

Wednesday, April 1, 2020 – 4:00 PM

Meeting Minutes

Virtual Meeting Due to COVID-19

In Attendance: Committee Members: Water Department Superintendent and Bylaw & Policy Adhoc Advisory Committee (BPAAC) Chair Jeffrey Cyr, Water Commission Chair William Schenker, Prudential Committee Chair Bruce Perron, Associate Clerk/Treasurer Ira Brezinsky, District Moderator and Counsel Mark Beauregard, Firefighter/Paramedic Chase St. Andre, Fire Chief Robert Authier, Community Representative Mitch Malinowski

Also: Kari Scytkowski, Clerk Treasurer Terie Fleury

CALL TO ORDER

Cyr called the meeting to order at 4:14 PM

APPROVAL OF MINUTES

Motion: Schenker moved and Cyr seconded to approve the minutes of 12/3/19. Motion carried 6-0.

ONGOING DISCUSSION OF BYLAWS AND POLICIES

The BPAAC reviewed the working draft bylaw from the previous meeting.

Authier had the following questions and comments.

- Article I, Section 3 What is the definition of a resident? Answer: The home address where the individual spends the majority of their time in residence, i.e. State residence.
- Article I, Section 4 If Town polling place changes, how does that effect the District? Should the word “shall” be changed to something else? Beauregard advised that bylaws need to be written for “how the world is now”. If something changes, it would be addressed at that time. Various scenarios were discussed with no change in this bylaw.
- Article I, Section 5 What social media outlets and what 3 government buildings will be used for posting District Meetings? Should the buildings be named? Beauregard advises keeping the language flexible and not require specific building locations. Brezinsky suggested adding “used by District residents, such as”. The decision was made to make no change.
- Article I, Section 7 Can the same person hold more than one office? Brezinsky stated this was discussed previously and the decision was made to recommend that one individual can hold more than one office, but can only get paid for one office. After further discussion, the BPAAC decided to change the language so that one person can only hold one elected office in the District simultaneously by removing the word “simultaneously”. Also, language regarding receiving compensation for more than one office will also be removed.
- Article II, Section E What does this mean? This refers to those individuals required to be bonded as a result of their job requirement to handle money.
- Article II, Section L Should the Chief be included in labor negotiations? Brezinsky suggested adding, “in conjunction with the Fire Chief”. BPAAC agreed.
- Article II, Section M Should the PC be involved in setting rates? Brezinsky suggested changing language to “Upon recommendation of the Chief”. BPAAC agreed.

Perron had the following questions and comments.

- Article III, Section 2 He has concern about ability of BOWC to call Special District Meetings, independently from the PC. Her referenced advisory letter from District Counsel Beauregard dated 8/12/19, where he references MGL Chapter 48, Section 66, which states “every District Meeting shall be called by the hands of Prudential Committee.” Cyr stated that the Town of Cotuit has bylaw language allowing for the Water Commission to call a meeting. Although State law gives authority to the PC, this does not preclude the addition of a bylaw giving authority to the BOWC. Perron does not have a problem with the BOWC calling a Special Meeting related to Water Department issues, but not as it relates to other District issues. Beauregard advised that there are Mass laws that govern how municipalities are governed, but there also Home Rule rights that can expand on MGL that allow the District to “set its own course”. This issue is an example where the proposed bylaw would be allowed as an expansion of the MGL. After extended discussion, the following motion was offered.

Motion: Brezinsky moved and Perron seconded to add the following language to Article 3, Section 2. “Notwithstanding any of the above, the Prudential Committee shall not introduce articles in a warrant related to the Water Department, and the Board of Water Commissioners shall not introduce articles in a warrant related to the Fire Department”. Motion failed (aye: Perron, Authier, Brezinsky; nay: Cyr, Schenker, Beauregard, St. Andre, Malinowski).

Cyr had the following comment.

- Article II, Section 3 (L) He would like to add the words, “miscellaneous fees”, with regard to water rates and fees. BPAAC agreed.

Beauregard made the following suggestions which were sent in writing to the BPAAC as revised changes. (See Proposed Changes to Bylaws document attached.)

- Article III, Section 2 The Moderator will be elected for 3 years rather 1 year. This was already agreed to but was left off of the most recent draft.
- Article I and VII He also had some other changes that streamlined the language without changing any of the content.

Brezinsky made the following suggestions which were sent in writing to the BPAAC as revised changes. (See Proposed Changes to Bylaws document attached.)

- Article III, Section 2 Reduce the number of signatures in a Citizen Petition, in the previous draft, required to call a Special Meeting from 350 to 200.
- Article III, Section 4 The PC has up to 45 days to schedule a Special Meeting once a Citizen Petition has been received.
- Article III, Section 4 A Citizen Petition calling a Special Meeting must state the reason for the Meeting.
- Article III, Section 4 A Citizen Petition adding an article to a warrant shall require a minimum of 75 signatures.
- Article III, Section 4 & 6 The PC shall construct the warrant and the Clerk shall give notice.

- Article III, Section 4 & 5 Timeframes were revised for calling and posting District Meetings.

Authier suggested removing reference to Chapter 48, Section 66 from Article III. BPAAC agreed.

Beauregard asked to review Article VI, Section 1 Longevity. St. Andre has concern about the way this is worded, and that it might suggest that Fire Department employees are excluded from this benefit. Brezinsky suggested adding the following. "This bylaw does not preclude the union Fire Department employees from receiving longevity compensation as part of their periodic contract negotiations." Additionally, this section will begin with the following: "Longevity compensation will be paid to each non-union fulltime employee of the District" . Cyr asked to review the 25-hour requirement for longevity eligibility. Beauregard suggested changing "25 hours" to fulltime. The State definition of fulltime is a minimum of 20 hours per week. BPAAC agreed on all of the above.

Motion: Brezinsky moved and Schenker seconded to incorporate the "proposed Bylaw Changes to Draft" document into the final draft to be submitted to the PC and BOWC and as further discussed and amended in this meeting. Motion carried 8-0.

Motion: Brezinsky moved and Perron seconded to approve the final draft as discussed and amended in today's meeting and to be submitted to the PC and BOWC. Motion carried 8-0.

CUMMULATIVE ISSUES REVIEWED OR TO BE REVIEWED

- Elected Officers, including elected versus appointed Clerk/Treasurer
- Date, place and requirements for elections
- Appointment of officers to vacated positions
- Establishment of Appointing Authority Committee
- Eligibility of elected officers to be employed by the District
- Eligibility of District employees to hold elected District office
- Eligibility of immediate family of elected officers to be employed by the District
- Determination of compensation for elected officers
- Duties of elected and appointed officers – Moderator, Prudential Committee, Water Commissioners, Clerk, Treasurer
- Annual and Special District Meetings – procedures, requirements, date of Annual Meeting,
- Status of Clerk Treasurer (elected versus appointed)
- Strong Chief/Weak Chief
- Updating of policies and determination of how various policies are derived, approved and implemented
- Establishment of Appointing Authority Committee in the event that an elected official leaves mid-term and needs to be replaced
- Clarification of language in sections 10, 13 & 14e of the current bylaws
- Modification of language to comport with the Collective Bargaining Agreement (CBA) and Mass General Law (MGL), i.e. roles and responsibilities, longevity, fines, etc.
- Recall provision – What would be the standard? What would be the process?

- Distinguish between general revision of language for clarification purposes versus substantive change(s) in policy or bylaw
- Differentiation of bylaw versus policy
- Policies regarding survivor health insurance benefits
- Policy manuals
- Employee handbooks
- Operational oversight of each department
- "Strong Chief" policies and procedures
- Conflicting language in the bylaws regarding approval of warrants – PC v. BOWC
- Section 16 – No Assistant Superintendent
- Process and rules for promotions. What should be in bylaw versus policy or contract?
- Date of Annual Meeting
- Clearly defined roles and responsibilities of PC and BOWC.
- Eligibility for participation in District health insurance

ADJOURNMENT

Motion: Beauregard moved and Authier seconded to adjourn at 6:00 PM. Motion carried 8-0.

Respectfully submitted,

Ira Brezinsky
BPAAC Clerk