

RTM SPECIAL MEETING
OCTOBER 10, 2019

OUTSTANDING AND RECOMMEND ADDITIONAL REMEDIATION, IF ANY;

3. REVIEW THE CHARTER WRITTEN STANDARDS OF ETHICS, INCLUDING CONFLICT OF INTEREST, AND MAKE A RECOMMENDATION FOR ADMINISTRATIVE REGULATIONS ON WHISTLEBLOWER POLICIES, ENSURING THAT STANDARDS OF ETHICS ARE REGULARLY AND APPROPRIATELY COMMUNICATED TO ALL EMPLOYEES, EXTERNAL CONTRACTORS, AND BOARD AND COMMISSION MEMBERS, AND THAT BREACHES OF ETHICS ARE REPORTED, RECEIVED, KEPT CONFIDENTIAL UPON REQUEST, LOGGED, PURSUED AND RESOLVED/DISPOSED OF THROUGH THE PROPER CHANNELS;
4. THE OUTSIDE FIRM SHALL REPORT TO THE THREE-MEMBER BODY OF THE BOARD OF SELECTMEN (BOS) AND IT SHALL BE THE RESPONSIBILITY OF THE OUTSIDE FIRM TO REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE BOS, THE BOARD OF FINANCE (BOF), AND THE REPRESENTATIVE TOWN MEETING (RTM) ON A REGULAR BASIS; AND
5. UPON COMPLETION OF THE INDEPENDENT FIRM'S FINDINGS, AND WHEN A FINAL REPORT OF RECOMMENDATIONS IS PREPARED FOR ACTION THAT REPORT SHALL BECOME A VOTING ITEM FOR THE BOS, BOF, AND RTM.
LET IT BE FURTHER RESOLVED THAT:
 1. THE INDEPENDENT FIRM SHOULD BE INTERVIEWED AND CHOSEN BY THE ENTIRE BOS NOT THE FIRST SELECTMAN;
 2. APPROPRIATE DEPARTMENT HEADS SHOULD ASSIST WITH WRITING THE REQUEST FOR SERVICES, AND THAT REQUEST SHOULD BE VOTED UPON BY THE ENTIRE BOS SO THAT PUBLIC INPUT CAN BE SOUGHT;
 3. DEPARTMENT HEAD LIAISON TO THE INDEPENDENT FIRM SHALL BE THE CONSERVATION DIRECTOR WHO SHALL ALSO REPORT TO THE ENTIRE BOARD OF SELECTMEN ON THIS MATTER;
 4. MOVING FORWARD ANY PUBLIC MEETINGS HELD BY INDEPENDENT FIRM SHALL INCLUDE THE DEPARTMENT HEAD LIAISON AND THE ENTIRE BOS, NOT JUST THE FIRST SELECTMAN; IN ADDITION, THE BOS SHALL REQUEST THAT THESE MEETINGS BE RECORDED BY FAIRTV AND WHENEVER POSSIBLE PRESENTED LIVE ON FAIR TV; AND
 5. FUNDING FOR THE INDEPENDENT FIRM SHALL BE REQUESTED THROUGH ALL PROPER TOWN CHARTER REQUIRED CHANNELS."

Pamela Iacono, District 8, moved this Item as distributed with the call, duly seconded.

Karen Wackerman, District 8, stated that the Democratic Caucus was pleased to see the proposed resolution authored by the Republican Caucus. Ms. Wackerman said that she had had a good conversation with the Minority Leader. They feel strongly it needs to be removed from the BOS.

Pamela Iacono, District 8, Minority Leader said she was grateful to have received the call from the Majority Leader asking to work together to solve this issue. Ms. Iacono stated that she had tried to use language that would emphasize the need for independent investigation of the handling of the fill pile issues, and she wanted to offer up a series of motions to change the language of the resolution to be more conciliatory. She stated that she felt something positive had come about in the feeling of cooperation between the two parties in working on these resolutions.

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Amendment: Pamela Iacono moved to add “*and Administrative Regulations*” after “Charter” in the first paragraph of the Resolution, duly seconded.

VOTE: Amendment carried with 32 in favor, 1 opposed (Smey) and 1 abstention (Wackerman).

Amendment: Pamela Iacono moved to insert “WHEREAS, it is in the best interest of the Town of Fairfield to examine the facts around the dumping of hazardous waste at the Fairfield Aggregate Fill Pile and the possible use of that fill in parks, fields, playgrounds and other areas around Fairfield, despite the fact that the fill is inappropriate for such use; and WHEREAS, the Board of Selectmen have the power to investigate any and all Town offices, departments and agencies of the Town; let it hereby be RESOLVED that:” and delete “WHEREAS, there is consensus that the powers to investigate and administer oversight into an investigation should no longer reside with the First Selectman, but instead with an Independent Firm that shall report to the Board of Selectmen, let it here fore be resolved that;” duly seconded.

VOTE: Amendment carried with 31 in favor and 3 opposed (Newman, Smey, Wolk). (Messrs. Berecz and Petise were not present for this vote.)

Amendment: Pamela Iacono moved the following deletions and insertions in the “let it be further resolved citation” Number 1. *Delete “BOS not the First Selectman” insert “three member Body of the Board of Selectmen unanimously”;*

Hannah Gale, District 6, stated that in caucus there was a discussion that the possibility of one firm having expertise or skills in all the multiple fields necessary to investigate the history of the fill pile, conduct an audit, find an environmental professional, conduct lab tests, etc. was most unlikely. She stated that this is why the Democrats proposed having a commission to act as a general contractor to oversee the investigation.

Kerry Berchem, District 8, asked if it was Ms. Iacono’s intent to have a majority vote by the Board of Selectmen or a unanimous vote.

Ms. Iacono replied that in their conversation the Majority Leader had expressed concern that the original language had seemed to target the First Selectman, and so Ms. Iacono changed the resolution. The intent was to have the three member Board of Selectmen choose an independent firm, etc. not just the First Selectman. She stated the intent was to have a unanimous vote by the BOS.

Karen Wackerman, District 7, moved to amend the amendment to add the word “*unanimous*”, duly seconded. The Moderator asked if any member objected to this amendment to the amendment to include the word unanimously. There was no objection and so the Body returned to considering the primary amendment as amended.

Michael Herley, District 10, stated that he felt this is an important amendment. He stated that he felt the breakdown in the governance of the Town was because of a lack of checks and balances. He urged all members to support this amendment.

Jill Vergara, District 7, said she wanted to clarify the point that the Board of Selectmen already had power to conduct an investigation and hasn’t done so, hire an independent firm and had not done so. She stated that she felt this lack of action on the part of the BOS was the reason for the need to create an independent commission to oversee the investigation.

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VOTE: 32-2 (Ambrose & Havey opposed) (Messrs. Berez and Petise were not present for this vote.)

Amendment: Christine Messina, District 8, moved to add to the second paragraph which begins “WHEREAS” the phrase “*or Firm(s)*” after the words “Independent Firm” and to add subsequently the letter (s) to the word “firm” in the body of the resolution, duly seconded.

Douglas Price, Woodfield Road, spoke against the amendment stating that it was better to have one firm with subcontractors than to have multiple firms.

Pamela Iacono, District 8, stated that she agreed and so she did not support the motion to add the letter “s” globally.

Bill Gerber, District 2 stated that he liked the idea of an independent firm that would have the ability to subcontract, and that he would like to have an idea of what firm this might be before voting on an amendment.

Pamela Iacono, District 8, stated that the amendment was to add an “s”, but in looking at the whole document it serves as a framework to ask the BOS to work with department heads to hire an outside firm.

Bill Gerber, District 2, stated that he felt the description of the firm is not appropriate for the type of work the firm is needed to do.

VOTE: Amendment carried with 31 in favor and 3 opposed (Rotelli, Iacono, Herron). (Messrs. Berez and Petise were not present for this vote.)

Amendment: Pamela Iacono moved the following deletions and insertions in the “let it be further resolved citation”, duly seconded
Number 2 Insert “*at a public meeting*” following BOS.

VOTE: The amendment was approved by unanimous voice vote. (Messrs. Berez and Petise were not present for this vote.)

Amendment: Pamela Iacono moved the following deletions and insertions in the “let it be further resolved citation”, duly seconded
Number 3. Insert “*The*” at the beginning of the sentence; delete “*the Conservation Director who shall also*”; insert after shall be “*determined by unanimous vote of the Board of Selectmen, and the Department Head liaison shall*” before “*report to the entire Board of Selectmen on this matter*”.

VOTE: Amendment carried with 33 in favor and 1 opposed (Gale). (Messrs. Berez and Petise were not present for this vote.)

Amendment: Pamela Iacono moved the following deletions and insertions in the “let it be further resolved citation”, duly seconded
Number 4. Insert “*community*” after “*public*”; insert “*and/or forums*” after “*meetings*”; insert “*all three members of the Board of Selectmen*” after “*liaison*”; delete “*the entire BOS, not just the First Selectman*”.

VOTE: Amendment carried by unanimous voice vote. (Messrs. Berez and Petise were not present for this vote.)

Josh Garskof, District 5, asked if this item is labeled as a resolution does the Body have the right to tell the BOS what to do or should it be a “sense of the Body”.

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The Moderator stated that the Body does have the right to offer an advisory resolution to the BOS, and that it requires a two thirds majority to pass.

Pamela Iacono, District 8, stated that the language of the proposed resolution addresses this aspect in the hopes that the First Selectman will place the resolution on the BOS meeting agenda for discussion.

Jill Vergara, District 7, said while she was very glad to see the Republican proposal to add a crisis management firm, she is unable to support this resolution because we need to have an independent commission as stated in the Democratic resolution which is very important to her.

Michael Herley, District 10, said he stands in full support of this resolution, and that like many in town he felt betrayed by what has happened, specifically the contract with Julian that was never brought forward to the BOS. He stated that the BOS is the Town's executive body, and he hopes that all the members could support the town Charter and the BOS.

Karen Wackerman, District 7, stated that the BOS has done nothing about this matter in the last 2 months. The town deserves to know what happened and what will be done about it. She said that she thinks the only way to deal with this issue is to create a nonpartisan commission and that while she admires many aspects of this resolution it falls short and that is why she wants to see the creation of a nonpartisan independent commission.

Margaret Horton, District 9, stated that she felt there was more agreement among the members than disagreement, and that the creation of a commission would move the Town forward.

Hannah Gale, District 6, stated that she was concerned about the language of "one Department Head Liaison" and that her concern regarding "best practices" in municipal government there is always a need for a committee of employees which may serve as a place where everyone could come together.

Dorene Herron, District 9, stated that she is in support of this resolution since it already is embodies the bipartisan component since the BOS is bipartisan.

Sharon Pistilli, District 3, stated that she thought both ideas should be blended together.

Bill Gerber, District 2, said in his opinion the Charter gives the BOS to do what is stated in this resolution but the BOS has not taken any action. He noted that the upcoming elections will result in a BOS containing possibly 2 new members, and stated that no matter the composition, the BOS will have influence on either a commission or a firm. He stated that the best way to have continuity and a lack of partisanship was to support an independent commission.

Michael Herley, District 10, stated that there a lot of dedicated volunteers in town who do their best to do right for the town, and that while the Penfield Building Commission was comprised of a lot of terrific individuals the town is still facing a \$4 million shortfall. He said that any potential committee member living in town would be influenced by the mere fact of being a resident. He said that it is showing a lack of faith in representative government by requiring a commission rather than the BOS to govern.

Nancy Lefkowitz, District 1, stated that the word "unanimous" in this item is important to her, and that this would be a bipartisan body. She said that she is open to Representative Pistilli's suggestion to blend some sort of a citizen component into this proposal. Ms. Lefkowitz said that she agreed with Representative Herley's statement that the Body needs to work to restore the public's faith in government.

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Matt Jacobs, District 3, stated that the creation of a bipartisan commission would put power into the hands of the towns' citizens, and that continuity is necessary that makes sense to deal with turnover in elected officials.

Alex Durrell, District 3, stated that he had once been introduced to a politician who related to him that Town officials like to have commissions so that they can blame the commission if something goes wrong. He said more layers of government mean less accountability.

Michael Herley, District 10, stated he wanted to respond to Mr. Jacobs by noting that the citizens have a say in the process through representative government and also through the ability to vote.

Karen Wackerman, District 7, wanted to correct the idea of unanimity in this plan. She stated the only unanimity required of the BOS would be in the selection of a firm.

Kerry Berchem, District 8, stated that these issues impact the entire community. She noted Representative Durrell's comment about accountability, and the apparent lack of trust.

Mike Mahoney, District 1, said he agreed with a lot that had been said, and agrees with all who stated there is a need for independence, but had not heard anyone say there was a need for transparency, which he felt was very important.

Amendment: Hannah Gale moved to change from "*Department Head Liaison*" to "*Liaison from employee audit committee.*" There was no second for this motion and the motion died.

Lauren Bove, District 7, expressed appreciation for the fact that both sides were working together on this issue. She stated that her problem with this plan was the lack of required unanimity except on the hiring of a firm, and wants to see that changed.

Bill Gerber, District 2, asked if an independent firm can run a public meeting, and if that was the intention of this resolution.

Pamela Iacono, District 8, answered that yes, an independent firm can run public meetings such as the search firms looking for the new school superintendent.

Bill Gerber, District 2, asked who would decide when the work of an independent firm is completed. He stated that he took exception to Representative Herley's suggestion that the BOS is not to be trusted. He stated that he feels a commission is preferable because if there is a budget crisis or a requirement from State Government which might remove the attention of the BOS from concentrating on this issue. Mr. Gerber said that the Town wants to know what happened and that the issue needs to have dedicated oversight and that the BOS has too many responsibilities to be able to dedicate enough time to overseeing the investigation into what happened.

Michael Herley, District 10, stated that an independent firm could do a top to bottom analysis of what happened and then report to the executive body.

Jay Wolk, District 5, said all he had heard all night was blame being placed on the First Selectman, and that this was not the fault of Mr. Tetreau.

Matt Jacobs, District 3, stated that it needed to be made clear that the disagreement between the parties was not the hiring of an independent firm but to whom the firm should report.

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Nancy Lefkowitz, District 1, stated that with respect to her colleagues that if different results are not demanded, then nothing will change. She said the BOS needs to be more active in this investigation.

Pamela Iacono, District 8 thanked representative Lefkowitz for recognizing what is important. She said that it is important to let the next BOS know that the RTM is watching. Ms. Iacono said that a group of volunteers on a committee are only accountable to the BOS, not to the RTM or the citizenry. She said there is a need to read the Town Charter and to force the BOS to follow it. She stated that the resolution as amended is meant with good intent and urged its passage.

Jill Vergara, District 7, stated that she thinks the creation of an independent commission forces the implementation of the Charter.

Peter Tallman, District 8, stated that his ongoing concern is while there are people in town who volunteer to be on committees, there are probably not enough people with sufficient expertise to be useful on the committee.

Becky Bunnell spoke in favor of having unanimous votes of the BOS. Bill Hopf, Hemlock Hills North, spoke in favor of having a nonpartisan commission. Trudi Durrell, Woodcrest Road spoke of the need for accountability.

Bill Perugini, Fairfield Beach Road, spoke of the need to be advised of what is happening with the fill pile. Douglas Price, Woodfield Road, spoke in favor of a commission. Janine Alianiello stated that she thinks there are 35 commissions in town, and that the Ethics Commission could be used to take care of this investigation.

Alexa Mullady, Rolling Hills Drive, spoke in favor of having an independent firm report to the BOS. State Rep Brenda Kupchick suggested that the Body postpone the vote and come together for the community.

Tom McCarthy, Lovers Lane, stated that he believed the real problem is a breakdown in management, and that he is in favor of having an independent firm. Dana Kery, Green Acres Lane spoke in favor of having the Ethics Commission under section 10.15 section 8 of the Charter oversees this issue.

Karen Wackerman, District 7, called for caucus at 10 PM. The meeting resumed at 10:15 PM.

Amendment: Michael Herley moved to add a new paragraph 4 in the further resolved citation, duly seconded, *“All decisions made by the Board of Selectmen relating to this resolution are required to be made unanimously.”*

VOTE: Amendment carried by unanimous voice vote. (Ambrose was not present).

Bill Gerber moved to add the following 3 paragraphs after the 2nd “Whereas” paragraph, duly seconded.

“NOW, THEREFORE, BE IT RESOLVED, that the Fairfield Representative Town Meeting recommends that the Board of Selectman immediately establish an independent, nonpartisan commission to examine the facts around the dumping of hazardous waste at the aggregate pile at the Fairfield Department of Public Works yard and the possible use of that fill in parks, fields and playgrounds around Fairfield;

FURTHER RESOLVED, that such commission shall be composed of residents with appropriate expertise, an equal number of residents from each of the two major political parties in town, and that in order to

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ensure the political independence of the commission, no member of the commission shall either hold, or be a candidate for, any elected office;

FURTHER RESOLVED, that the commission shall be charged with the following and be provided adequate funding to accomplish said tasks.”

VOTE: Motion carried with 22 in favor and 14 opposed.

IN FAVOR: Lefkowitz, Gerber, Lopez, Newman, Perham, Jacobs, Marshall, Pistilli, Pires, Spolyar, Garskof, Smey, Wolk, Ambrose, Berez, Havey, Bove, McDermott, Vergara, Wackerman, Berchem, Horton

OPPOSED: Chessare, Mahoney, O’Shea, Durrell, Rotelli, Gale, Iacono, Messina, Tallman, Farnen, Herron, Herley, Petise, Sundman

In the “Let it be further resolved” portion, Bill Gerber moved the following replacements, duly seconded:

- 1 Replace “*Independent Firm(s)*” with “*Independent Commission*”
- 2 Replace “*BOS*” with “*Independent Commission*”
- 3 Replace “*BOS*” with “*Independent Commission*”
- 5 (formerly par 4) Replace “*Independent Firm(s)*” with “*Independent Commission*”

Michael Herley, District 10, stated that he didn’t support any of these amendments.

Peter Tallman, District 8, asked what would happen if the Town is unable to find five qualified people to serve on the Commission.

Cynthia Perham, District 2, stated that she respected Rep. Tallman but that she disagreed with the idea that there aren’t enough qualified people to serve on a bipartisan commission.

Matthew Jacobs, District 3, noted that the BOS already is empowered to hire an independent firm.

Sharon Pistilli, District 3, stated that she wanted to reiterate that originally the Members were coming together, and that the point of compromise is taking two ideas and putting them together.

Karen Wackerman, District 7, stated that members of a committee would be hiring experts.

Selectman Ed Bateson stated that there is a great deal to absorb in the current proposal. He questioned what the RTM sees as the role of the BOS and if a commission would tell the BOS what to do. He has no recourse against a citizen as he does against an elected official.

Bill Gerber, District 2, said that thanks to Selectman Bateson’s remarks he sees the commission as saying “This is what needs to be done” and hopes that political and budgetary motivations don’t stop this.

VOTE: Motion carried with 20 in favor, 15 opposed and 1 abstention.

IN FAVOR: Gerber, Lopez, Newman, Perham, Jacobs, Marshall, Pistilli, Pires, Spolyar, Garskof, Smey, Wolk, Ambrose, Berez, Havey, Bove, McDermott, Vergara, Wackerman, Berchem, Horton

OPPOSED: Chessare, Lefkowitz, Mahoney, O’Shea, Durrell, Rotelli, Gale, Iacono, Messina, Tallman, Farnen, Herron, Herley, Petise, Sundman

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ABSTENTION: Berchem

The Moderator re-read Paragraph 4. He read “*All Decisions made by the Board of Selectmen are required to be made unanimously*”

Michael Herley, District 10, said he could not support this resolution as it is now written as he was concerned about the creation of a commission that is to sit above the BOS.

Jill Vergara, District 7, moved to amend the paragraph regarding the composition of the Commission as follows: delete “*an equal number of residents from each of the two major political parties in town*” with “*two Democrats, two Republicans and one unaffiliated voter*”, duly seconded.

Kerry Berchem, District 8 asked who appointed the 5 commission members to which Ms. Vergara replied members would be appointed by the BOS.

VOTE: Motion carried with 23 in favor and 13 opposed.

IN FAVOR: Lefkowitz, Gerber, Lopez, Newman, Perham, Jacobs, Marshall, Pistilli, Pires, Spolyar, Garskof, Smey, Wolk, Ambrose, Berecz, Gale, Havey, Bove, McDermott, Vergara, Wackerman, Berchem, Horton

OPPOSED: Chessare, Mahoney, O’Shea, Durrell, Rotelli, Iacono, Messina, Tallman, Farnen, Herron, Herley, Petise, Sundman

Josh Garskof, District 5, moved to suspend Rule 36, duly seconded. Motion carried unanimously.

Michael Herley, District 10, stated that this is a vote against the Town Charter and also stated he can’t vote on this without a full document in front of the members.

Karen Wackerman, District 7, asked to have the item passed in order to get an investigation started as the town needs to see resolution.

Mr. Herley noted that the power to appoint a firm needs to reside in the BOS so that they can be held accountable.

Jay Wolk stated that an independent commission would look into what happened, and so he was not following why such a commission is not a good idea.

Amendment Sharon Pistilli moved to add a paragraph following the “further resolution” to read, “*the commission shall be comprised of residents who have appropriate expertise. The Board of Selectmen must approve each member unanimously and the Representative Town Meeting must approve members by a majority vote.*” duly seconded.

Dana Kery suggested that the RTM should add that members of the commission cannot be Town employees.

Marisa Ringel, Hulls Highway spoke in favor of taking a week to look at all the amendments before voting. Douglas Price spoke in favor of both members of the public who spoke before him. Bill Llewelyn, Morehouse Dr. spoke against a commission.

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Hannah Gale, District 6, said the Town Charter says all Town commission members and employees are responsible to the BOS.

Jill Vergara moved to suspend Rule 26 in order to have another political caucus, duly seconded.

VOTE: Motion to suspend Rule 26 failed with 13 in favor, 20 opposed and 2 abstentions (Pistilli was not present to vote).

IN FAVOR: Gerber, Newman, Perham, Marshall, Garskof, Wolk, Berez, Gale, Bove, McDermott, Vergara, Wackerman, Berchem

OPPOSED: Chessare, Mahoney, O'Shea, Lopez, Durrell, Jacobs, Pires, Rotelli, Spolyar, Smey, Ambrose, Havey, Iacono, Messina, Tallman, Farnen, Herron, Herley, Petise, Sundman

ABSTENTION: Lefkowitz, Horton

Jill Vergara moved to postpone the item to a date certain. Point of Order was raised as to special meetings and the RTM Rules to Regulate.

No vote was held on Ms. Pistilli's amendment.

Moderator Pires called for a recess at 11:23 PM. The meeting reconvened at 11:27 PM.

Majority Leader Wackerman and Minority Leader Iacono stated that the Body had worked very hard on this serious issue for the Town. There is enough information for the public to see and the elected officials and candidates to hear. Everyone is paying attention to this matter. Majority Leader Wackerman and Minority Leader Iacono moved and second a motion to adjourn the meeting without taking action on items 2 and 3 on the Warning. The motion carried unanimously.

No action was taken on the items and the meeting adjourned at 11:28 PM.

Respectfully submitted,

Elizabeth P. Browne, MMC, MCTC
Town Clerk

Recorded by: Frances Daly