

RELEASED
APPROVED

RECEIVED
TOWN CLERK
HARWICH, MA

2022 AUG -9

MINUTES
SELECTMEN'S MEETING
TOWN HALL
MONDAY, MAY 23, 2022
6:30 P.M. - REGULAR MEETING
REMOTE PARTICIPATION OPTIONAL

SELECTMEN PARTICIPATING: Michael MacAskill, Julie Kavanagh, Larry Ballantine & Mary Anderson

ALSO PARTICIPATING: Town Administrator Joseph Powers

CALL TO ORDER

Mr. MacAskill called the meeting to order at 6:30 p.m.

PUBLIC COMMENTS/ANNOUNCEMENTS

Theresa Canavan was present and talked about the RIDE transportation system in the Commonwealth as well as the recent mask mandate that was issued by Governor Baker. The mandate states that everyone who uses the RIDE, drivers and passengers, and required to be fully masked. Ms. Canavan feels that the town is not in compliance with this order. She has had several discussions with the COA Director as well as the Cape Cod Regional Transit Authority. Ms. Canavan utilizes the COA transportation vehicles, which are leased from the CCRTA. As she understands, the town hires the drivers of the vans and they are town employees. The issue for Ms. Canavan is that there has been an ongoing problem with mask wearing, even when masks were mandated on the COA vans. She has suggested on several occasions that someone should look into the driver of the COA van having an assistant. Ms. Canavan would like the Board of Selectmen to mandate that all drivers and passengers on the COA transportation be fully masked. She would also like the drive to have an assistant that travels on the van. Mr. MacAskill responded that someone from the Administration Office would follow up with her.

Conservation Administration Amy Usowski was present to let the Board and citizens know that barricades have been put up at Red River Beach, about 2/3 of the way down the parking lot. These barricades are to protect the piping plovers that are due to hatch sometime this week. Bylaw, measures need to be taken to keep vehicles away from the nests and birds. If the plovers hatch this week, the barricades should be able to come down by July 4.

Harwich Chamber of Commerce Executive Director Cyndi Williams was present and stated that the Chamber is now open 7 days a week through Columbus Day. They do have beach and treasure check stickers available. She added that there is a \$3.00 convenience fee to purchase a sticker at the Chamber.

Water/Wastewater Superintendent Dan Pelletier was present to let the Board and residents know that the Water Department received the 2022 Public Water Systems Award that is issued by Massachusetts Department of Environmental Protection.

Mr. Ballantine stated that resident Angelina Chilaka has received the 21st Annual Community Leadership Award from Barnstable County. The town appreciates the County for recognizing Ms. Chilaka. She is a very well respected woman in town.

PUBLIC HEARING

A. Discussion and possible vote to approve the Stormwater Permit Application submitted by Eastward Companies Business Trust, Eastward MBT LLC, Trustee for subdivision located at 0 Orleans Road/Route 39; Assessors Map 63/C3/0.

Ms. Anderson read the public hearing notice.

David Clark of Clark Engineering was present along with Susan Ladue from Eastward Companies. They are before the Board seeking a stormwater permit for 0 Orleans Road/Route 39. Mr. Clark reviewed the stormwater system that has been designed. There are 3 areas within the road where stormwater will be captured by catch basins then sent to leach pits along the side of the road. Under Planning Board rules and regulations, they are required to be able to infiltrate a 25 year storm event. Under State rules and regulations, they are required to capture a 100 year storm event, which is how the system has been designed. Mr. Clark stated that they have received comments from town staff and that nothing in any of the reports is a red flag to him as they are all clerical and easy revisions. The applicant is meeting with the Planning Board tomorrow night to review the subdivision.

Kelly Siry from VHB was present. The biggest concern that was found in doing their review of the report was that the need to see the pre-development drainage calculations. The report was also missing the pre and post construction water shed plans as well as the hydro-cad results, calculations showing the size of the drainage pipes, Mass DEP checklist, information on the stationing of the inverts of the proposed catch basins and that the catch basins were not labeled. One question that they did have is that the report states that the stormwater runoff should be contained within man made detention areas along the shoulders of the streets and in the cul-de-sac. These areas are not shown on the plan. For consistency in the report, Ms. Siry pointed out that the term leaching basins is used in some areas and infiltration basins in others. She suggested that one term be used. They also need to make sure that the operation and maintenance agreement is specific to the site. Ms. Siry requested that a 2nd review of the report be done by VHB when the additional information has been received.

Mr. MacAskill noted that this public hearing would be continued.

Ms. Kavanagh asked for clarification on the open space. Mr. Clark responded that this is an open space subdivision in lieu of a grid subdivision. This provides an opportunity to preserve the space and provide a buffer to the wetland.

Ms. Anderson noted her concern about all of the missing items in the report, adding that she doesn't see them all as being clerical. Mr. Clark responded that a lot of the things brought up in the review are personal preference and not in how the design is laid out. He went on to say that he does not have a problem adding the information that VHB is requesting.

Mr. Powers asked Mr. Clark when he could have the revisions completed and Ms. Siry how much time they would need to re-review the application. Mr. Clark responded that he has 98% of the material added to the documents and plans. He wants to get through the Planning Board tomorrow night, in case there is anything that would require additional revisions. He could have the documents to the town by next Wednesday. Ms. Siry commented that if they receive the revised information by June 1 that they could complete their review by the June 6 meeting.

Ms. Anderson moved to continue the public hearing for Stormwater Permit Application submitted by Eastward Companies Business Trust, Eastward MBT LLC, Trustee for subdivision located at 0 Orleans Road/Route 39; Assessors Map 63/C3/0, until June 13, 2022 no earlier than 6:30 p.m. 2nd by Ms. Kavanagh. The vote was 4-0-0 with Mr. MacAskill, Ms. Ballantine, Ms. Kavanagh & Ms. Anderson all voting aye by roll call.

CONSENT AGENDA

- A. Vote to approve the following Board of Selectmen Meeting Minutes:
 - 1. July 27, 2020
 - 2. August 3, 2020
 - 3. August 10, 2020
 - 4. August 17, 2020
 - 5. August 18, 2020
- B. Vote to approve Caleb Chase requests for the following amounts: 1. \$1000.00
- C. Vote to accept a gift of \$2,000 from The Arts Foundation of Cape Cod for the Brooks Park Summer Concert Series

Ms. Anderson moved to approve the consent agenda as listed above, 2nd by Ms. Kavanagh. The vote was 4-0-0 with Mr. MacAskill, Mr. Ballantine, Ms. Kavanagh & Ms. Anderson all voting aye by roll call.

NEW BUSINESS

- A. Discussion and possible vote on the Barnstable Assembly of Delegates not funding the IT budget

Barnstable Assembly of Delegates Harwich representative Elizabeth Harder was present. Mr. MacAskill stated that there has been many conversations on this and that the point of tonight's discussion is for the Board of Selectmen to express their dissatisfaction that the IT budget has not been removed from the budget.

Ms. Harder stated that the Assembly fully supports the mission of the County's IT Department to expand its outreach and support of the towns on Cape Cod. Several Harwich officials have contacted her after the County vote on their operating budget. Ms. Harder was informed that the County could no longer honor an agreement to provide technical support because the County voted to reduce the IT budget. Ms. Harder stated that she was not aware of this information before the vote on the budget and if she was, she would not have voted in favor of the reductions. She wrote to the committee members and requested that the salary and benefit lines be restored. If given the choice of voting for an override or accepting the budget 11.07% increase, she would vote for the override because the budget as presented is unsustainable. Mr. Harder stated that she has spoken with the assembly's leadership and that she has received a commitment to address this issue after the budget has passed. She is making a commitment to the Selectmen that she will make an ordinance request to increase staff. Delegates are simply being cautious at this point to make sure that we will be able to continue to offer support if we hit a financial downturn. While she understands the concerns of the Board and Mr. Powers, Ms. Harder stated that she believes that Mr. Powers' attendance at the May 18 commissioners meeting did not help the situation. Her hope is that all parties can communicate better to avoid any issues.

Mr. Ballantine is sure that Mr. Powers was acting on the Board's behalf. He noted his disappointment because the County has always offered to help. Mr. Ballantine commented that we had staff support last year and now the County is arguing that in order to maintain that support, the need to increase staff. Ms. Harder responded that this is where the problem lays.

Ms. Kavanagh asked Ms. Harder how successful she thinks she will be in proposing the supplemental ordinance. Ms. Harder responded that she thinks she will have luck. Ms. Kavanagh went on to ask if the County provided any specifics on what they are cutting from the budget. Ms. Harder responded that the assembly received the budget late and had repeatedly asked for additional information. By the time the vote was needed, the assembly was given nothing. They had made it clear from the beginning that there was concern about all of these new staff positions. When the commissioners were not willing to reduce the budget at all, the speaker of the Assembly requested that people send in anything that they wanted to see cut, which resulted in a long list of

all of the positions suggested to be cut. Ms. Harder again reiterated that she did not know that the County was going to take back the Harwich contract with the IT cuts, or else she would have raised her voice. The Assembly was ready to go over every cut and the administration did not allow that to happen, and instead provided a list of what they were willing to do and did not want to discuss anything further.

Mr. Powers took his own point of privilege to say that he is perplexed by Ms. Harder's comments regarding his attendance at the commissioners meeting. Everything that he did was in public at a public meeting and on behalf of the Town of Harwich to advocate for a contract that had not yet been executed. At Town Meeting we were approved for \$165,000 to partner with Barnstable County for IT services. Part of that are ARPA funds to move to Office 365. County officials made it clear to him that if the budget went the way that it did, that the project could not move forward. The reconciliation committee met a week ago tonight at 4:30 p.m., which Mr. Powers attended until 5:30 p.m. before he had to leave to attend the Selectmen's meeting. The 2nd session for the next day was cancelled. He heard from members of the reconciliation committee that comments were made that the IT portion is a Harwich problem. Mr. Powers was asked to give input on the Town of Harwich project and the budget. Mr. Powers stated that his concern is that this is not a Harwich problem, but a problem with the County Commissioners and the Assembly. He made it clear to the commissions that Harwich is very disappointed in the way that things are going and that he hoped to present Harwich's project. He argued that this is not about his work or Ms. Harder's work and that there is for sure a communication issue.

Mr. Harder stated that intended or not, Mr. Powers' comments were taken as an insult at the Commissioners meeting and that they hurt the reputation of the Town of Harwich. Mr. Powers responded that he can show emails that show no disappointment. Ms. Harder feels that by appearing at the meeting, Mr. Powers put himself in the middle of this fight. Ms. Harder tried to reassure the Board that this issue is being worked on and that no one should be panicking.

Mr. MacAskill stated that Mr. Powers was representing the Board and that for the delegates that took offense to his comments, that they should check themselves. The Town of Harwich needs its representation by the delegates. There is no gray area in this and Harwich is now caught in the middle. Mr. MacAskill asked Ms. Harder to deal with how we move forward. Ms. Harder responded that she is trying to work on it as well as the Assembly.

- B. Discussion and possible vote to execute a license agreement for a merchandise shack at Whitehouse Field

Mr. Powers stated that this is not ready to come before the Board, but did provide a brief update. He expects to have a document ready for the June 1 meeting.

- C. Discussion and possible vote to approve the new Quarter 1 Bill inserts provided by the Treasurer/Collector

Treasurer Collector Amy Bullock was present and reviewed her request.

Ms. Anderson moved to approve the new quarter 1 bill inserts provided by the Treasurer/Collector, 2nd by Ms. Kavanagh. The vote was 4-0-0 with Mr. MacAskill, Ms. Kavanagh, Mr. Ballantine & Ms. Anderson all voting aye by roll call.

- D. Discussion on approve the Fiscal Year 2023 Disposal Area Fee Recommendations

DPW Director Linc Hooper was present. After conducting an analysis of our own expenses and a survey of disposal fees in abutting towns, Mr. Hooper recommended that the Selectmen consider the following action:

- Increase residential permit fee from \$160 to \$190
- Increase non-resident permit fee from \$225 to \$250
- Increase commercial MSW from \$120 to \$130
- Increase C & D from \$165 to \$175

Ms. Anderson commented that she is reluctant to the 19% increase to residents. She asked if there is any way to soften that and maybe increase some of the other areas. Mr. Hooper responded that the decision is up to the Board and that C & D is rather inelastic because there are very limited outlets. Ms. Anderson commented that increasing individual items might be an option. Mr. Hooper responded that those are small dollar items. The numbers that are presented tonight are simply to recoup costs. Ms. Anderson wondered if we should be looking at utilizing the pay as you throw program as it would force the hands of those who don't recycle to get all of their trash in less bags. Mr. Hooper responded that at this point, whoever is going to recycle is already doing so. He added that PAYT would drive residential trash elsewhere.

Theresa Canavan was present and asked that the Board consider an increase from \$160 to \$175 for residents. If we increase the cost of residential stickers by \$30, she feels that we will find more bags of trash dumped all over town.

Ms. Kavanagh noted that Harwich provides a commercial service that other towns don't and suggested that we look at increasing those rates more. She suggested increasing the residential fee by \$10 and making increases elsewhere.

Mr. Ballantine stated that he is reluctant because we have to get the budget balanced, but commented that he would support shifting around the increase amounts.

Mr. MacAskill noted that this would be on the June 13 agenda for a public hearing. He asked Mr. Hooper for numbers on the transfer station revenue from last year and this year so far. Mr. Hooper responded that last fiscal year saw about \$3.8 million and that this year is about \$4.1 million so far.

Mr. MacAskill said that he doesn't see any reason why Harwich and Harwich are competing with private sector businesses on C & D.

A resident got up and spoke about the "Turtle Run" subdivision that is being installed across from his property on Route 39. He had concerns about the increased traffic and speed in that area.

- E. Discussion and possible vote to approve a new seasonal Common Victuallers license – Pelham on Earle Operating Company LLC d/b/a Pelham on Earle – 30 Earle Road – *Pending Health Department Approval*

Ms. Anderson moved to approve a new seasonal Common Victuallers license – Pelham on Earle Operating Company LLC d/b/a Pelham on Earle – 30 Earle Road – Pending Health Department Approval, 2nd by Mr. Ballantine. The vote was 4-0-0 with Mr. MacAskill, Ms. Kavanagh, Mr. Ballantine and Ms. Anderson all voting aye by roll call.

- F. Discussion and possible vote to approve a new annual Common Victuallers license – Grumpy Pete's Pizza LLC d/b/a Alecsie's House of Pizza – 181 Route 137, Unit 3 – *Pending Health Department Approval*

Ms. Anderson moved to approve a new annual Common Victuallers license – Grumpy Pete's Pizza LLC d/b/a Alecsie's House of Pizza – 181 Route 137, Unit 3 – Pending Health Department Approval. The vote was 4-0-0 with Mr. MacAskill, Ms. Kavanagh, Mr. Ballantine and Ms. Anderson all voting aye by roll call.

- G. Discussion and possible vote to approve continued expanded outdoor table service application for Jake Rooneys – 119 Brooks Road

Ms. Anderson moved to approve continued expanded outdoor table service application for Jake Rooneys – 119 Brooks Road, 2nd by Ms. Kavanagh. The vote was 4-0-0 with Mr. MacAskill, Ms. Kavanagh, Mr. Ballantine and Ms. Anderson all voting aye by roll call.

- H. Discussion and possible vote to approve a Weekday and Sunday Miniature Golf license renewal – S & S Amusements LLC d/b/a Bud's Miniature Golf – 9 Sisson Road – 10:00 a.m. to 10:00 p.m.

Ms. Anderson moved to approve a Weekday and Sunday Miniature Golf license renewal – S & S Amusements LLC d/b/a Bud's Miniature Golf – 9 Sisson Road – 10:00 a.m. to 10:00 p.m. The vote was 4-0-0 with Mr. MacAskill, Ms. Kavanagh, Mr. Ballantine and Ms. Anderson all voting aye by roll call.

OLD BUSINESS

- A. Discussion and possible vote to approve the Memorandum of Understanding (MOU) with Harwich Conservation Trust for The Cold Brook Eco-Restoration Project

Harwich Conservation Trust Executive Director Michael Lach was present with Water/Wastewater Superintendent Dan Pelletier.

Nick Nelson was present remotely and showed a presentation with the proposed work area. The Town's goal is to increase the nitrogen removal to the Saquatucket Harbor watershed via denitrification in a series of open water ponds and nitrogen uptake in a naturally transitioning marshland system. The HCT goals are nitrogen attenuation, ecosystem restoration/recovery and recreational opportunities. Mr. Nelson reviewed a concept design that was brought up a few years ago and then showed information with updated designs. Engineering is at a 75% level now and there are hopes to be able to apply for permitting as soon as possible.

Mr. Lach stated that from a HCT perspective, the presentation that was made was helpful to understand the course of the design process and how we arrived at where we are today. They also hope that it helps answer questions raised back on April 19 and that we can move forward with the MOU as structured.

Mr. Pelletier reviewed the changes in the proposed MOU since the last meeting.

What caught Mr. Ballantine's eye was that the MOU seems to be directed all toward ecological restoration and very little under nitrogen mitigation. From the beginning, he was hoping for a compromise between the 2 and see equally important language in the MOU. He would like to know what the starting point was so we can make judgement on how to move forward. It was agreed that Mr. Ballantine's points are valid and that the true starting point goes back to the TMDL loads that the town needs to meet. It was noted that they do not expect much from the freshwater marsh restoration other than that it will retain rainfall. The biggest hold up was the 9 acres of salt marsh. It was added in 2020 and continues to evolve. HCT has come up with an agreement that has cut the costs and guarantees that the system will evolve into a salt marsh naturally. Mr. Ballantine would like to have the MOU somehow allow us to judge if we are succeeding in the ecological restoration and/or nitrogen mitigation. Mr. Pelletier commented that there has been a pre-restoration evaluation put together and there is also a pre-construction report and there will be a 3-year post restoration monitoring plan where data will be compared.

Mr. Ballantine asked Mr. Pelletier if there is money in the budget for monitoring. Mr. Pelletier responded that the monitoring would be paid for within the existing appropriation. Mr. Pelletier wondered if would make sense to wait for some time after restoration to do reporting. It was noted that you do see data in the first year. We need the deep emergent marsh to have plants in it and the ponds to be holes. Once that happens, then you will build the community that will get denitrification going.

Mr. Powers commented that in the draft MOU, there is reference that the town would provide HCT access to the adjacent town owned properties, which includes 203 Bank Street. Mr. Powers stated that the town is expected to receive proposals in mid-June about the disposition of this property. Mr. Lach responded that as discussed previously, the town's decision making process on 203 Bank Street would then determine any specific language in agreement relevant to the use of the abutting property.

A resident (name not stated) spoke and said that they have attended a lot of these meetings. As early as paragraph 2, reference is made to meeting the town's nitrogen goals and is consistent with the HCT goals for the project. We are trying to do this in a way that clearly meets the town's goals and it was stated that this is an exploration with some unknowns, but there is good science backing us up.

Mr. MacAskill stated that this would be back on the June 27 Selectmen's agenda.

B. Discussion and possible vote on potential appointment for members of the Local Planning Committee (LPC)

1. Ed McManus
2. Marietta Nilson

Mr. Ballantine moved to appoint Ed McManus to the Local Planning Committee, 2nd by Ms. Anderson. The vote was 4-0-0 with Mr. MacAskill, Ms. Kavanagh, Mr. Ballantine and Ms. Anderson all voting aye by roll call.

C. Update from Town Administrator on next steps for the Local Comprehensive Plan (LCP) and the Local Planning Committee (LPC)

Mr. Powers stated that the previous vote rounds out the establishment of LCP members. The next step would be to call the committee together for a preliminary meeting and to also advise them of next steps. He asked for the sense of the Board on moving forward, given that we do not have a Town Planner.

Mr. Ballantine said that he can't see how we would move forward until we have a planner. Ms. Kavanagh and Ms. Anderson agreed.

Mr. Powers stated that he will make sure that the RFP process is ready to go.

Mr. MacAskill doesn't think that we should waste any time at all. Previous Town Planner Jon Idman left extensive notes. This document is long overdue and the longer we wait, the longer it will take to get a head start.

Ms. Anderson asked who would take the lead in the absence of a planner. Mr. MacAskill responded that Mr. Powers would as the acting Town Planner.

TOWN ADMINISTRATOR'S REPORTS

Mr. Powers reported that at the last meeting, there was a discussion on changing the beach hours. He did meet with representatives from the Recreation and Youth Committee, the Recreation and Youth Director and members from Public Safety and Public Works. The consensus of the group was to keep the process going. The proponents of the changes had suggested going from 12:00 a.m. to a 10:00 p.m. closure. At the meeting, there was discussion on setting a closing time for the parking lot and beach at 11:00 p.m. The questions is if the Board wants to have a joint meeting in June with the Recreation and Youth Committee or take other action. Mr. MacAskill responded that he would be ok with having a joint meeting. He asked if there was any information on signage and speed bumps discussed. Mr. Powers responded that all items were discussed. The DPW Director was advised of any complaints and asked to research accordingly. The Board agreed to a June 21 joint meeting.

Harwich Chamber of Commerce Executive Director Cyndi Williams was present and commented that beach sticker checks begin on June 20.

Mr. MacAskill stated that the Board would bring this back on June 13 to see if any additional meetings are needed.

SELECTMEN'S REPORT

Mr. Ballantine reported that the Treasure Chest is being well received.

Ms. Kavanagh stated that she kicked off summer with a great trip to Dockside at Saquatucket Harbor.

Mr. MacAskill thanked all of the employees at the Transfer Station for a job well done. They run an amazing operation. He added that it is important to note that Elizabeth Harder does work hard for the Board as their representative to the Barnstable Assembly of Delegates.

Resident Theresa Canavan was present and recommended that when the Board is doing their search for COA Director, that they look to find someone who has a gerontologist background.

CORRESPONDENCE

No correspondence was discussed.

ADJOURNMENT

Ms. Anderson moved to adjourn the meeting of the Board of Selectmen, 2nd by Ms. Kavanagh. The vote was 4-0-0 with Mr. MacAskill, Ms. Kavanagh, Mr. Ballantine and Ms. Anderson all voting aye by roll call.

Respectfully submitted,
Jennifer Clarke
Recording Secretary