



SELECT BOARD MEETING  
Meeting Minutes  
July 24, 2023  
7:00 P.M.

APPROVED: August 7, 2022

**PRESENT:** Kristin Hilberg, Chair; Wesley Fowlks, Member; Priya Sundaram, Clerk; David McKiernan, Member

**ALSO PRESENT:** Town Administrator Mike Johns; Rajon Hudson, Assistant Town Administrator; Kelley Price, Administrative Assistant; and Kirby Dolak, BXBTV

*The documents discussed herein have been included with the file copy of the agenda packet for the above referenced date and are hereby incorporated by reference.*

**1. Call the Meeting to Order & Roll Call**

At 7:04 PM, Chair Hilberg called Select Board meeting to order, via an in-person meeting pursuant to the procedures noted.

**ANNOUNCEMENTS**

Chair Hilberg read the announcements. There was a moment of silence held for **Donnie Morse**.

**NEW BUSINESS** - *The Board took up a few New Business items at this time.*

- Action: Parade Approval – Fifer’s Day
- Action: Fifer’s Day Field Use Waiver Fee
- Action: Special 1-Day Liquor License Approval – Fifer’s Day
- Action: Special 1-Day Common Victualler License Approval – Fifer’s Day

There was discussion regarding the proposed activities for the rescheduled Fifer’s Day in September.

Chair Hilberg moved to approve Fifer’s Day parade and filing of the State parade permit application for Fifer’s Day on September 2, 2023, with a rain date of September 3, 2023, as presented. Seconded by Member Fowlks.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.”

Chair Hilberg moved to waive the Field Use Fee for Fifer’s Day on September 2, 2023, with a rain date of September 3, 2023, as presented. Seconded by Member McKiernan.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.”

Chair Hilberg moved to approve the Special 1-Day Liquor License for Fifer’s Day on September 2, 2023, with a rain date of September 3, 2023, as presented. Seconded by Member Fowlks.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.”

Chair Hilberg moved to approve the Special 1-Day Common Victualler License for Fifer’s Day on September 2, 2023, with a rain date of September 3, 2023, as presented. Seconded by Member Sundaram.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.”

- Action: Special 4-Day Common Victualler License Approval – Nashoba Valley Olympia Skating Rink
- Action: Nashoba Valley Olympia Skating Rink- 4-Day Common Victualler License Waiver Fee

There was discussion regarding the ISI World Recreational Figure Skating Championships, held at the Nashoba Valley Olympia Skating Rink, next week.

Chair Hilberg moved to approve the Special 4-Day Common Victualler License for the Nashoba Valley Olympia Skating Rink from August 3, 2023 through August 6, 2023, during the hours of 7:30 AM to 8:00 PM each day, contingent upon the approval of the Board of Health. Seconded by Member Fowlks.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.”

Chair Hilberg moved to charge \$25 for the Special 4-Day Common Victualler License for the Nashoba Valley Olympia Skating Rink from August 3, 2023 through August 6, 2023. Seconded by Member Fowlks.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.”

#### **BOARD AND ADMINISTRATOR COMMENTS & REPORTS**

None at this time.

#### **PUBLIC INPUT**

Keith Lyons asked the Board to consider requesting payment for the outstanding overpayment of salary by Sergeant Pelley. He paid back six months of his overpayment based on the payroll issues and he owes approximately \$12,000 for an additional 12 months. He will send information on this to the Board. Chair Hilberg stated that this would be placed as an agenda item for a future meeting.

Francie Nolde asked if the Board has a plan to install a better audio system for the meeting room, as it is difficult to hear speakers. There was discussion regarding how to make this possible.

#### **NEW BUSINESS**

- Action: Grievance Hearing Step 2 – Local 200 MassCOP (7:30 PM)

Chris Lowney, President of the Local 200 MassCOP, stated that the first grievance is with regarding to hangovers for officers. Hangovers occur if one officer needs a fellow officer to stay over for a short period of time on their schedule. This can happen if one officer is running late for unforeseen circumstances. This does not involve putting in for overtime; it is more of a gentlemen's agreement between two officers. This is a common practice in departments all throughout the State and country. The Chief noted concern regarding potential liability issues, but the officers are all employees of the Town, covered under the Town's insurance. For better accountability purposes, there is a scheduling software that could be use.

Chair Hilberg stated that this grievance references Section 4 of the contract: that all employees may be allowed to exchange shifts with the prior approval of the Chief or his/her designee, provided that it can be done at no cost to the employer.

Chris Lowney explained that, during hangovers, the officer tells the shift supervisor about the circumstance and receives approval from that supervisor.

Police Chief Szewczyk stated that he has heard that the Department would like more organization and a top-down structure. There are many liability issues of concern regarding hangovers. He noted that the portion of the contract which discusses this states that hangovers “may” be allowed, but not “shall.” Also, partial shift swaps are not in the contract. Changing this wording mid-contract is dangerous. There has only been one shift swap that he has denied in his time. He offered the Union the opportunity to go through mid-contract bargaining, but there was no engagement from the Union in a back-and-forth discussion.

Chair Hilberg asked how often hangovers are requested. Police Chief Szewczyk stated that there is nothing in the contract that allows for short hangovers. This is a shift swap, not a hangover. This is not a good practice to run a Department. A swap shift can be completed using prior approval. It is unclear how many of these have been requested, as they were not originally being documented.

Member Fowlks asked what happens if the person requesting the shift swap is the supervising officer. Police Chief Szewczyk stated that this person should go to a separate supervising officer and not approve their own shift swap.

Member Sundaram asked the Union how many shift swaps have been requested in the last 30 days. It was noted that there have not been any of these requests in the last 30 days, as it was made clear by the Chief how he would like these handled. Prior to that, hangovers were requested approximately 1-2 times per month. The maximum amount of time generally requested for a hangover is 30 minutes.

Chair Hilberg stated that Section 4 does not apply to this grievance. She noted that this appears to be a past practice and more of a management issue than a grievance. Police Chief Szewczyk stated that the Union is always able to request mid-contract bargaining but

did not offer anything when this was considered. The Union explained that the request is not hurting the Town or requiring additional money from the Town, and so giving something in return did not seem necessary.

Town Administrator Johns stated that he expects Department Heads to manage their departments by the letter of the law, or contract in this case. He stated that he believes Police Chief Szewczyk did so. He does not believe this is legitimate grievance.

Member Fowlks asked why the Union does not want to use the comp time for this issue, as is being suggested by the Chief. The Union stated that they tried to bargain regarding comp time, but the Chief noted that this type of request would be denied. Comp time will also cost money to the Town.

Member McKiernan explained that the Union was working under the idea that hangovers have been part of their past process. While this should now be included within the contract, it was not before. There should be a way to sort through this issue.

Member Fowlks stated that it appears this grievance is invalid, as hangovers are not shift swaps per the contract. The Union and Chief should then go back and work on this item.

Member Sundaram stated that this appears to be a processing issue. It is impossible to place every small item into a contract.

There was agreement on the Board that this grievance is not valid and suggested that the Chief and Union continue to work on this item.

Member Fowlks moved to invalidate the Union's contract grievance relative to the swapping of partial shifts in accordance with Article 11 Section 4 of the Collective Bargaining Agreement between the Town and Union. Seconded by Member McKiernan.

**Approved: 4-0-0** by Roll Call Hilberg, "aye," Sundaram "aye," McKiernan "aye," Fowlks "aye."

Chris Lowney stated that, on June 9<sup>th</sup> the Union received letter from Town Counsel that the Chief was denying holiday pay, four hours at the Officer's base rate if an overtime shift is picked up on a holiday. Article 16 states that employees required to work on a holiday shall receive, in addition to regular holiday pay, an amount equal to 1 ½ times that regular rate of pay for all hours worked and shall not be allowed to receive comp time for such work. Employees shall be granted a minimum of four hours pay at such rate. The Town has budgeted for two officers per shift who could receive that holiday pay. If an officer voluntarily takes an overtime shift on a holiday, the four hours of holiday pay should be granted. This has been the case in the past. There has never been an issue with holiday pay in the past. This has been paid out by past Chiefs and the current Chief. If an officer is scheduled to work on a holiday, s/he is paid holiday pay of eight hours base pay plus an additional four hours base pay.

Police Chief Szewczyk stated that, as described, with officers receiving an overtime rate, plus an additional four hours, this is not within the current contract and would need to be negotiated for. Officers are paid the overtime rate at time and a half, but the Union is advocating for an additional four hours pay on top of this. This item is not within the current contract, though he would be willing to negotiate it. Town Counsel is also not in favor of this grievance.

Chair Hilberg stated that the language explained that overtime is not required; it is optional. Thus, this grievance does not apply to this Section of the contract. However, this does appear to be a past practice and should likely be renegotiated.

Member McKiernan stated that he would like time to fully evaluate the contract regarding the language and table this discussion to a future meeting.

Becky Neville asked that the grievance language be added to the agenda packets. She also expressed concern that the Town needs new Town Counsel to review matters of this type.

Member Fowlks moved to table this grievance and ask the Union for an extension until the Board's next regularly scheduled meeting. Seconded by Member Sundaram.

**Approved: 4-0-0** by Roll Call Hilberg, "aye," Sundaram "aye," McKiernan "aye," Fowlks "aye."

- Action: SPCP Program (Strengthening Police and Community Partnerships)

Chair Hilberg asked if the Chief and Union believe that this program applies to Boxborough's challenges at this moment and improve community relations with the Department. Police Chief Szewczyk stated that he believes this to be the case 100%. This is a free program that will highlight the positives of the Department and show how to enhance transparency. This will also give people a public forum to express concerns about the Department. The Union representatives stated that it is unclear if this is what Boxborough needs,

but the program is clearly a strong one. Chair Hilberg stated that there may be enough of a problem in Boxborough for this program to come into Town. There was discussion on the Board regarding this program being a way to get internal dialogue happening with the Department.

Chair Hilberg moved to endorse the concept of bringing the SPCP Program (Strengthening Police and Community Partnerships) to Boxborough. Seconded by Member Fowlks.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.”

#### APPOINTMENTS

- **Sustainability Committee**
  - o Andrew Tivolacci – Alternate

Chair Hilberg moved to appoint Andrew Tivolacci to the Sustainability Committee as an alternate with a term ending June 30, 2025. Seconded by Member Fowlks.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.”

- **Boxborough Building Committee**
  - o **Planning Board** - (Mark White)

Chair Hilberg moved to appoint Mark White as a Planning Board representative to the Boxborough Building Committee with a term ending June 30, 2025. Seconded by Member Fowlks.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.”

- **Capital Budget Committee Appointments**
  - o Tony Newton (Representing Finance Committee)

Chair Hilberg moved to appoint Tony Newton as a Finance Committee representative to the Capital Budget Committee with a term ending June 30, 2025. Seconded by Member Fowlks.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.”

- o Gary Kushner (Representing Finance Committee)

Chair Hilberg moved to appoint Gary Kushner as the Finance Committee representative to the Capital Budget Committee with a term ending June 30, 2026. Seconded by Member Fowlks.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.”

- o Select Board (2 Members TBD)

Chair Hilberg addressed John Markiewicz and noted that this Committee is only making recommendations regarding capital items for the Town. She is inclined to keep this Committee to members of the Finance Committee and Select Board at this time. John Markiewicz noted that Member McKiernan was earlier unsure about sitting on this Committee, and so he might be able to fill in any gaps. The representative could be a Select Board member or a designee. Chair Hilberg stated that she believes a designee would be used if a Select Board member was not interested in the role. Member McKiernan noted that he would like to be a member of the Committee at this time.

Chair Hilberg moved to appoint Priya Sundaram as a Select Board representative to the Capital Budget Committee with a term ending June 30, 2026. Seconded by Member Fowlks.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.”

Chair Hilberg moved to appoint Dave McKiernan as a Select Board representative to the Capital Budget Committee with a term ending June 30, 2025. Seconded by Member Fowlks.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.”

- o Town Administrator (Michael Johns)

Chair Hilberg moved to appoint Michael Johns to the Capital Budget Committee with a term ending June 30, 2026. Seconded by Member Sundaram.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.

- **Diversity Equity and Inclusion Committee**
  - o John Fallon – 1 Year Term
  - o Wes Fowlks – 2 Year Term
  - o Mary Sullivan – 2 Year Term
  - o Amy Osenar – 3 Year Term
  - o Lakshmi Kaja – 1 Year Term
  - o Peishan Bartley– 2 Year Term

Member Fowlks moved to appoint the members of the Diversity Equity and Inclusion Committee as presented in the packet, per the consent agenda. Seconded by Chair Hilberg.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.

- **Community Preservation Committee - Representing from**
  - o **Housing Board** (Ron Vogel)

Chair Hilberg moved to appoint Ron Vogel as a Housing Board representative to the Community Preservation Committee with a term ending June 30, 2025. Seconded by Member Fowlks.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.

- o **Conservation Commission** (Sam Anderson)

Chair Hilberg moved to appoint Sam Anderson as a Conservation Commission representative to the Community Preservation Committee with a term ending June 30, 2026. Seconded by Member Fowlks.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.

- o **Historical Commission** (Chad Childers)

Chair Hilberg moved to appoint Chad Childers as a Historical Commission representative to the Community Preservation Committee with a term ending June 30, 2025. Seconded by Member Fowlks.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.

- o **Finance Committee** (Becky Neville)

Chair Hilberg moved to appoint Becky Neville as a Finance Committee representative to the Community Preservation Committee with a term ending June 30, 2025. Seconded by Member Sundaram.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.

- **Housing Trust** Representing from
  - o **Finance Committee** (Becky Neville)

Chair Hilberg moved to appoint Becky Neville as a Finance Committee representative to the Housing Trust with a term ending June 30, 2025. Seconded by Member Sundaram.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.

## **BOARD & ADMINISTRATOR COMMENTS AND REPORTS**

Town Administrator Johns stated that the Boxborough Fire & Police Departments responded to a plane crash yesterday and received complimentary remarks regarding the response. Also, the recreation program at Flerra Meadows is going very well. The Town will be re-advertising for the Fire Chief position to get a broader pool of applicants. Captain Gray will be the Interim Fire Chief until that time. Regarding the intermunicipal agreement with Littleton for the water project, the special legislation that allows the two towns to share water, per MA General Law. There will be a public forum on July 26<sup>th</sup> regarding this item that can be accessed through the Town’s website.

Assistant Town Administrator Hudson stated that staff is also in the middle of interviewing for the Associate Town Planner position.

Chair Hilberg stated that the Board received communication from Mark Barbadoro and Diana Lipari regarding her seat on the Zoning Board at the same time as the Select Board. She was asked to remain on the ZBA as there is litigation coming up that she will need to be seated for, due to crossover of members on the Planning Board and ZBA. She has consulted the State Ethics Board and Town Counsel on this topic and there does not appear to be an issue legality at this time. The Select Board can remove her from this position if it so feels the need.

#### APPROVAL OF MINUTES

- Regular Session minutes – 6/16/23; 6/26/23, and 7/17/2023

Member Sundaram moved to approve the Regular Session meeting minutes of June 16, 2023, June 26, 2023, and July 17, 2023 as amended. Seconded by Member Fowlks.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.”

#### RESIGNATIONS

- **Well Being Committee** (Ann Seymour)

Chair Hilberg moved to accept, with regret, the resignation of Ann Seymour from the Well Being Committee. Seconded by Member Fowlks.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.”

#### NEW BUSINESS

- Action: Grievance Hearing Step 2 – Local 200 MassCOP (7:30 PM) – *This item was previously addressed.*
- Action: SPCP Program (Strengthening Police and Community Partnerships) – *This item was previously addressed.*
- Action: Parade Approval – Fifer’s Day – *This item was previously addressed.*
- Action: Fifer’s Day Field Use Waiver Fee – *This item was previously addressed.*
- Action: Special 1-Day Liquor License Approval – Fifer’s Day – *This item was previously addressed.*
- Action: Special 1-Day Common Victualler License Approval – Fifer’s Day – *This item was previously addressed.*
- Action: Liaisons – Purpose and Role

The Board agreed to table this item to a future meeting.

- Action: Select Board Representative and/or Liaisons to Boards & Committees Set Fall Town Meeting Date

Chair Hilberg moved to set the 2023 Fall Town Meeting for November 6, 2023, as presented. Seconded by Member McKiernan.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.”

- Action: Open Fall Town Meeting Warrant

Chair Hilberg moved to inform all departments, committees, commissions, and the public at large that the warrant of the 2023 Fall Town Meeting shall open for such submission at the date of July 24, 2023 and close by end of business day on August 28, 2023. Seconded by Member Fowlks.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.”

- Action: Expense & Payroll Warrant Management

Town Administrator Johns explained that these warrants currently go from the Accountant to the Board for approval. This is a job that could be done by a strong Town Administrator.

The Board agreed that it would like the Town Administrator to review and possibly approve these warrants, as long as the Board is informed throughout the process.

Member Fowlks moved to authorize the Town Administrator or his designee to review and approve the payroll and accounts payable warrants and, upon completion, carbon copy the Board. Seconded by Member Sundaram.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.”

- Action: Select Board Office Hours

There was discussion regarding the Board holding office hours. It was noted that Member McKiernan would draft a suggestion regarding this item for discussion at a future meeting.

- Action: Adoption of the Federal Conflict of Interest Policy

Member Fowlks moved to accept the adoption of the Federal Conflict of Interest Policy, as presented. Seconded by Member Sundaram.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye.”

- Review: Field Use Policy (Possible Vote)

The Board agreed to review this item and discuss it at a future meeting.

- Action: Special 4-Day Common Victualler License Approval – Nashoba Valley Olympia Skating Rink – *This item was previously addressed.*
- Action: Nashoba Valley Olympia Skating Rink- 4-Day Common Victualler License Waiver Fee – *This item was previously addressed.*

#### **EXECUTIVE SESSION**

1. To discuss strategy with respect to litigation; per MGL Ch. 30A §21 (a) (3) (CBK).
2. Review and/or approve the release of executive session minutes of 4/10/23, 5/24/23, & 6/5/23.

Member McKiernan moved to enter into Executive Session at 10:52pm. Seconded by Member Fowlks.

**Approved: 4-0-0** by Roll Call Hilberg, “aye,” Sundaram “aye,” McKiernan “aye,” Fowlks “aye,”

Agenda July 24, 2023

Draft Meeting Minutes 6/16/23; 6/26/23; 7/17/23

Resignation letter – A. Seymour

Appointment requests

Strengthening Police and Community Partnerships (SPCP) presentation

Fifer's Day permit information

Uniform Guidance Conflict of Interest Policy

Special 4-Day Common Victualler License request – Nashoba Valley Olympia Skating Rink

Select Board Committee/Liaison list FY24