



**TOWN OF BILLERICA
SELECT BOARD MINUTES
JANUARY 09, 2023**

Members Present: Chair Andrew Deslaurier, Vice Chair Michael Riley, Secretary Kimberly Conway (Remote), Member Michael Rosa, and Member John Burrows

Members Absent: None

Staff Present: Town Manager John Curran, Assistant Town Manager Clancy Main, and Director of Administrative Services Robert Maynard

Chair Deslaurier stated that the meeting is a hybrid meeting with a Zoom option. One member is remote so all votes will be taken by roll call.

Call to Order 7:00 PM

Chair Deslaurier called the meeting to order.

The Pledge of Allegiance was recited.

1. Open Microphone

Carole Reardon of 18 Pinedale Ave – Ms. Reardon thanked all the Fire fighters in the audience. Ms. Reardon stated that she supports Member Rosa’s proposal for using St. Mary’s church as a Recreation Center. Pinehurst deserves some quality projects. In regards to the Bromate, she spoke to the Board in the summer regarding the drought and how the Town shouldn’t let people water their lawns. When the water gets low, whatever is in it gets concentrated. She is immune compromised as well as another member of her household and we are drinking poison in our water with Bromate. On PHR, Ms. Reardon would like to know why the girls’ softball fields did not get dugouts. They were on the plan and the girls are just as important as the boys. Ms. Reardon stated that she cautioned the Board on the Code of Conduct. There are already State and Federal ethics in place and they should be careful of what is created.

Announcements

2. Vacancies on Boards and Committees

Secretary Conway read the list of vacancies of boards and committees. The Traffic Management Committee should be removed from the list since it was eliminated.

3. All Other Announcements may be Viewed on the Town of Billerica Website

4. Signing of the Billerica Community Pantry Lease

Jared Koyle, President of the Billerica Community Pantry joined the meeting to sign the lease.

Mr. Curran stated that the lease is being signed with no rent coming from the pantry.

Member Rosa stated that he fully supports the Community Pantry and asked why they would be paying 1/8 of the utility bill. Mr. Curran stated that the utilities are very expensive and this is a reminder to be mindful of use. Member Rosa stated that in Section 8, after 15 years will the rent be \$35,000. Mr. Curran stated that this would kick off negotiations for the next lease but he questioned if this language was needed.

Town Counsel Mark Reich joined the meeting. Attorney Reich stated that this language reflects MGL, Ch. 30B, §16. An RFP is required if the value of the lease is over \$35,000. That does not mean that the Pantry would be charged \$35,000.

Member Rosa stated that on page 11, Section 9.7 there are references to “ninety (60) days”. Those need to be consistent. Mr. Curran stated that it should be 90 days throughout. Member Rosa stated that on page 11, Section 10.1 it should read “..and save harmless the Town from any and all ...” not “... and save harmless the Town from and against all...”.



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Secretary Conway stated that if the Pantry wanted to stay at the end of 15 years, then they would negotiate with Town again. Mr. Curran replied that was correct.

MOTION - Secretary Conway made a motion to accept the lease with the Billerica Community Pantry at 11 Concord Road as amended by Member Rosa. The motion was seconded by Member Rosa and unanimously voted 5-0. On a roll call vote: Secretary Conway voted Aye, Vice Chair Riley voted Aye, Member Rosa voted Aye, Member Burrows voted Aye and Chair Deslaurier voted Aye.

Fiscal Efficiency and Public Recognition

5. Billerica Fire Department, Billerica Police, Middlesex County Sheriff, and Burlington Paramedics Commendation – Incident of December 21, 2022

Chief Robert Cole appeared to present letters of commendations to the members of the Billerica Fire Department, Billerica Police, Middlesex County Sheriff's office and Burlington Paramedics who performed an ice rescue and saved a man with special needs.

Public Hearing

Approval of Meeting Minutes

6. November 22, 2022

MOTION - Secretary Conway made a motion to approve the November 22, 2022 Select Board minutes as presented Member Rosa. The motion was seconded by Member Rosa and unanimously voted 5-0. On a roll call vote: Secretary Conway voted Aye, Vice Chair Riley voted Aye, Member Rosa voted Aye, Member Burrows voted Aye and Chair Deslaurier voted Aye.

7. December 19, 2022

Member Rosa stated that on page 5, Traffic Study Committee should be changed to Traffic Management Committee in two places.

MOTION - Secretary Conway made a motion to approve the December 19, 2022 Select Board minutes as revised by Member Rosa. The motion was seconded by Member Rosa and unanimously voted 5-0. On a roll call vote: Secretary Conway voted Aye, Vice Chair Riley voted Aye, Member Rosa voted Aye, Member Burrows voted Aye and Chair Deslaurier voted Aye.

8. December 27, 2022

MOTION - Secretary Conway made a motion to approve the December 27, 2022 Select Board minutes as presented. The motion was seconded by Member Rosa and unanimously voted 5-0. On a roll call vote: Secretary Conway voted Aye, Vice Chair Riley voted Aye, Member Rosa voted Aye, Member Burrows voted Aye and Chair Deslaurier voted Aye.

Appointments

9. Veteran's Grave Officer – Donald Jarvis, Veteran's Agent

Donnie Jarvis appeared to discuss the Veteran's Grave Officer. Mr. Jarvis stated that MGL allows him to appoint a resident who is a Veteran to take care of the graves. He will take this appointment until a resident is found and he will train them using the same standard as Arlington Cemetery.

Vice Chair Riley asked if this would be a yearly appointment. Mr. Jarvis replied no, it will be a 3- or 5-year appointment.

Member Rosa stated that this is a great example of Mr. Jarvis's thoroughness and thanked him for bringing this forward.



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MOTION - Secretary Conway made a motion to appoint Donald Jarvis, Veteran's Agent as Veteran's Grave Officer for a 3 year appointment. The motion was seconded by Member Rosa and unanimously voted 5-0. On a roll call vote: Secretary Conway voted Aye, Vice Chair Riley voted Aye, Member Rosa voted Aye, Member Burrows voted Aye and Chair Deslaurier voted Aye.

Old Business

10. Code of Conduct Policy Update – 3rd Reading – Requested by Vice Chair Riley/Secretary Conway

Secretary Conway stated that the Code of Conduct was approved about a year ago. The previous Board did not want an enforcement section. This change is to add the enforcement section back in.

Vice Chair Riley asked if a committee can censure a member.

Town Counsel Mark Reich joined the meeting. Attorney Reich stated that only one body can discipline an elected official and that is the voters in town. To censure a member is like a slap on the wrist. The Select Board does not have authority over other elected officials. There is no prohibition on adding an enforcement clause but he issued a caution. A censure is basically a public embarrassment and there is no statutory provision.

Secretary Conway stated that the only elected officials this policy affects is this Board and all others that are appointed by this Board.

Member Rosa stated that Section 38.4 is the only new section. Secretary Conway replied that was correct. The highlighted lines are what was new from the initial reading of the policy. This is the third reading.

Attorney Reich stated that the Select Board has the right to not reappoint a member of committee if they think they are not conducting themselves properly regardless of what the Code of Conduct says. For example, the ZBA members are appointed by the Select Board and have a term limit that is found in law.

Member Rosa stated that we appoint a lot of people to a lot of committees, not just the ZBA. He has concerns with the ambiguity of wording in Section 38.3. We are governed by Freedom of Speech and he doesn't think this policy is necessary and will not support adding Section 38.4. Attorney Reich stated that Freedom of Speech is limited when acting as a member of a committee. We need to use common sense and the Chair can control the meeting. This policy is an effort to make individuals work together in a good manner. He again urged caution. Member Rosa stated that he is afraid of unintended consequences of this section.

Chair Deslaurier stated that this doesn't mention removal of an appointee, the Board can decline to reappoint.

Attorney Reich added that the Select Board can vote to go into Executive Session to discuss a matter that comes up but the individual has the right to have it heard in open session.

Member Burrows stated that he is concerned because what one person finds threatening another may not. It's subjective and it can't be enforced.

Vice Chair Riley stated that he brought this up a few months ago but this is similar to the recording policy and how enforcement would be tough so he would agree not to support it. Attorney Reich stated that it is an aspirational policy.

Secretary Conway stated that the Code of Conduct has been approved. This amendment was to add Section 38.4 for enforcement. The language for the Executive Session was taken directly from MGL. If Section 38.4 is not approved, she would suggest that the first new paragraph in Section 38.5 regarding notification be kept, so perhaps handle this in two motions.

MOTION - Secretary Conway made a motion to add Section 38.4: Enforcement to the existing Code of Conduct. The motion was seconded by Vice Chair Riley and voted 2-3. On a roll call vote: Secretary Conway voted Aye, Vice Chair Riley voted No, Member Rosa voted No, Member Burrows voted No and Chairman Deslaurier voted Aye. The motion fails.



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MOTION - Secretary Conway made a motion to change the Distribution and Education section by adding a paragraph that says “Every individual who applies for a position that is appointed by the Select Board, will be asked to click the box on the application indicating that they have read and understand the Code of Conduct”. The motion was seconded by Vice Chair Riley and unanimously voted 5-0. On a roll call vote: Secretary Conway voted Aye, Vice Chair Riley voted Aye, Member Rosa voted Aye, Member Burrows voted Aye and Chair Deslaurier voted Aye.

12. Brown Water Update

DPW Superintendent Fred Russell, Water Superintendent John McGovern and Chemist Richard Warworth from the DPW appeared to discuss brown water. Mr. Russell stated that they have solicited information in a water survey. As of today, there have been 117 responses. The reasons could be distribution in the water flow, fires, hydrant flushes, old pipes on residential properties.

Chair Deslaurier asked if the Bromate issue is a result of this. Mr. Russell stated that Bromate is a byproduct of ozone which is used to remove Magnesium in the water. The levels did spike twice but not to a dangerous level but DEP ordered us to send out the memo. Bromate only becomes dangerous when it is over 10 for a long term exposure. If the number reaches 10 once, then the town is in violation for the entire year. When the water level is low, the Magnesium is high so more ozone is used. The spike could be that the ozone wasn't turned down quick enough when we started to get rain.

Mr. Curran stated that 20 parts per billion over a lifetime can cause issues. We only had 2 readings.

Member Rosa asked if the orange dots on the map indicated a brown water report. Mr. Russell replied yes. Member Rosa asked if there are any conclusions of what is causing the brown water yet. Mr. Russell replied no, they are still in fact finding mode. Member Rosa asked if the Town was still providing a rust out formula that can be added to laundry. Mr. Russell replied yes, residents can come and get it at the DPW.

Mr. Curran stated that comment that was made under Open Mic from Ms. Reardon that she was drinking poison in the water is not an accurate statement.

Secretary Conway stated that she is shocked that Pinehurst has not been affected. Secretary Conway asked Mr. Russell to respond to the poisoning of the residents. Mr. Russell replied that the water is safe. If residents have any questions, please call the Water Treatment Plant.

Mr. Maynard stated that the survey information is on the website and notifications went out over social media. They could also make a reverse 911 call.

Member Burrows asked if something could be mailed out for people who don't have internet.

13. Update on Pond Street Truck Traffic with Discussion of Similar Situation on Tower Farm Road – Requested by Member Burrows

Sargent Glen Magnan joined the meeting. He spoke with Mass DOT and there are a couple of options. The first is to adopt Pond Street and Rt. 129 as a truck route and install the proposed signs. The other is to enter into an agreement with the warehouse and instruct all their truck drivers to turn right on Rt. 129. His concern with the first option is that this portion of Pond Street would become a restricted commercial truck route to all commercial trucks, not just ones coming from the warehouse.

Member Burrows stated that this is similar to the Lynn Autoway and they don't abide to the agreement now and he believes it should be designated as a restricted truck route.

Member Rosa stated that the Town worked with Lynn Autoway from the beginning on the truck route and it worked at the beginning but now the truck route is not followed for the most part. This warehouse is now ready to open. He would think that the restricted truck route is better. We can restrict it for over 2 ½ tons so not to impact the smaller local contractors.



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Chair Deslaurier asked if Sgt. Magnan had spoken with the Town Engineer. Sgt. Magnan replied not yet.

Vice Chair Riley stated that when the Planning Board was approving the Home Depot on Woburn Street, we had a condition that the trucks could not turn right. We should look at the Planning Board conditions to see if something addresses this. We should also talk with the owner and see if they would agree to a sign directing trucks to go right from his site and the Police can monitor.

Secretary Conway stated that she doesn't want to restrict all commercial trucks like landscapers, plumbers, etc. She would suggest an agreement with the owner and signage.

Chair Deslaurier asked for the next meeting we'll discuss truck route, signage, weight limit and agreement with warehouse owner.

New Business

14. CPC Discussions and Update (Kohlrausch Park, Masonic Hall, etc.)

Mr. Curran gave an update on the current financial picture of the CPC funds. The numbers are based on projections since the CPC has not taken action. The First Congregational Church has submitted an application and the Town has submitted two major applications for Kohlrausch Park and 11 Concord Road (Masonic Hall). The Town has two applications for the Masonic Hall, one for the 1st floor renovations and one for the façade. Both are for \$1 Million. The cost of Kohlrausch Park would be \$250,000 for redesign costs and \$4 Million for construction costs.

Secretary Conway stated that she doesn't understand the need for all these basketball courts when we have new ones at PHR. Mr. Curran stated that if we put the new Rec Center at PHR, the building would take some of the court space away.

Dave Grubb, Recreation Director joined the meeting. Mr. Grubb stated that post COVID, the outdoor courts are more popular and Kohlrausch Park would be ideal for this area of Town. Secretary Conway stated that she is not willing to support a project on "if" the Rec Center would be at PHR. The Kohlrausch Park should be scaled back. After the last tax bill, \$250,000 is a big ticket item and the construction would drain down the CPC fund so she has concerns with supporting it. We are still looking at the Inter-generational Center and not just a Rec Center. Mr. Curran stated that would depend on the location and added that all the funds would be CPC funds.

Member Rosa stated that if the Rec Center takes 20,000 SF, then four tennis courts at PHR would be gone. Mr. Grubb stated that the High School requires 4 tennis courts for regular season and 5 if they want to host tournaments. Member Rosa asked how much they pay. Mr. Grubb replied \$10/Hour for 8 courts. Member Rosa stated that if all the courts at PHR remain, then 5 courts would not be needed here.

Member Burrows stated that PHR would be a great location for the Rec Center. The Capital Improvement Committee makes the recommendation to this Board. This is great project and it's cheaper to do everything at once with heavy equipment. This area has a lot of kids in the neighborhood and a park would be used a lot.

Member Burrows asked what is \$50,000 for library storage. Mr. Curran stated that there is a historic area in the basement to preserve historic artifacts.

Vice Chair Riley asked when will the CPC review the projects. Mr. Curran replied that they will be reviewing them on January 12th. Vice Chair Riley looks forward to the discussion on these projects.

Chair Deslaurier stated that one thing we wanted at PHR was to connect the sidewalks to provide walkability and it is worthy of discussion here also. He also likes maintaining historic nature of this site. Chair Deslaurier stated that for the Masonic Hall, \$1 Million is only for the first floor construction. Mr. Curran replied that was correct.



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15. Adopt Order of Taking for Street Acceptance Roads Authorized at the 2022 Fall Town Meeting – Presented by Town Engineer Kelley Conway

Fred Russell, DPW Superintendent appeared for the street acceptance. Mr. Russell stated that there were 5 ways accepted at the Fall Town Meeting. They were Dunham Road, Enterprise Road, Plank Street, Progress Road and Woodland Road.

MOTION - Secretary Conway made a motion to adopt the order of taking in the form presented acquiring interests in land sufficient to complete the layout and acceptance of those public ways identified in the vote under Article 30 of the October 4, 2022 Annual Fall Town Meeting, provided that Town Counsel may update Schedule A as necessary prior to recording, and to award no damages for the taking. The motion was seconded by Member Rosa and unanimously voted 5-0. On a roll call vote: Secretary Conway voted Aye, Vice Chair Riley voted Aye, Member Rosa voted Aye, Member Burrows voted Aye and Chair Deslaurier voted Aye.

17. Discussion and Vote to Approve the Issuance of a Band Anticipation Note (BAN) Sale – Requested by Elaine Russo, Treasurer

Elaine Russo appeared for the issuance of a BAN rollover not to exceed \$25,432,000 plus interest for the High School, Howe School and Peggy Hannon Rizza.

MOTION - Secretary Conway made a motion, that as the Clerk of the Select Board of the Town of Billerica, Massachusetts, certify that at a meeting of the board held January 9, 2023, of which meeting all members of the board were duly notified and at which a quorum was present, the following votes were unanimously passed, all of which appear upon the official record of the board in my custody: to approve the sale of \$25,432,000 4.00 percent General Obligation Bond Anticipation Notes (the “Notes”) of the Town dated January 27, 2023, and payable September 8, 2023, to TD Securities (USA) LLC at par and accrued interest, if any, plus a premium of \$197,098.00. The motion was seconded by Member Rosa and unanimously voted 5-0. On a roll call vote: Secretary Conway voted Aye, Vice Chair Riley voted Aye, Member Rosa voted Aye, Member Burrows voted Aye and Chair Deslaurier voted Aye.

16. St. Mary’s Church – Possible Recreation Center Discussion – Requested by Member Rosa

Member Rosa stated that he asked this to be put on the agenda. Member Rosa thanked Mr. Curran for doing the research on this property and he understands there is a P & S agreement in place. There are a lot of churches that are being converted to Rec Centers due to the large open space. This is a historic church and the parishioners and residents of Pinehurst would like to see this used for recreation. There is a huge parking lot in the back and he doesn’t want to see a high-density housing project be done here. There are 2.2 acres on this parcel and we could add courts here. He understands there is a P &S agreement but if that falls through, he would like to have the Town look at it.

Secretary Conway stated that the Housing Authority did reach out a few years ago but the Archdiocese was not interested in selling. Member Rosa added that there is an additional 35,000 SF in the rectory that we could look at for affordable housing.

Member Burrows stated that the owner’s agent are a big outfit. He’s heard that they are going to put a Dunkin Donuts, retail and apartments in the back. If the project doesn’t fit with zoning, then it shouldn’t be built.

Vice Chair Riley stated that the Capital Facilities Committee is charged with looking at what is best for the COA and Rec Center. The Church went to bid and the P & S is supposed to close in March so that ship has sailed.

Chair Deslaurier asked if we know what the price point was. Mr. Curran replied no, it was not disclosed but the sale is not contingent on zoning and the Church did have a condition of sale that the church be torn down. Chair Deslaurier stated that it was a worthy discussion and we should look at the number of properties that the Town already owns. Member Rosa added that the Town’s assessed value of this property is \$1.5 Million.



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Old Business (Continued)

11. Town Managers Report

Mr. Curran presented his report.

• **Budget Meetings**

Mr. Curran stated that budget meetings have started with the different departments. Generally, the budgets are level funded. Most of the budgets do not include contract settlements except for the Clerks.

Member Rosa stated that he is glad we are holding the line with the budgets and the contracts are going to make it tough to get around. Has the discussion started with the schools? Mr. Curran stated that they will be sitting down shortly. The biggest issue is that the contracts were approved at 4%, which is a big number. The Special Ed costs have gone up dramatically also.

Mr. Curran added that the tax bills were affected by a 17% increase in housing values. The shift will continue next year because there is a lag time in municipal budgets. Next year's tax bills will be based on FY22 housing market.

Secretary Conway stated that we could have lowered the tax rate to \$6 but we have an operating budget that needs to be funded. The Town requires a budget to operate.

• **Waste Management Contract**

Mr. Curran stated that we are in our last year with Waste Management for trash and recycling. We are expecting a substantial increase.

Member Rosa stated that we need to promote the textile recycling program. He would like it brought up during discussions that Waste Management trucks are horrible with leaking fluid all over Town.

Member Burrows stated that we should also talk with them about knocking the barrels over when they empty them.

• **Seven Letter Kick-Off Meeting**

Mr. Curran stated that the Town engaged Seven Letter ONA, LLC for a one-year contract to create a 3-year marketing plan. This will be managed by Planning and Community Development.

Member Rosa asked how much the contract with Seven Letter is. Erika Jerram, Planning Director, joined the meeting. Ms. Jerram replied it was \$50,000. Member Rosa asked why the Planning Staff cannot do this. Ms. Jerram stated that Seven Letter is a public relations firm. They will be doing a media campaign and they have deep connections with social media that our staff does not have. They are very connected in Economic Development. Member Rosa stated that once we get businesses, we need to support them and retain them. He does not want to promote high density housing. Mr. Curran added that we are not going to promote controversial subjects such as high density housing.

Member Burrows asked if there will be a public forum session with the residents. Ms. Jerram replied no, it's not planned but there could be better ways to get community input.

Secretary Conway doesn't think that a public forum is the best setting. They will look at our building inventory, potential areas for development and amenities that the Town has.

Mr. Curran added that a Town wide marketing plan was a Select Board goal.

Chair Deslaurier asked if Seven Letter was going to do a GAP analysis. Ms. Jerram replied no, they are not an Economic Development firm but we can do an add on for GAP next year.

• **BMHS Final Audit**

Mr. Curran stated that the final audit occurred on December 21st. The Building Committee will meet this month to review the audit and close out the project.



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- **Winter Safety Training**

Mr. Curran stated that the HR Director organized two training sessions for the DPW surrounding snow safety.

Member Rosa stated that this is a great idea.

Member Burrows asked if we can get the Fire Department to get ice safety training for residents. Mr. Curran stated that he will talk with Chief Cole about ice safety.

- **Vining Field**

Mr. Curran stated that the project is in the design phase. The site survey plans are being drafted.

- **Billerica DPW**

Mr. Curran stated the soil borings/drilling activities for geotechnical purposes will be occurring on January 10th through January 12th. He will report back.

Member Burrows asked if we could get Shawsheen Tech students out to witness the boring testing as a coop. Mr. Curran replied it's probably too late for this project but we could look at this for a future project.

Meeting Schedule –January 23, 2023 and February 6, 2023

MOTION - Secretary Conway made a motion to adjourn the January 9, 2023 Select Board meeting at 9:50 PM. The motion was seconded by Member Rosa and unanimously voted 5-0. On a roll call vote: Secretary Conway voted Aye, Vice Chair Riley voted Aye, Member Rosa voted Aye, Member Burrows voted Aye and Chair Deslaurier voted Aye.

*Respectfully Submitted by Dawn McDowell,
Recording Secretary*



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Exhibits for the Select Board Meeting – January 09, 2023

Call to order 7:00 PM

1. **Open Microphone**– No Exhibits

Announcements

2. **Vacancies on Boards and Committees**- Vacancies list
3. **All other announcements may be viewed on the Town of Billerica website** – No Exhibits
4. **Signing of Billerica Community Pantry Lease** – Lease Agreement

Fiscal Efficiency and Public Recognition

5. **Billerica Fire Department, Billerica Police, Middlesex County Sheriff, and Burlington Paramedics Commendation – Incident of December 21,2022** – Memo from Select Board dated 1/9/23, Memo from Capt. Paskiewicz dated 12/23/22

Approval of Meeting Minutes

6. **November 22, 2022** – Minutes
7. **December 19, 2022** – Minutes
8. **December 27, 2022** – Minutes

Appointments

9. **Veteran’s Grave Officer – Donald Jarvis, Veteran’s Agent** – Memo from D. Jarvis dated 12/27/22

Old Business

10. **Code of Conduct Policy Update – 3rd Reading – Requested by Vice Chair Riley/Secretary Conway** – Draft Code of Conduct Policy
11. **Town Managers Report** – Town Manager’s Report dated January 6, 2023
12. **Brown Water Update** – Survey Map dated 1/6/23
13. **Update on Pond Street Truck Traffic with Discussion of Similar Situation on Tower Farm Road** – Requested by Member Burrows – Email from Sgt. Magnan dated 1/3/23

New Business

14. **CPC Discussions and Update (Kohlrausch Park, Masonic Hall, etc.)** – Memo from Town Manager dated 1/6/23
15. **Adopt Order of Taking for Street Acceptance Roads Authorized at the 2022 Fall Town Meeting – Presented by Town Engineer Kelley Conway** – Memo from Kelley Conway dated 1/9/23, Order of Taking including Schedule and Exhibits
16. **St. Mary’s Church – Possible Recreation Center Discussion – Requested by Member Rosa** – Memo from Town Manager dated 1/6/23 and Property Record Card
17. **Discussion and Vote to Approve the Issuance of a Band Anticipation Note (BAN) Sale – Requested by Elaine Russo, Treasurer** – Memo from E. Russo dated 1/5/23

Meeting Schedule

January 23, 2023 and February 6, 2023

Approved On: January 23, 2023