director (T-10) vacancy in the Recreation Department.

Deputy Town Administrator Melissa Goff stated that Melissa Battite has left her position to become the Recreation Director in the Town of Lexington, and that Recreation Director Lisa Paradis is anxious to start the hiring process.

Selectman Daly noted that Ms. Battite has worked here for many years, and this is a great opportunity for her.

On motion it was,

Voted to authorize the filling of the Assistant Recreation Director (T-10) vacancy in the Recreation Department.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

### BOARDS AND COMMISSIONS – INTERVIEWS - CANCELLED

The following candidates for appointment/reappointment to Boards and Commissions will appear for interview:

Transportation Board  
Pam Zelnick

This agenda item was cancelled.

### REMOVAL OF PUBLIC SHADE TREE

Question of granting a permit to Jewish Community Housing for the Elderly (JCHE) for the removal of a public shade tree located at 12 Williams Street.

Selectman Daly stated that she understands this request stems from neighbors wanting to remove the tree in order to replace the current driveway.

Attorney Jennifer Gilbert representing JCHE stated that the abutters of the condo building requested a public hearing before the Town's Tree Warden. She explained the process under Chapter 87 where if there is one written objection to the removal of a public tree, a hearing is required. There were two objections, and one was withdrawn.

Brookline Tree Warden, Tom Brady reviewed the conditions under Chapter 87 where the Board of Selectmen is required to make a decision on the public shade tree removal if there was an objection submitted.

In response to Selectman Heller's questions, Mr. Brady reviewed the condition of the tree in question which he feels has a life span of 5-7 years, depending on weather conditions etc. The prognosis for this tree is poor. He agreed with Selectman Heller that if we wait until it is a hazard to remove it, the Town will bear the cost of removal and replanting and he agrees that we should allow JCHE to remove it and replace it with 6 additional trees in that area and the expense will be borne by JCHE. He also added that the new sidewalks going in will be better for the trees in this location due to the materials being used.

Joe Geller, Landscape Architect for JCHE described the design plans for the plantings around the building. He noted that the tree will be removed in efforts to move the driveway so there will no longer be a shared access with the abutters; this will actually provide a larger circulation area for vehicles, and improve some parking issues.

Chairman Wishinsky asked if there were any comments from the public; there were

none.

The Board acknowledged that the tree is in poor health, and there will be a significant amount of new plantings, the cost of the removal will be on JCHE, plus the improved root conditions related to the new sidewalks.

On motion it was,

Voted to grant a permit to Jewish Community Housing for the Elderly (JCHE) for the removal of a public shade tree located at 12 Williams Street.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

### NETA RMD LICENSE – AMENDMENT TO CONDITIONS

#### Question of approving an additional condition on the New England Treatment Access, Inc. d/b/a NETA, Registered Marijuana Dispensary (RMD) License.

First Assistant Town Counsel Patty Correa stated that this is a request from the Police Department to make an informal process formal. The current practice is when NETA request approval of a Security Manager is vetted through the Police Department. This new condition makes that part of the formal process and is now conditioned in their license. She added that NETA supports this condition.

Selectman Heller asked if there will be any changes to this Board's approval process with directors, managers and assistant managers.

Ms. Correa replied no, that process remains as is.

On motion it was,

Voted to approve an additional condition on the New England Treatment Access, Inc. d/b/a NETA, Registered Marijuana Dispensary (RMD) License.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

### EQUAL EMPLOYMENT OPPORTUNITY POLICY

#### Sandra DeBow (Human Resources Director), Lloyd Gellineau (Chief Diversity Officer), and Kelly Race (Chair, Commission for Diversity, Inclusion and Community Relations) will appear to present and seek the Board of Selectmen's adoption of the Equal Employment Opportunity Policy.

Human Resources Director Sandra DeBow introduced Kelly Race, Chair of the Diversity, Inclusion and Community Relations Committee, and she reviewed the proposed policy. It was

noted that there is no current policy and this has been in the making for some time now.

Selectman Franco asked about the training process, and why the focus is on managers and Department heads, and not all employees. Ms. Race replied that it is the manager's responsibility to implement town policies, and they did not want to make it a mandatory requirement for all staff and have implications if they did not attend.

Selectman Daly noted that this policy relates to the hiring process which managers participate in.

Ms. Race added that there could be some form of informal training that employees could take.

Selectman Franco asked about next steps relating to the data collected about recruiting and implementing efforts to hire a diverse work force. Ms. Race said they have implemented tracking systems and data review strategies.

Selectman Greene addressed the resources to implement these data review and tracking systems. Many times the data is there but not the resources to compile it. He said this is something to think about.

Selectman Heller thanked everyone who worked on this comprehensive policy.

Selectman Greene added that the Diversity, Inclusion and Community Development Committee worked really hard on this policy and thanked them.

On motion it was,

Voted to adopt the Equal Employment Opportunity Policy as presented.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

### [SOCIAL MEDIA POLICY](#)

Sandra DeBow, Human Resources Director, will appear to present and seek the Board of Selectmen's adoption of the Social Media Policy.

Director of Human Resources Sandra DeBow stated that this issue continues to change frequently. The rules in general are simple; be respectful, abide by the open meeting laws, and use caution when representing the Town on social media.

Assistant Human Resources Director Leslea Noble added that an important part in drafting the policy was to look at the various social media sites and how the Town is being represented, what is working well, and what is not, and how to centralize all the accounts. They realized that social media is an important way to communicate with the residents, but is not the only way. They also reviewed whether or not every department

needs its own social media page, and perhaps they could all be combined.

Chairman Wishinsky stated that he likes the structured way of thinking but questioned the process for someone wanting to open a social media account on behalf of the Town.

Ms. Noble replied that the request would be reviewed by the Social Media Action Plan Committee (SMAP) with the appropriate Department Head.

Selectman Daly spoke about the section that addresses errors posted that need to be corrected, and how they are to remain on the media site striking through the error. Her concern is if something that may be interpreted as offensive to another be taken down at once.

Ms. Noble noted that transparency and open meeting laws come into play; if something is inappropriate we have the ability to take it down, and noted that the sites do not allow comments to come through so if it is coming from the outside that is not an issue.

Ms. DeBow added that as a public document it has to be preserved; obviously if it is offensive to anyone it would be rectified.

Chairman Wishinsky also noted that the appearance of several revisions to language on a social site could be confusing and messy in appearance.

Selectman Heller said that the School Department has several media sites and asked if they were helpful in crafting this policy.

Ms. Noble replied there was a lot of collaboration going on and some policies will be Town/ School combined and the School Department will be putting together their own policy.

Selectman Daly noted cell phone use and feels that employees should not be using their cell phones for outside social media use during working hours.

Ms. DeBow replied that is difficult to monitor, there may be instances where a parent needs to check in with schools, and children during the day using social media.

Selectman Greene commented on home use and if an employee is engaged in bad behavior online that spills into the public arena, how would that be handled.

Ms. DeBow replied they will not infringe on freedom of speech or expression related to someone's personal home use; this would require further review should it come up; if the Town is referenced somehow on their social page that would be easier to address. To address the cell phone use, under no circumstance should personal use of cell phones impact your job. That will be incorporated into the policy.

The Board held the vote on this pending further review and possible revisions.

### 8-10 WALDO STREET – 40B ELIGIBILITY

Further discussion and approval of the Board of Selectmen’s response to MassDevelopment’s request for comments relative to the application submitted by Chestnut Hill Realty for a Project Eligibility Letter to apply for a Comprehensive Permit for 8-10 Waldo Street (a/k/a the Waldo-Durgin garages).

Chairman Wishinsky stated that the Planning Department has worked on a draft letter to the state agency relating to the proposed 40b at 8-10 Waldo Street.

He reviewed the letter that captures the comments heard from the public and this Board. The tone of the letter is strong and the most strident of the recent 40b letters and is a reflection of the nature of the proposal. The Town has asked the State to deny this application. The letter reflects the massing, height, shadow effects, traffic impacts and most notably it fails to meet the guidelines that honor 40b affordable housing efforts.

Selectman Daly noted that these are proposed high end luxury apartments and the developer is requesting the use of public funds associated with an affordable housing program; this is a great concern. It was also noted that the rental rates of this development would impact the market rates in the area, causing a real concern for affordable housing in the community.

Selectman Greene addressed the use of the adverb “outrageously”, he feels the letter would be more persuasive if just presenting the facts and not an opinion. Selectman Daly disagreed; she feels this letter need to express their strong objections to this application.

It was decided to replace “outrageously” with “highly”.

The Board offered some revised language, and Planning Director Alison Steinfeld will revise the letter.

On motion it was,

Voted to approve the letter to MassDevelopment as amended and authorize the Chair to sign it on behalf of the Board if all the Selectmen are unable to sign it.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

### SANCTUARY CITY

Discussion of a Statement regarding the Town of Brookline’s Status as a Sanctuary Town.

Chairman Wishinsky stated that there was a discussion last week with two competing versions of the statement. Selectmen Greene and Franco submitted a statement for

consideration. The approved statement will be presented to the Diversity, Inclusion and Community Relations Committee for review and input.

Selectman Greene read the statement.

The Board made some slight edits to the statement.

Selectman Franco stated that he is proud of this statement that not only reflects the Town's position in terms of a Sanctuary Town status, but incorporates some substantial policy measures.

Selectman Heller thanked Selectman Greene and Franco for putting this together for the Town.

On motion it was,

Voted to approve the following statement regarding the Town of Brookline's Status as a Sanctuary Town.

#### STATEMENT OF THE BOARD OF SELECTMEN - February 7, 2017

The Brookline Board of Selectmen is deeply concerned by the Trump Administration's recent statements and executive orders on immigration policy. While this Board, along with the rest of the world, continues to try to understand the implications of the administration's unprecedented actions, we wish to reaffirm certain guiding moral principles that this Board believes Brookline values as they relate to the people who have been targeted by the President's executive orders, which includes our commitment to providing welcome and sanctuary to all Brookline residents and visitors, regardless of immigration status.

Because of these principles, Brookline's Board of Selectmen strives to protect the safety and well-being of all Brookline residents and visitors, regardless of immigration status, by supporting the health, mental health, well-being, safe haven, and sanctuary of refugees and immigrants, whether documented or not. We believe the actions of the Trump Administration in targeting and denigrating immigrants and refugees has created an atmosphere of fear and hatred in the country and, potentially, in Brookline. We also believe that an attack on one group will lead to attacks on other groups, as the increased incidence of anti-Semitic attacks in Massachusetts illustrates, and that attacks on immigrants, refugees, and other groups must be resisted and combated by all legal means.

We further reaffirm our support for the sentiments expressed in Town Meeting's Warrant Article 24 voted at the November, 1985 Town Meeting and Warrant Article 26 voted at the November 2006 Town Meeting concerning safe sanctuary in Brookline for immigrants and refugees from all countries regardless of their immigration status.

In addition, the Town will respect the status of those who are lawful Permanent

Residents and Visa holders.

The recent developments in Washington portend overreaching enforcement of existing immigration laws that threaten to violate the Constitution and the laws of the United States, including international treaties respecting immigrants and refugees that are a part of United States Federal law, and undoubtedly in violation of long established American moral principles. The likely aggressiveness of the new administration's actions is evidenced by its threat to commandeer local police forces to perform immigration status checks and enforce immigration laws that are solely the responsibility of the Federal government. In response to these developments:

- The Board of Selectmen has initiated a review of the Police Department's policies as they relate to responding to varying types of requests for assistance by U.S. Immigration and Customs Enforcement. The Board has elected to solicit the input of the Town's Commission on Diversity, Inclusion and Community Relations by asking the Commission to review the current policies and to recommend any changes it believes are warranted, especially changes related to the police department's interactions with immigrants and refugees.
- Town services and resources will be made available to provide for the health, mental health, education, shelter, sustenance, and well-being of all of our residents and visitors, including immigrants, irrespective of their legal status, and refugees; no actions against any person within the Town of Brookline shall be based solely on that person's status as an immigrant or refugee; and no Town employee shall ask for information on the immigration status of any person unless reasonably necessary for the provision of services by Town employees.
- The Board of Selectmen directs Town Counsel to work with other towns and cities and the State Attorney General to develop legal strategies and measures to protect Town actions and to defend against any punitive measures undertaken by the Federal government against state and local governmental entities.
- The Board of Selectmen further requests that Brookline civil society, including houses of worship, service organizations, political entities, nonprofit organizations, educational institutions, and individuals (1) learn about, (2) provide support, welcome, safe haven, and sanctuary to, and (3) help integrate into the fabric of our community, all resident or visiting immigrants, irrespective of their legal status, and all refugees.

Aye: Neil Wishinsky, Nancy Daly, Benjamin J. Franco, Nancy Heller, Bernard Greene

## [BOARDS AND COMMISSIONS - APPOINTMENTS](#)

[The following candidates for appointment/reappointment to the following Boards and Commissions:](#)

Board of Assessors

Planning Board  
Transportation Board

Board of Assessors

On motion it was,

Voted to reappoint Gary McCabe to the Board of Assessors for a term ending August 31, 2019 or until a successor can be appointed.

Planning Board

There was a tie vote; this vote was held for further review.

Transportation Board

On motion it was,

Voted to appoint Jonathan Kapust to the Transportation Board for a term ending August 31, 2019 or until a successor can be appointed.

There being no further business, the Chair adjourned the meeting at 9:10 p.m.

ATTEST