



TOWN OF FREETOWN  
BOARD OF SELECTMEN  
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MINUTES  
MEETING OF MONDAY, OCTOBER 23, 2017  
FREETOWN ELEMENTARY SCHOOL  
43 BULLOCK ROAD, EAST FREETOWN, MA 02717

**6:00 P.M.**      **Call to Order** Chairman Lisa A. Pacheco calls the meeting to order. Also present are Selectman Robert P. Jose Selectman Charles B. Sullivan, Town Administrator David DeManche, Town Counsel Mark R. Reich and Senior Clerk Timm McIntosh. The meeting is being recorded by FREECAM.

**6:00 P.M.**      Discuss Marijuana Articles with Planning Board to discuss recommendations for Articles for Special Town Meeting.

The Board is joined by the Planning Board: Chairman Keven Desmarais, Deborah Robbins, Nick Velozo and Planning Technician Lauren Moreau. Selectman Robert Jose is also a member of the Planning Board, and confirms with Atty. Reich that he can act in both capacities for this meeting. Mr. Desmarais calls the Planning Board meeting to order and opens their public hearing.

Selectman Pacheco asks Atty Reich to speak about the marijuana Articles, how they will work. Atty Reich says the attorney general has determined this is a land use issue, but other factors dictate that it is general and zoning by law issue. He says there are "competing" articles on the warrant, one limiting retail licenses to 20% of liquor licenses, one fewer than 20%. It is noted that in Freetown's case, the decision is one license or zero licenses. If the zero/prohibition Article passes, it triggers a ballot question. If the ballot question fails, then that limitation is not considered valid; both the Article and ballot question must pass. The 20% exists in case they fail, as it would remain valid in that case. If all Articles and the ballot question pass, Atty Reich says it is his opinion that the more stringent restriction supersedes the other one. The 20% restriction can be rescinded at a later town meeting.

Selectman Pacheco recaps the Board's discussion about withdrawing one article if one passes. Previously, the Board planned on withdrawing the second Article if the first passed. Atty. Reich says that's a policy decision, that if the town passes the 20% and genuinely wants 20%, you can withdraw the prohibition Article. He notes that turnout for a special election would almost certainly be higher than the turnout for the Special Town Meeting.

Mr. Desmarais asks if both fails, what happens at that point. Atty. Reich says we would have no limitations in Freetown, but notes we would have more time to try again. Ms. Moreau notes the moratorium in place. Atty Reich cautions that the industry may be challenging the moratoriums. KP Law doesn't agree with their stance, but the industry sees it as a prohibition. Atty. Reich suggests if we end up having a ballot question for prohibition, to reaffirm the moratorium at the same time. Recapping the timeline, Atty. Reich says licensing starts in April, which go into effect on June 1. He

calls this uncharted territory. Mr. Desmarais says this is the last piece of the puzzle. Atty. Reich says Freetown is ahead of the game in this matter, that other communities are still in the planning phase.

Mr. Desmarais says his recommendation for tonight is to pass one or the other, or both, saving the time of another special town meeting. Atty. Reich's recommendation would be the Planning Board recommend both, unless they favor one or the other.

Selectman Jose asks what happens if the zoning overlay district Article fails. Atty. Reich says there would just be no zoning restrictions, but because of that, that's probably the most important of the bunch. Selectman Jose notes if prohibition passes and they want to change it later, the zoning would be in place already. Mr. Desmarais says the he can see the industry getting a grassroots movement going to fight the prohibition, and Atty. Reich agrees.

Selectman Jose asks what happens if more liquor licenses are added, resulting in a partial number when the percentage is figured (i.e. adding a sixth liquor license would make 20% 1.2). Atty. Reich says you would round down, still at 1. It is noted that Freetown would be at one retail license until the number of off-site liquor licenses doubles to ten. Discussion turns to naming a percentage vs. naming a number. Atty. Reich says KP Law has been told the attorney general would approve either language.

VOTE: Motion (Jose/Pacheco) to follow the advice of Atty. Reich and have the Board of Selectmen recommend all the marijuana articles, passed unanimously.

Mr. Desmarais says he thinks we're all on the same page with this. The Planning Board votes to recommend both zoning articles by unanimous vote. They close their meeting and depart for the Special Town Meeting.

Before the Board enters into Executive Session, Town Accountant Kimberley Fales says she has final numbers for article 29, which includes an extra \$300K in the tax levy. The Board previously decided to split free cash evenly in each stabilization fund. Ms. Fales says the \$300k can be left in free cash. The Board agrees that is what they will do, and ask Ms. Fales to provide the numbers on the Special Town Meeting Floor.

NOTE: due to time constraints with the Special Town Meeting, the Board of Selectmen take the remaining agenda for this meeting out of posted order. Minutes presented here are in the order from the meeting, not the posted agenda.

As Selectman Sullivan has abstained from all matters involving Excel Recycling, he departs the meeting for the executive session.

#### **Executive Session:**

At 6:28pm, motion (Jose/Pacheco) to enter into executive session, under the following exemption, and return to open session following. Roll Call Chairman Lisa A. Pacheco and Selectman Robert P. Jose. All voted in the affirmative when polled. Board of Health Agent Derek Macedo joins the meeting as part of

the Executive Session. Participants move to a classroom elsewhere in Freetown Elementary School for the Executive Session.

- M.G.L. c. 30A, sec. 21(3) - to discuss strategy with respect to litigation if an open meeting may have a detrimental effect on the litigating position of the public body and the chair so declares – Excel Recycling, LLC vs. Lisa Pacheco, Robert Jose, and Charles Sullivan Individually and as Members of the Freetown Select Board, CA No. 1773CV00612.

The Board was not able to complete their executive session before the Special Town Meeting and will re-adjourn the meeting, including returning to Executive Session, following the close of the Special Town Meeting.

At 7:00pm, motion (Jose/Pacheco) to exit executive session and recess the Board of Selectmen's meeting until the close of the Special Town Meeting. Roll Call Chairman Lisa A. Pacheco and Selectman Robert P. Jose. All voted in the affirmative when polled.

At 8:32pm, Chairman Pacheco calls the meeting to order, following the Special Town Meeting. She announces the Board will go complete the prior Executive Session following the completion of the open session agenda.

**Consent Agenda:**

**Board of Selectmen: Action relative to:**

- Sign Memorandum of Agreement with Kimberley Fales, Town Accountant.

VOTE: Motion (Jose/Sullivan) to sign the memorandum of agreement with Ms. Fales, passed unanimously.

- Sign Massachusetts Interlocal Insurance Association (MIIA) health agreement, as submitted by the Health Insurance Advisory Committee.

VOTE: Motion (Jose/Sullivan) to sign the MIIA agreement, passed unanimously.

**Board of Health:**

**Personnel Board:**

- Approve/Sign Change of Status form for Luis Alves, as submitted by Chief Abbott, effective November 7, 2017.

VOTE: Motion (Sullivan/Pacheco) to approve & sign the change of status form for Mr. Alves, passed unanimously.

- Approve/Sign Change of Status form for Christopher Medeiros, as submitted by Chief Abbott, effective November 13, 2017.

VOTE: Motion (Sullivan/Pacheco) to approve & sign the change of status form for Mr. Medeiros, passed unanimously.

- Approve/Sign Change of Status form for Patrick Lee, as submitted by Chief Abbott, effective November 30, 2017.

VOTE: Motion (Pacheco/Sullivan) to approve & sign the change of status form for Mr. Lee, passed unanimously

As Selectman Sullivan has abstained from all matters involving Excel Recycling, he again departs the meeting for the executive session.

**Executive Session:**

At 8:34pm, motion (Jose/Pacheco) to enter into executive session, under the following exemption, and not to return to open session following. Roll Call Chairman Lisa A. Pacheco and Selectman Robert P. Jose. All voted in the affirmative when polled. Board of Health Agent Derek Macedo is absent from this portion of the Executive Session. Participants move to a classroom elsewhere in Freetown Elementary School for the Executive Session.

- M.G.L. c. 30A, sec. 21(3) - to discuss strategy with respect to litigation if an open meeting may have a detrimental effect on the litigating position of the public body and the chair so declares – Excel Recycling, LLC vs. Lisa Pacheco, Robert Jose, and Charles Sullivan Individually and as Members of the Freetown Select Board, CA No. 1773CV00612.

At 9:03pm, motion (Jose/Pacheco) to adjourn the executive session and Board of Selectmen's meeting. Roll call Chairman Lisa A. Pacheco and Selectman Robert P. Jose. All voted in the affirmative when polled.

Respectfully submitted,



Timm McIntosh, Senior Clerk

**List of Documents/Exhibits used in this meeting pursuant to M.G.L. c. 30A, §22(a)**

- E-mail correspondence between Town Moderator Mike McCue and Senior Clerk Timm McIntosh re: amendments for various Articles for Special Town Meeting
- Draft Memorandum of Agreement between Town of Freetown and Kimberley S. Fales, Town Accountant
- Minutes of Meeting of October 19, 2017, of the Health Insurance Advisory Committee
- Massachusetts Interlocal Insurance Association (MIIA) Health Benefits Trust renewal proposal for 2018
- Change of Status report for L. Alves, P. R. Lee, C. M. Medeiros