

Dear Select Board Members,

June 14, 2024

Congratulations on the new members and new roles.

As you know, I tried to make a public comment on June 11 that was interrupted and disrupted. I am writing to you about it because the experience raises several serious concerns that merit your full consideration. I take you at your word that you want to look forward, not back, and want to set a new tone in dealing with citizens of Truro. I offer these remarks in that spirit.

My Public Comment was properly directed to the entire Select Board

First, my comment was directed to all of you - not to a specific Board Member. Yet I was interrupted by a specific Board Member with a "Point of Order" contesting that I was inappropriately speaking to him. I was not. In other words, the point of order was actually out of order.

This interruption is in itself barred by Policy 59 which states that commenters should not be interrupted while making their remarks. I was interrupted several times.

I was also told that it is impermissible to make remarks concerning the actions of a specific Board Member. I believe this is mistaken as well. It not only sets a precedent that Select Board members are above criticism, but there is also nothing in our Policies 54 or 59 that bars this, specifying only that manner must be civil, as I was.

But perhaps most important, public comments are protected free speech and by law the Select Board may constrain the length of comments, but not the content. Chair Areson was correct to cite the Southborough Decision (actually called *Barron v Kolenda*) and should not have folded on this matter. I was indeed engaged in speaking "in a peaceable manner ... seeking town leaders for redress." The SJC found this was protected under clauses 16 and 19 of the MA constitution.

The added consequences of disrupting my Public Comment

But perhaps just as important as the violation of my constitutional rights, is that the content of my comment- itself very important - was entirely ignored as a result of the interruptions and disruption of my remarks. As a consequence, three additional concerns have arisen:

First, the issue I was primarily addressing is the absolute legal protection of Town Meeting Vote and the unambiguous responsibility the Select Board has to uphold Town Meeting votes, according to Policy 37.

There is NO DOUBT that voters overwhelmingly rejected Article 2 seeking a change of use to 340 Route 6 to allow the DPW there. The vote count showed that more than a majority voted to defeat Article 2 - well above the 1/3 needed to defeat Article 2. The "money" articles 3 and 4 at STM were also defeated by ample margins. Mr. Weinstein is wrong to challenge that by suggesting "only 37" votes more than needed were cast against Article 3 or 4. In fact, even if only ONE vote had exceeded the requirements, these articles were defeated.

Second, the LAW settles these votes, not debate by the Select Board or opinion of Town Counsel. Even putting these on an agenda suggests there is doubt about what Town vote means and decided. **There is no doubt: for the DPW, voters rejected 340 Route 6 at STM and again at ATM. They also affirmed Town Hall Hill at STM and ATM.**

Your job is to honor, uphold and implement Town Meeting decisions.

The third consequence of my interrupted and disrupted public comment is that it is not only my right but my obligation to bring to your attention that Mr. Weinstein misrepresented the facts concerning the discussion at an Ad Hoc Advisory Board Meeting to you. In his report to YOU, he cited “problems” the committee supposedly found with “parking”, “contamination” and “changes to Town Hall” as potential impediments there. The Committee and its consultant had easy fixes to these matters if they arose, and in fact, changes to Town Hall are an opportunity foreseen when voters approved amended Article 17 allowing those funds to be used for “Town Hall Hill” – that is for both sides of the road to address Town Hall’s needs.

Mr. Weinstein is misleading you. His remarks on June 11 citing one co-chair as being in favor of the DPW on Route 6 are both out of date and irrelevant: the voters decided the matter irrefutably. This committee is excited about Town Hall Hill, noting that the septic system for Town Hall is large enough to accommodate the DPW without change. 340 Route 6 cannot do that. This good news and financial bonus were not reported to you.

Mr. Weinstein is also exceeding his authority in seeking advice from Town Counsel on his own. He is barred from doing so, as you are well aware.

He is also exceeding his role as a liaison already, as defined in Policy 34, by engaging in Committee deliberations and ex parte conversations with Committee Members. He is a liaison, not a Committee Member and these actions are barred to liaisons and may trigger OML violations.

The Liaison Appointment to the Ad Hoc Bldg. Committee should be reconsidered

But the most shocking part of the night - and proof of the disruptive impact of the interruptions to my free speech - was when the Board Chair INVITED Mr. Weinstein to become Liaison to the Ad Hoc Building Committee after a long speech about his intention to continue - AS LIAISON – to advocate for a view that the voters rejected. His blatant bias against the voters’ will and the Committee’s charge shows his contempt for voters, his inability to serve with an open mind, and his inability to report to you accurately and without bias. Importantly, it shows his abject rejection of Policy 37 that **the Select Board “must operate under all budgets and By-Laws, and in conformity with all decisions made by Town Meeting.”** In other words, it shows he is unfit and unable to serve as liaison to this Committee.

For all these reasons above, I respectfully ask that the SB

- Affirm that it intends to adhere to its duties under Policy 37 to operate in conformity with the decisions made at the recent Town Meeting regarding the DPW and will uphold those votes.
- Allow public comments to be made consistent with Policies 54 and 59 as well as the law and SJC decisions.
- Set aside any “agenda” discussion of the DPW at 340 Route 6, since this was definitively resolved by the voters.
- Instruct all Select Board members that they must cease efforts to overturn Town vote as a Select Board member and wherever they serve in that role.
- Instruct SB members that they are not permitted to obtain advice of Town Counsel individually without the knowledge and approvals of the SB and Town Manager.
- Re-consider and remove Mr. Weinstein as liaison to this committee.

Thank you.

Dennis O’Brien, Truro