



Select Board Meeting Minutes

Date: March 23, 2020

Time: 7:15 PM

Location: Conducted by Remote Participation

Present: Mrs. Mahon, Chair, Mr. Dunn, Vice Chair, Mr. Curro, Mr. Hurd, Mr. DeCoursey
Also Present: Mr. Chapdelaine, Mr. Heim, Ms. Maher

Mrs. Mahon gave a brief overview regarding the Select Board meeting being held by remote participation. Mrs. Mahon stated that we are in compliance with Governor Baker's executive order of March 12th due to the current state of emergency in the Commonwealth given the outbreak of the Coronavirus. In order to mitigate the transmission of the virus and reduce the risk of COVID-19 illness the Board has been advised by the Commonwealth to suspend public gatherings. The Governor's order thus suspends the requirement of the Open Meeting Law to have all meetings in a public place publically accessible physical location. Further all members of public bodies are allowed and encouraged to participate remotely. The order which you can find the agenda materials for this meeting allow public bodies to meet entirely remotely as long as reasonable public access is afforded so that the public can follow along with the deliberations of the meeting. Mrs. Mahon stated that ensuring public access does not ensure public participation unless such participation is required by law. This meeting will feature public comment even if members of the public do not provide comment, participants are advised that people may be listening who do not provide comment and those persons are not required to identify themselves.

1. Executive Order on Remote Participation

Mr. Heim explained that this agenda item is present so people can see on Novus Agenda what the executive order entails and how it operates for remote meetings. Mr. Heim stated that this is one of our first remote meetings so we're all familiarizing ourselves with the technology. Mr. Heim wanted to make sure that members of the public have access to the Governor's order that essentially suspends the ordinary conduct of open meetings in a physically accessible location.

CONSENT AGENDA

2. Minutes of Meetings: March 9, 2020

3. Request: AHS Ice Cream Fundraiser for Dana-Farber Cancer Institute (DFCI)

Jefferson Cutter House Lawn, May 23, 2020 (rain date May 24th), 10:00 a.m. to 6:00 p.m. Sagar Rastogi The AHS Scoops Club

Mr. Curro stated that he has been in contact with a member of this Club where he advised them that although this was likely going to be approved by the Board but the eventualities of the event happening is related to what the state of emergencies are at that time.

4. Appointment of New Election Workers: (1) David R. Morrisette, 225 Waverly Street, U, Pct.18

Mr. Dunn moved approval

A roll call vote was taken on the motion by Mr. Heim.

Mr. DeCoursey: yes
Mr. Hurd: yes
Mr. Curro: yes
Mr. Dunn: yes
Mrs. Mahon: yes

SO VOTED (5-0)

TRAFFIC RULES & ORDERS / OTHER BUSINESS

5. Vote: Acceptance of Gift/Donation of JJ Gardner
Douglas W. Heim, Town Counsel

Mr. Heim explained that the Town received a generous donation from JJ Gardner and the Select Board's vote is required to accept that donation.

Mr. Hurd moved approval.

A roll call vote was taken on the motion by Mr. Heim.

Mr. DeCoursey: yes
Mr. Hurd: yes
Mr. Curro: yes
Mr. Dunn: yes
Mrs. Mahon: yes

SO VOTED (5-0)

6. Discussion & Vote: Postponement of Annual Town Election
Diane M. Mahon, Chair
Douglas W. Heim, Town Counsel

Mr. Heim stated that there was no mechanism for the postponement of a town election absent of obtaining a court order. Mr. Heim stated that the Governor signed into legislation an act granting authority to postpone 2020 municipal elections in the commonwealth and increase voting options in response to the declaration of emergency to respond to the COVID-19 crisis. This bill is a one-off that allows a Select Board in consultation with local election officials and Board of Registrar's to postpone the town election to a date up until June 30, 2020. Mr. Heim stated that the legislation also essentially builds out timelines for people to be able to register to vote and vote at for the new town election. This legislation also allows previously submitted absentee ballots to be counted. Mr. Heim stated that he would like to seek the Board's perspective on

whether or not the Board wants to take a vote tonight to support postponement of the town's election. Mr. DeCoursey stated that he would like to hear from Mr. Leone and his colleagues on other proposed dates for the election. Mr. Dunn stated that part of this vote depends upon what we do for town meeting and that vote depends on what we think we need for the budget. Mr. Dunn stated that he understands that there is going to be legislation that permits the Board to level fund our budgets which would permit us to put off Town Meeting. Mr. Curro stated that there were two companion pieces of legislation that went through as well and these two pieces actually moved off two special house elections. Mr. Curro stated that he also has some concerns about the timing Town Meeting. Mr. Hurd stated that he is also in favor of postponing the election but feels we don't have the information in front of us to make a decision on a date. Mr. Hurd also feels we should look at other options for the way we can conduct the election and thinks sending out absentee ballots could be an alternative. Mr. Leone, Town Moderator expressed his concern is that the election does occur prior to Town Meeting happening. Mr. Leone stated that he only has limited powers to postpone town meeting in 30 days increments, and confirmed that he would like to have the election prior to town meeting. Mr. Heim stated that section 1a of the bill asserts that a vote has to be taken to postpone the municipal town election to a date certain on or before June 30th. Mr. Heim stated that the legislation does say you should consult with both a local election official and the chief operation officer, who would be the Town Manager in our case on certain logistical issues. Mr. Heim stated that it would be wise to get the perspective of the Board of Registrar's in advance of a final vote. Janice Weber, Assistant Town Clerk had a question in regards to sending out the absentee ballots if they should wait to send them or send them as soon as they receive them. Mr. Heim stated that he would talk with the Clerk's Office more about this but feels it would not hurt to send out the absentee ballots.

Jordan Weinstein, had some concerns about holding the election before Town Meeting and would like to see the election held first so the new Town Meeting Members can be present at Town Meeting. Mr. Weinstein also suggested that there are plenty of printers that would mail the ballots for the Town.

Michael Jacoby-Brown, suggested to the Board to allow more absentee voting and perhaps to have drop off places throughout the town so people do not have to go to the post office.

Michael Ruderman, urged the Board to make a decision this evening in regards to setting a date certain for the election. Mr. Ruderman also questioned the moderator on the order of articles in Town Meeting if we don't have new members elected.

Lynette Martyn, had a question in regards to if we had to push the election further than the date to be determined being able to reach the population in Arlington that are not native English speakers. She recommended putting translations out and also messaging out to the community to make sure they don't handle their mail due the virus to keep all members of the community safe.

Mr. Curro moved to postpone the town election to either Saturday, June 6th or Saturday, June 13th or some date thereafter.

A roll call vote was taken on the motion by Mr. Heim.

Mr. DeCoursey: yes
Mr. Hurd: yes
Mr. Curro: yes
Mr. Dunn: yes
Mrs. Mahon: yes

SO VOTED (5-0)

7. Discussion: Postponement of Annual Town Meeting

Diane M. Mahon, Chair

Douglas W. Heim, Town Counsel

Mr. Heim explained to the Board that the Town Moderator has the authority to postpone Town Meeting where conditions make it that members of town meeting cannot safely attend. Mr. Heim stated that our quorum rules are fairly specific about convening town meeting requiring 25% of town meeting members which would approximately be 62 members. Mr. Heim stated that there is another specific bylaw that states that any vote that requires a 2/3 majority which is 85 persons. In the current state of things neither one of those things seems feasible. Mr. Heim stated that there is additional relief that the Governor has been pursuing the legislature, including potentially giving the Select Board the authority to reduce quorum requirements. Mr. Curro stated that he hopes we can find a solution that does not involve relaxing the quorum requirements. Mr. Dunn agrees that town meeting should start after the town election. Mr. Chapdelaine added that with the information they have received from public health officials over the past few weeks is that it's highly unlikely there will be an all-clear sounded before June. Mr. Leone, Town Moderator stated that he has had multiple discussions with Town Counsel as well as the Mass Moderator Association. Mr. Leone stated that there is a bill right now in front of the legislature to expand the ability of the moderator to postpone the meetings. As it stands right now, Mr. Leone can postpone the meeting were public safety is at risk. Mr. Leone stated that is current plan is to as soon as tomorrow with the Board's approval release the letter that advises the town that it's the Town Moderators intention to postpone the meeting from the April 27th date to 30 days hence with would be May 27th. Mr. Leone would like to do this now so members of Town Meeting know and can get ready for the new date. He stated that he would not actually vote to postpone town meeting until April 27th to but us the 30 day time. He explained that 30 days after April 27th is May 27th which is a Wednesday and town meeting meets on Wednesday. If it is necessary after that to postpone again they will but the bill in front of the legislation now has provisions now that the moderator could postpone up to a period of 5 days after the government clears the state of emergency. Mr. Leone stated that he has talked to Christine Bongiorno, Director of Health and Human Services who is in agreement with his plan. Mr. Leone has also spoken with Al Tosti, Chair of the Finance Committee who will be ready by the April 27th date although they recognize that will not happen. Mr. Leone stated that his concern right now is if they postpone too long, will it have any negative effects upon the zoning articles that have certain requirements for publication and public meetings. Mr. Leone has also given thought to just meeting for the financial articles alone and promise everyone that all the other articles would be put on to a special town meeting in the fall but that would require the consent of the Board. Mr. Leone stated that these are things we will not know for a couple months and we will have to play it as it goes. Mr. Leone stated that they are looking at alternative options as

to how hold town meeting. He stated that there are powers expected to be given in the legislation that have given the town through the Town Manager the ability to spend 1/12 of each month previous year's budget per month until we pass another actual budget. Mr. Leone clarified that once he makes a declaration it is 30 days from the date of declaration. The Board is in agreement that if possible town meeting should take place after the election. The following people from the public spoke:

Len Diggins, is concerned that not notifying town meeting members until April 27th is last minute and they won't be able to prepare in advance. He would like to know if there is some way to notify them beforehand. Mr. Leone state that his intent is to finalize the letter before the Board tomorrow morning where he will be sending it to the Town's IT Department to post on the Town's website and through the lists for all town residents as well as the PMM town meeting member list, the Arlington Advocate, Your Arlington, Arlington Patch and ACMI to get the word out.

Susan Stamps, stated that Mr. Leone's letter would say that town meeting is hereby postponed until May 27th. Ms. Stamps suggested that the vote read "or after the Town Election, whichever occurs later". Mr. Leone stated that he only has the legal authority to postpone for 30 days.

Mr. Dunn moved receipt.

A roll call vote was taken on the motion by Mr. Heim.

Mr. DeCoursey: yes

Mr. Hurd: yes

Mr. Curro: yes

Mr. Dunn: yes

Mrs. Mahon: yes

SO VOTED (5-0)

8. Discussion & Vote: Declaring a Local State of Emergency

Douglas W. Heim, Town Counsel

Mr. Heim stated that the declaration before the Board is similar to the declarations that were issued in Brookline and a host of other communities ranging from Framingham to Malden and consistent with the actions taken in place like Provincetown and Nantucket. Mr. Heim stated that it contains a great deal of boilerplate language because these declarations stem from MEMA the Massachusetts Emergency Management Agency. He stated that the primary purpose of a local declaration of emergency is threefold. The first, is when you declare a local emergency you access powers granted by the Civil Defense Act of 1950 which includes getting the power to apply for and receive certain financial assistance in the form grants and other aid, the ability to have greater financial flexibility relative to measures needed to respond to an emergency and things like the appointment of auxiliary first responders should that become necessary. The second purpose is to make that the manager the health director and our emergency manager may need to exercise these extraordinary measures in parallel with state emergency declared by the government. The third is to signal the seriousness of this situation locally. Mr. Heim stated that the declaration does not cancel Select Board meetings, foreclose the Town Manager's responsibility to report to the Select Board or constrain the Board supervision of the Town Manager. Mr. Heim wanted to reiterate that this declarations primary purpose in Arlington will be able to give us access to certain

emergency funds and regional exercise of recourses. People should understand that it may mean there might be a lag between the state and town assessment and response. Mrs. Mahon stated that one of the benefits of having this is that if a national emergency does get declared having this declaration in place would give us the opportunity to access possibly federal funds that would become available. Mr. Chapdelaine reiterated what Mr. Heim stated and stated the importance of putting this declaration in place. Mr. Curro recommended that the language regarding the expiration should also be vested in the Board and should remain in effect until either the Town Manager notifies the Select Board that the purposes for the state of emergency are no longer present or the Select Board votes to lift the state of emergency and furthermore that the state of emergency will not extend beyond June 30, 2020 without an extension by this Board. Mr. DeCoursey is also in agreement. Mr. Dunn stated that he is in agreement with Mr. Curro, the vote he had in mind was "shall remain in effect until April 23rd at midnight or until notice was given. Mr. Dunn's reasoning was because it brings it to the Board to reconsider it monthly until it is over but he feels comfortable with the June 30th date. Mr. Dunn stated that he wanted to remind the public that the power still does lie with the Board but the Town Manager in consultation with us and has faith in his ability to do this and feels he is doing an excellent job. Mr. Hurd reiterated Mr. Dunn and stated that he has faith in the Town Manager and his decisions in the day to day work. The following people from the public spoke:

Jordan Weinstein had some question about the language in the declaration in regards to the sentence "the Arlington Town Manager and all personnel and agents". He asked if those actions can be specified. His second question was in regards to the Arlington Police force is going to be given expanded powers and if so what the powers may be. Mr. Heim stated that the Town Manager already is the authority that presides over town personnel. He stated that this is not an extraordinary change for our form of government. Mr. Heim stated that there is nothing in the declaration that provides some sort of extraordinary power to arrest that the state does not provide.

Jeff Alperin wanted to thank the Board.

Beth Melofchick would like to thank the people facilitating the meeting. She had a question in regards to what steps have been taken that this declaration seeks to allow. Mr. Heim reiterated that the purpose of these declarations is to understand that there are a lot of things that aren't anticipated at this very moment that could come up. Mr. Heim stated that there hasn't been any extraordinary power conferred upon the Police Department nor can a declaration of emergency give the police the power to arrest for something that isn't a crime.

Lynette Martyn stated that she didn't take the last comment to be a question. She stated that they were asking what the specific expanded powers would be. Ms. Martyn stated that she recognizes Mr. Heim's comments. Ms. Martyn had some question in regards to what actions are retro actively being ratified and adopted. Mr. Chapdelaine stated there have been a series of closures and restrictions that have been issued and reported to the public inclusive of town offices and school closures and the actual work that can be conducted or processed by town offices closure of playgrounds, dog parks, tennis courts and basketball courts. They have also closed nail salons, beauty salons, barber shops and other personal care services.

Mr. Curro moved approval with the condition that the Town Manager notifies the Select Board or the Select Board lifts to vote the emergency to not extend beyond June 30th without a further vote of the Select Board.

A roll call vote was taken on the motion by Mr. Heim.

Mr. DeCoursey: yes
Mr. Hurd: yes
Mr. Curro: yes
Mr. Dunn: yes
Mrs. Mahon: yes

SO VOTED (5-0)

CORRESPONDENCE RECEIVED

9. 2020 Patriots' Day Parade Cancelled L. Munsey, Parade Committee

Mr. Dunn moved receipt.

A roll call vote was taken on the motion by Mr. Heim.

Mr. DeCoursey: yes
Mr. Hurd: yes
Mr. Curro: yes
Mr. Dunn: yes
Mrs. Mahon: yes

SO VOTED (5-0)

NEW BUSINESS

Mr. Curro stated that the Board has taken actions in relation to the current public health emergency and would like to thank Mr. Chapdelaine and his staff as well as Mr. Heim and our public health officials and our first responders. He acknowledged the sacrifice everyone is making during this time as well as all of our small business owners, supermarket workers and our families.

Mr. DeCoursey questioned if the Board would need to meet before April 4th in order to make a vote to postpone the election before Election Day. Mr. Heim stated that is correct. Mrs. Mahon asked the Board if they would be available on Monday, March 30th for a meeting.

Mrs. Mahon asked if there were any guidelines in terms of this Select Board meeting through zoom to provide that to the Board as well as asking her colleagues to feel free to recommend anything she could do better to conduct the meeting in the future. Mrs. Mahon stated that the best recourse for people is the town website at arlingtonma.gov.

Mr. Dunn moved to adjourn at 9:18p.m.

A roll call vote was taken on the motion by Mr. Heim.

Mr. DeCoursey: yes
Mr. Hurd: yes
Mr. Curro: yes

Mr. Dunn: yes
Mrs. Mahon: yes

SO VOTED (5-0)

Next Scheduled Meeting of Select Board March 30, 2020

A true record attest

Ashley Maher
Administrative Assistant

3/23/2020

Agenda Item	Documents Used
1	Executive Order Reference
2	3.9.2020 Draft Minutes
3	Request from AHS Scoops Club
4	Election Worker Reference
5	
6	Town Counsel Reference M. Marcinkiewicz Comments
7	Town Counsel Reference Draft Town Moderator Memo
8	Draft Declaration Revised Draft Declaration M.Marcinkiewicz Comments P. Worden Comments
9	L. Munsey Reference