

APPROVED

**MINUTES  
SELECTMEN'S MEETING  
GRIFFIN ROOM, TOWN HALL  
MONDAY, JUNE 17, 2019  
6:30 P.M.**

RELEASED

**SELECTMEN PARTICIPATING:** Larry Ballantine, Stephen Ford, Donald Howell, Michael MacAskill, Edward McManus.

**ALSO PARTICIPATING:** Town Administrator Christopher Clark, Assistant Town Administrator Joseph Powers

**CALL TO ORDER**

Mr. Ballantine opened the meeting at 6:30 pm, and called to order the Board of Selectmen.

**WEEKLY BRIEFING**

A. Ms. Amy Usowski, Conservation Administrator, said she had two items to report on that the Selectmen and the Town should know about. First, as of this morning they have an advisory closure for swimming at Hinkley Pond, due to the start of a low-level blue-green algal bloom. The levels are not so bad that they need to be closed, but there will be continued sampling and hopefully they can lift that soon.

Ms. Usowski also provided an update on their piping plover and tern situation. They have one pair at Red River beach still has one chick, out of four that hatched, which is due to fledge, or fly, around June 26<sup>th</sup>. Barricades have been put up at the parking lot to protect the unfledged chick, but will be able to be removed before the July 4<sup>th</sup> holiday.

There also have eight chicks between Wychmere Harbor Club and the Pilgrim Road area. Chicks are due to fledge before July 4<sup>th</sup>. There is symbolic fencing up in both areas mentioned above to protect the chicks, which is required by state law. The public is advised to stay out of fenced areas. Fenced areas do not restrict the public's access to the water and the Town provides other beaches without symbolic fencing. If people and their animals do not respect restrictions and chicks do not survive, there is a chance plover pairs will re-nest, which could extend restrictions further into the summer. Please be mindful and respect what is in place.

Ms. Usowski said that they also have Common and Least Terns, but they do not have any restricted activities or areas because they are not nesting here.

- B. Deputy Fire Chief David LeBlanc, Harwich Fire Department, announced that the Fire Department was able to secure a summer intern, Mr. Michael Pandiscio from the University of New Haven. He will be helping out with pre-fire planning and going in to find out where alarm systems are located to develop these plans. As part of this there is a software package that they were able to contract to do and they found out today that they were able to get a \$2,500 grant from Factory Mutual to pay for the first year of the software and for a tablet for the fire inspector to go out and collect the data to do these pre-plans.

Mr. Ballantine asked where the plans are directed at?

Deputy Fire Chief LeBlanc said mostly commercial properties, what they would call target hazards. These would be bigger buildings, that have some type of fire suppression system, that would be a more complicated response for the Fire Department, such as; The Belmont, Wychmere Harbor Club, Town Hall and the Community Center.

Mr. Ballantine asked if they were inventorying hazardous waste as well? Deputy Fire Chief LeBlanc replied that they are not.

## **PUBLIC COMMENTS/ANNOUNCEMENTS**

- A. Mr. Duncan Barry of West Harwich, said he had two items to bring to the attention of the Board. First there is an exposition for the Harwich Historical Society that opened yesterday and is dedicated to the houses of Captain's Row. It is a full expository of everything from the settlement in the 1650s down to recent and post-World War II roadside architecture. He added that it also makes a case for proper zoning of the area, which they will be bringing to the Board at a later date. He also noted that if anyone was interested in a tour, he would be happy to take care of it at their convenience.

Mr. Barry also wanted to bring to their attention a letter that he thinks they will find instructive. It is a letter date June 20, 2017 from the Chairman of the Eastham Board of Selectmen and it is a discretionary referral for the Cape Cod Commission to consider a DRI, which is how they manage to side step dropping a Dollar General

store along 6A in Eastham. He said it was a simple up and down vote with three criteria, one of which was the character of the area. He said it goes without saying that dropping an almost 8,000 square foot commercial building with parking in front, in the area of West Harwich that they are talking about, is completely disruptive to the character of the area, the historical nature of the area, as well as the traffic of the area. He would like to submit this to the Board of Selectmen to see how easy this can be done.

Mr. Ballantine said he understood this was at the Planning Board and they are determining if they want to send it to the commission or not.

Mr. Barry said perhaps, but what they have heard is that in both Deerfield and Eastham, it was done by the Board of Selectmen, regardless of what the Planning Board did. They are just going with the template that was considered both correct and the precedent.

Mr. Ballantine said he likes to use their normal processes if they can, but he is glad that Mr. Barry has been able to get the word out.

Mr. Ford said that he attended the Planning Board meeting and believes there are two avenues of referral to the commission. One is through the Planning Board and the other is through the Board of Selectmen.

Mr. Ballantine said ok, then they can put that on the agenda later.

- B. Ms. Jeannie Wheeler, Trustee of Brooks Free Library, read an invitation from the staff and trustees of Brooks Free Library for the Board of Selectmen and the public. They invitation is to join them on Saturday, June 29<sup>th</sup> from 2:00 pm to 4:00 pm for the celebration of the completion of the Restoration and Preservation Project. They hope everyone can join them and thanks everyone for their support.
- C. Ms. Cyndi Williams, Executive Director of the Harwich Chamber of Commerce, announced the annual Harwich Chamber Charitable Foundation's Run for Harwich Youth, which will affect Route 28 to South Street, from 9:15 am to 11:30 am on Saturday.
- D. Ms. Sheila House, Harwich Youth and Family Services, announced two retirements from the Harwich Youth Services Committee. She said that Ms. Barbara Segal who is a Harwich parent and psychotherapist and began her service in 2009 and has been a really valuable resource and a really fun volunteer. The second person is really who she wanted to recognize tonight. Mr. Jim Hartley served on the Committee

since its inception almost 19 years ago and he is retiring from the board. Mr. Hartley was the Director of Student Services for Harwich High School for many years and he was chosen to be on the study committee when the town was formulating the position of Youth and Family Councilor. Mr. Hartley believed and continued to believe the importance of support for our kids. She would like to thank him.

Mr. Hartley appreciated the Town for being family oriented and geared toward children. In his work and volunteer time he was always impressed by the work that they do and he thanked them very much.

- E. Ms. Virginia Hewitt, Director, Brooks Free Library, said that she had two announcements. First on June 6<sup>th</sup> their Assistive Technology Coordinator, Carla Burke, was honored by the Carol Center for the Blind and Mass Commission for the Blind for the Thomas Carol Award for Employment. They recognized her as the blind employee of the year for Massachusetts. This award recognizes blind and visually impaired employees who have made significant contributions to their organizations. Individuals are chosen because despite vision loss, they are exemplary employees and contribute to the overall culture of their organization and to the community. Ms. Burke coordinate their VITAL program (Vision Impaired Technology Assistance at the Library), this program is in its 16 years of operation and through this program they teach people with vision loss to be independent users of technology. Ms. Burke continues to be a role model and an advocate for people with vision loss.

Ms. Hewitt next wanted to announce the start of their Summer Reading Program. She said that youngsters can log there reading and receive a free book and a prize. They replaced reading prizes with "Maker Kits", which have been very popular. They will be having a big Recreating and Reading kick-off event, where families can sign their youngsters up for Summer recreation programs and the reading program. This will be held on the field behind the Community Center starting at 5:00 pm with free hotdogs and games and then a magic show at 6:00 pm.

Lastly, Ms. Hewitt said that the Friends of Brooks Free Library is sponsoring all the summer programs, with programs available almost daily for kids. The schedule is available at the library and on the library's website, [brooksfreelibrary.org](http://brooksfreelibrary.org)

- F. Ms. Sally Urbano said that she wanted to make a quick comment as a follow up to what Mr. Duncan Barry discussed earlier on the DRI referral. She said that Mr. Jonathan Idman, Cape Cod Commission, did appear before the Planning Board and shared information to them about this referral. She said the Planning Board does

have it under consideration, and they are being very thoughtful about it. However, it will be a collaborative effort, because if the Planning Board does vote yes, then it will come back to the Board of Selectmen. At the last Planning Board meeting there were over 50 letters, and that many people in attendance, urging the Town to help with this referral. She would urge them to consider this.

## **CONSENT AGENDA**

- A. Vote to approve 2019 Annual Miscellaneous Re-Appointments
- B. Vote to approve the recommendation of the Assistant Town Administrator to approve the installation of approximately 37' (feet) conduit and one handhole#506/H6A in town road to customer at 36 Huckleberry Path, Harwich
- C. Vote to approve the recommendation of the Town Administrator for the promotion and appointment of Carlene Jones to the position of Assistant Assessor
- D. Vote to approve the proposed Visiting Nurse Association FY20 contract - \$4,000

Mr. Ford moved approve items A through D, listed above, and noted that this does not include E. Seconded by Mr. MacAskill.

Mr. Lincoln Hooper, Director, Department of Public Works, said that under item A, he would like to recommend that the appointment of Chris Nickerson be changed to Griffin Ryder as the alternate to the JTC.

Mr. Ford moved to approve the 2019 Annual Miscellaneous Re-Appointments with one change: Cape Cod Joint Transportation Committee alternate representative no longer being Chris Nickerson, now being Griffin Ryder. Seconded by Mr. MacAskill.

All in favor, motion carried by unanimous vote.

### **E. Procedure on the release of certain Executive Session Minutes—Second Reading**

Mr. Howell said he had asked to split out item E, because it is a second reading for policy change and he does not think it belongs in consent agenda. He said that perhaps they could walk through the change language from last time.

Mr. Powers said that in consultation with the Town Administrator leadership of the Board, what he has articulated the procedure in the memo that is part of the packet. Following an executive session, a draft of the minutes for that session will be placed

in the confidential folder and available for review by the members for a week. If any member has concern or objection, they notify staff.

Mr. Ballantine said he insisted on the deadline, for one week, so that it did not hang on forever.

Mr. Howell moved that the revised procedure for the release of certain Executive Session Minutes be approved. Seconded by Mr. MacAskill.

All in favor, motion carried by unanimous vote.

## **NEW BUSINESS**

### **A. 5 year Recertification of Participation in the Community Rating (CRS) System Program:**

Ms. Charleen Greenhalgh, Town Planner, provided an explanation for the CRS. She explained that Harwich has been participating in this program for 25 years and is currently designated as a Class 8 under the CRS. This allows for a 10% discount for those in need of flood insurance, which is an approximate savings of \$69,000 for policy holders. It is looking like this year, thanks to the valiant efforts of staff, specifically, Elaine Banta, Planning Assistant and Shannon Hulst Jarbeau, who is with the County and assists community with the flood insurance. They worked tirelessly to get the information and the paperwork needed to participate in this. Also, Amy Usowski, Conservation Agent, Nikki Smith, Assistant Conservation Agent, Shelagh Delaney, Executive Assistant, Ken Murphy and Ray Chesley, Building Commissioner.

Ms. Greenhalgh said that this year they will be able to move to a Class 7, which is really huge because there is only one other community on the Cape in that class. This would afford a 15% discount, which works out to approximately \$98,000 annual total saving's, or \$333 per policy annually.

She explained that to participate in the CRS, this is something they do every day, not just every 5 years. They provide information through various sources and they are constantly providing information to people about being in flood plains, and what that would mean. This is a daily thing and they do need to recertify every year, although this year is their five year recertification.

Ms. Greenhalgh said that she has provided three documents, form CC-230, the CRS program data table, and the third is a letter of protection for open space in the flood zone. She requested that the Board approve her recommendations.

1. BOS vote to authorize the Chair to sign a letter regarding wetland and flood plain land under its jurisdiction

Mr. MacAskill moved to authorize the Chair to sign a letter regarding wetland and flood plain land under its jurisdiction, as presented. Seconded by Mr. Howell.

Mr. Ballantine said this is a great job and great example of a service to help a lot of people. Ms. Greenhalgh said that the Town is actually eligible for Class 6, but something at the state-level is preventing any communities within Massachusetts from qualifying for a Class 6.

All in favor, motion carried by unanimous vote.

2. BOS to vote to authorize the Chair to sign the required Verification Letter for the CRS Recertification

Mr. MacAskill moved to authorize the Chair to sign the required Verification Letter for the CRS Recertification, as presented. Seconded by Mr. Howell. All in favor, motion carried by unanimous vote.

3. BOS vote to authorize the Chair to sign the letter for Protection of Open Space in Flood Zones

Mr. MacAskill moved to authorize the Chair to sign the letter for Protection of Open Space in Flood Zones. Seconded by Mr. Howell. All in favor, motion carried by unanimous vote.

#### B. Road Maintenance revisit due to failed funding—Chapter 90 only

Mr. Christopher Clark, Town Administrator, provided an overview and said that they had intended at Town Meeting to have two articles for consideration. They had one to redo Lower County Road, which failed. They were trying to offset some of the Lower County Road work, and they put it into the road maintenance program. \$700,000 out of the \$1.4 million, of that program, would go to offset some of the work on Lower County Road. He said that they put that in for bonding reasons, and

he thinks some people at the ballot thought that was another way to do the project. It was not, it was just a way to supplement. However, it got voted down. So, what that means for the Town, is that we are now left with an allocation of just under \$700,000 from Chapter 90, in which we would have to do the roadways in the community, as opposed to \$1.4 million. Mr. Clark said that he was asked to meet with Mr. Hooper and put together a plan for what they can do to address this. Mr. Hooper is here to walk through the ramifications and what they will and won't be able to do, as they move forward for FY20.

Mr. Hooper explained that he was asked by Mr. Clark, from a meeting that he had requested, to come in and discuss these subjects and answer the questions to the Board about the failed \$700,000 article, the road maintenance article, and what is the plan for Lower County Road.

He has been quite surprised by the number of inquiries he had about the impact of road maintenance program and not having local income for the first time in 16 years. He said that their road are in good condition and they have had an aggressive road maintenance program supported by the various Boards of Selectmen the various committees. This is the first time in 16 years, since he had been Director, that they do not have local money. The impact is not very much for this year and maybe an additional year. However, at some point, there is a time that you go from maintenance model to a reconstruction model, as is the case with Lower County Road. That becomes more expense, rather than attacking it maintenance first. He added, that he believes they have only reconstructed two roads in twenty years. He thinks there is not a lot of negative impact for one year.

Mr. Hooper said that they get just shy of \$700,000 a year in Chapter 90 money and have done pretty steadily from the State. Chapter 90 money is our gas tax coming back to the Town and is a process that we seek the Boards approval and they get reimbursed by the Department of Transportation (DOT) for that work.

Mr. Hooper explained that given the failure of the \$700,000 road maintenance article at the ballot and the fact that the DOT had not released Harwich's apportionment of Chapter 90 until this week, he had to cancel two previous Chapter 90 projects that the Board had approved. If he had not cancelled them, there would have been no money for unforeseen circumstances.

He said that now that they have released it, they have approximately \$1.3 million Chapter 90 funds available. Mr. Hooper said that he would like to take the five year road maintenance document, and move that all out to one single year, to continue the road maintenance. Part of that request was to do Depot Road in South Harwich,



to put drainage in. Doing this will allow them to stay ahead of the gas company. He has a Chapter 90 project request with him, to replace the one they were doing on Great Western Road. He explained that the urgency is because of the contract with Robert Our Company which will be expiring sometime in August, and has very favorable rates. He will have to re-bid the contract, which will end up costing more in the future. Mr. Hooper said that he has documents that are ready for signature, if they are willing to consider it. Right now they have no Chapter 90 projects requests in the queue.

Mr. Ballantine asked if he could summarize the dollar amount. Mr. Hooper said \$173,500.

Mr. Clark said that the two projects which were withdrawn are the chipseal for the various roads for \$331,000, and the Great Western Road drainage for \$302,000.

Mr. Hooper repeated that his request is for \$173,500, which is less and the urgency is because of the contract.

Mr. Howell explained that it does not help for why they are there now, but he said they need to do a better job writing the ballot language. He knows it was confusing, but there was not anyone that said how to write it. It was a self-inflicted wound, this is something that we get money back from the State, which we are not going to get. This is a serious problem

Mr. Ford thinks it would incumbent on them, as the Board of Selectmen, to be able to articulate that and help people understand. He agreed that it should have been written differently, but it is on them to help the voters understand.

Mr. MacAskill said that he imagined the contract that Mr. Hooper has should be handed over to the Town Administrator to put on the agenda for next week, since it is not on the agenda, they cannot vote tonight. Mr. Ballantine said the agenda is broad enough that they could consider it.

Mr. Clark asked to clarify that the item is in the packet under FY20 and listed as Depot Road drainage prior to National Grid re-pave for \$230,000. He also wanted to follow up on the discussion and said he worked together with bond counsel to put together the language of the ballot question and they did not have in the maintenance program the work on Lower County Road. If he had put Lower County and had no reference in the maintenance plan, they would have had problems with counsel.

Mr. Hooper said his urgency is about working with the Robert Our company who is able to do it before their current contract expires.

Mr. McManus moved to approve the Chapter 90 submission as presented by the Director of the Department of Public Works. Mr. Clark clarified that this was to approve the proposed road maintenance program in the amount of \$173,500 for drainage work on Depot Road, South Harwich.

Mr. Ford asked to clarify if the request was for \$173,000 or \$230,000 and it was explained that the original estimate was for \$230,000 but the actual quote is for \$173,000.

Motion carried by a vote of 4-0-1, with Mr. MacAskill opposed.

Mr. Hooper further discussed the plans for Lower County Road. He said that they had a meeting with Mr. Clark, Chris Nickerson, Road Manager, Griffin Ryder, Town Engineer, and Dan Pelletier the Water Superintendent. He said they have approximately \$150,000 worth of patching, which will need to get done before winter. If this is bid as a separate project, it may cost less by approximately 30%. The second part would be crack sealing after the patching is done and then comes the larger question. They could chipseal the road and get about seven years out of it, for about \$100,000 and get some time. They could do that with 20% rubber and it would come out ok. The other option is to rebid the project and bring it to the voters and hopefully with a different outcome. He still thinks the right thing is to do the project. In round numbers out of the \$4 million project, they have 1 million in fixing the sidewalk, there is not an inch of that side walk that is ADA compliant, there is \$1 million in the ground in drainage. He defers to the Board in what their pleasure is. He had some of his counterparts with him tonight and introduced them along with their qualifications: Griffin Ryder, Town Engineer, Tommy Ockerbloom, Civil Engineer, Chris Nickers, Road Manager.

Mr. MacAskill asked if they were expected to discuss bring this back?

Mr. Clark explained that they were looking for direction. There are two options, one is to delay a year or two and go back out, or they can either chipseal and hold the road together until such time they need to do more major work. They would like to get a sense from the Board.

Mr. MacAskill asked for an explanation on the two projects that were pulled due to the failed funding, when there were voted on after the failed funding. Mr. Hooper said that it was two reasons, the failed funding and the fact that the Mass DOT had not released the apportionment until last week. He said that if they had done those projects, that would have been all the money they had.

Mr. MacAskill also asked about the \$120,000 in Water Department responsibility and if that had been voted on by the Water Commissioners yet?

Mr. Clark said that the Water Department did to the work on that project, and had \$60,000 left. They have asked them to hold those funds, and use that toward the Lower County project.

Mr. Hooper said that since some of the responsibility is on him, they had agreed to split the cost with the Water Department, which they think it is the right thing to do.

Mr. MacAskill said when this project came out, before it got rejected at Town Meeting, they were going to spend \$1,000,000 of their Chapter 90 money on Lower County. He would like to know why they are now only looking at spending \$150,000 and why they would not work on some of the drainage? He asked if he was missing something.

Mr. Hooper said that they have the proposed road maintenance plan for FY20 in the packet which totals \$1,295,589.00. That is all Chapter 90 money and that is what they propose to do.

Mr. MacAskill asked about Lower County Road and what money is he planning to spend there? Mr. Hooper said right now they will go and do the patch work for the \$120,000.

Mr. MacAskill asked why they were talking about spending \$1,000,000 out of the Chapter 90 funds then, but now nothing on drainage or anything else?

Mr. Hooper said as the project developed, the Board seemed like they wanted to lower the impact to tax payers, so he put the brakes on all their spending last Spring. If the project had gone forward it would have been 4m bid, half million in police detail .. million in chapter 90 .. that was the plan. He does not think piecemealing this road is a good idea. They should patch it and decide if they want to take another try at it or just chipseal the road.

Mr. MacAskill said his argument is that he thinks it would be wrong of the Board to assume they could bring it back, and have it approved at Town Meeting. He thinks they should try and fix some of the drains and fix some of the shambles and get more of that road done.

Mr. Hooper said that when the repair a road they do it all at once; the drainage, the sidewalks, overlay or mill and fill, guard rails, signage. They have never piecemealed something together and he thinks there are economy of scales and it is better to do the project or don't do the project. He said that the reason this road got to where it is was because they had a Transportation Improvement Program that they were trying to follow. This was the next road in the queue but did not happen after Route 124 fell apart.

Mr. MacAskill said that he knows the history and he would still like to know what can be done now and how they can move forward?

Mr. Clark further explained why they are doing it this way and the need to keep some funds on a contingency basis.

Mr. Ballantine asked Mr. Hooper what the urgency is for the discussion tonight on this? Mr. Hooper said none, except that they need to do some patching. Mr. Ballantine would like to have him bring this back because whatever their decision is, they will need to have to explain it at Town Meeting next Spring.

The Board continued their debate on this. Mr. Ford said the reality is at some point this road will have to be done. Mr. Howell said the Finance Committee is set up to disperse money should an emergency occur, and he would think they could look at this and there could be some money available.

Mr. Ballantine said they have had a good discussion and he thinks they need to bring it back.

## **CONTRACTS**

- A. Award bid for Town of Harwich Fire Station #2 Security System Bid to Galaxy Integrated Technologies, Inc. and sign agreement document

Mr. MacAskill moved to award the bid for Town of Harwich Fire State #2 Security System Bid to Galaxy Integrated Technologies, Inc. and sign agreement document in the amount of \$85,000. Seconded by Mr. Howell.

Mr. MacAskill said he wanted to acknowledge and thank Lieutenant Scott Tyldesly for all the work he did on this.

Mr. Howell wanted to go little further and say that this is exactly what he has been looking for in regards to the summary. It had all the information.

All in favor, motion carried by unanimous vote.

## **OLD BUSINESS**

### **A. Phase 2 Sewer and Sewer Pump Station Easements: Execution of Order of Taking; and Acquisition of Sewer and Drainage Easements in Public Ways: Execution of Order of Taking**

Mr. Clark clarified some concerns from the Town Clerk regarding the public way. He said that basically the public ways were recorded at the Registry of Deeds, but they did not have them on file downstairs. When the Town Attorney did her due diligence, she was able to provide the book and page numbers to the Clerk's office. He said that the other piece that came up, was that some of the roadways were so old that there were no book and page numbers for them. They were county roads that the Town has historically maintained. The attorney drafted a letter stating that they have been maintained by the Town. He continued that it is really important to have the project go forward and the Town needs to have possession of all the land, in which the system is going to be constructed.

Mr. Clark said that what is before them this evening, is the Order of Taking, for all of the pump station locations. There are two cross country runs; one that goes in front of Stop & Shop and the other behind the Four Hundred East Plaza, and the other one was the public vs. private ways. He said that the private ways is for sewer only. Mr. Clark explained that the Board of Selectmen can take this action, because they do not have a formal sewer commission. So, in this case they would be acting as the sewer authority. The request is to approve the Order of Taking, which has been signed off on and attested to, so they can move forward with the State Resolving Loan Fund (SRF).

Mr. Ballantine asked if they were only concerned with the sewers. Mr. Clark said legally the only thing they can do is in regards to sewers, anything else would have to go to Town Meeting.

Mr. McManus moved to approve the Order of Taking with the Board of Selectmen, acting as the Sewer Commission, for the various easements as detailed in the Order of Taking, as presented by the Town Attorney. Mr. Ford seconded the motion.

Mr. MacAskill said that he had a question on page of the packet, titled; *Addendum A To Certificate Of Counsel As To Title To Project Site*. He said that items B and C show no dates. Mr. Clark said that they can type in the dates, as today's date.

Mr. MacAskill also asked why Mr. Clark was the one to certify the roads vs. the Town Clerk? Mr. Clark said that it was because she did not have any records, the county records were not in their possession and the other roads were too old.

Mr. MacAskill said that he wanted to mention that they are getting all of this last minute. He said that Ms. Julie Kavanagh, former Chair, had brought this up no less than six times; that they had to take care of the easements and right of ways. He said that on Wednesday, the 5<sup>th</sup>, it was handed to the Clerk to certify for Monday, the 10<sup>th</sup>, and extended to the 17<sup>th</sup>. Mr. MacAskill said that he had spoken with Mr. David Young, CDM Smith, and Mr. Young had said that his part in this was because he was going based on Assessors records, and assuming they were correct. This was a reasonable answer to him. Mr. MacAskill said that his displeasure is that there is a huge lack of communication, and again the board is doing this last minute, that they should not be doing last minute.

Mr. Clark said that he was told, by both KP Law and CDM Smith, that in most cases there is a register of town owned roads, and the Clerk would just certify something that had already been certified. He said that Ms. Anita Doucette, Town Clerk, did her due diligence, and when there was an issue she just did not sign it. He explained that it did mean there was more of a process to it and they will need to do something internally to ensure if it is a public way, it is on file with the Town Clerk.

Mr. Howell said that this is not as easy an answer, as what you just heard. There were five people who worked on this, but only given a week and they have to make an action by June 30<sup>th</sup>. He said of the five people, there were three Department Heads, the Town Clerk, the Town Engineer, the Deputy Assessor and two professional staff. None of them could come up with certifying it. He also made note of what Mr. Clark was certifying personally, and questioned how he could make an attestation to it, since he has not been there for 20 years.

Mr. Clark responded that he has been Town Administrator for six years, and before he made a certification as an administrative officer of the organization, he asked Mr. Hooper, and others in the community, about how long the town has been maintaining the roads to make sure he could attest that the town has maintained these roadways for 20 years. He has not been here for 20 years, but he did seek out the information from folks that have been here for that period of time. He would certainly not attest to something that was not accurate in the execution of his job.

Mr. Ford clarified that typically this would be a simple process. This is more of an unusual situation and the Town should be able to certify this rather quickly. He said that the timing of this, if it were described as a normal course of events, the timing of Mr. Clark requesting to the Clerk's office would not have been unusual. Mr. Clark agreed.

The motion presented by Mr. McManus carried by a vote of 3-0-2, with Mr. MacAskill and Mr. Howell voting against.

Mr. MacAskill added an additional comment, that the County does not own roads and said that they should do one final taking of all county roads at Town Meeting. Mr. Ballantine said they will bring that back to have a further discussion.

**B. Bid award Robert B. Our contract - \$11,368,663.48**

**MOTION:** Authorize the Town Administrator to execute the Phase 2 Contract 1 CWSRF4424/1 to the Robert B. Our Company in the amount of \$11,368,663.48

Mr. Clark explained that they have representatives from Weston & Sampson and CDM Smith available to discuss strategies about this amount and going forward. The purpose of tonight is to do the contract award for Robert B. Our Company in the amount of \$11,368,663.48, as authorized in phase 2 of contract 1 CWSRF4424/1.

Mr. McManus moved to award the bid to Robert B. Our the contract of \$11,368,663.48 and authorize the Town Administrator to execute the Phase 2 Contract 1 CWSRF4424/1 to the Robert B. Our Company in the amount of \$11,368,663.48. Mr. MacAskill seconded the motion.

Mr. Francis Yanuskiewicz, Weston & Sampson, said that they have been retained to assist and help make sure the transition to construction goes smoothly. What they did talk about at the kick off meeting a couple of weeks ago is the bid process and they are seeing that the competition is not as fierce as it once was. He did take a

look at their bids, and they are looking at about a 3% differential between the three bidders. So, that is the price, that is the going rate. He did note that Robert B. Our offers savings due to being local, and that they did not include mobilization. Just to attest these are the prices, and they are going up significantly in the Commonwealth right now.

Mr. Ford said he appreciates what he said and prices increasing, however, the quote coming in 33% higher than expected is a big increase. He asked if Mr. Yanuskiewicz was comfortable with that.

Mr. Yanuskiewicz said that it is a little bit high, but he does not know what the basis of the design of the project was. He has had projects that have had increased by as much as 20%.

Mr. Ford asked if they would be able to provide assistance in the future, for these things. Mr. Yanuskiewicz said yes, if they are requested to.

Mr. MacAskill voiced concern about the quote being \$3 million higher and he asked CDM Smith the same question. He said that when he spoke to the contractors, he was told they all bid roughly the same amount, so he is trying to understand why they have a \$3.5 million increase. He said if the contractors knew what the price would be, why didn't CDM Smith and the estimators know? Mr. MacAskill said if this is the way our program and our comprehensive wastewater management plan is going, then we really need to do something different. They did go from \$240 million to \$300 million because of some inflation, from when they passed the plan, and now they are going up to \$3.5 million on one part of their phase. He said that they owe it to the tax payers to come in closer than this. He wants to understand what changed other than the market?

Mr. David Young introduced himself and Mr. Michael Giudice, both with CDM Smith. He said that they were there to continue on with the discussion they had last week and he would be happy to try and answer the question again. They are all under the same credibility and scrutiny of that issue. He explained that the estimate that they had, at the 50% conceptual stage, was a number for their capital plan and getting ready for Town Meeting. That was \$8.5 million, and their bids came in at \$11.3 million. He said that they tried to explain this last week, they look at it in three components: pipe, pumping stations and paving. Mr. Young said that if you look at that, 42% of the cost of the increase is in the paving, the other two are split pretty equal; 29% in pumping stations and the remaining 29% is in the piping and other miscellaneous. He said that there was not a specific item in there, other than



the paving which appears to be up 50% and that is what accounted for \$1.2 million of the increase.

Mr. MacAskill said that they had assured them they could feel safe going to Town Meeting and these price increases really make them feel foolish going back to Town Meeting.

Mr. Young said no one feels that more than they do. When they said that, they meant it. Unfortunately, they stumbled out of the blocks on this one. It is just the type of work that is happening

Mr. Ford said he understands and they feel the same way. He said that they are not trying to be adversarial here. They are trying to represent this Town in a way that they are trying to truly represent the budget. He said that Mr. MacAskill is right and it is really tough to have a Town Meeting that they had this year, with a lot of justified scrutiny, and have this come on the heels of it. It is there responsibility to give everyone the best picture of the costs. If there is a way to get a more frequent interaction relative to the cost, then that might allow them to be more prepared and prepare the tax payers.

Mr. Ballantine said that this is definitely a lesson learned, and they should not go to Town meeting without 90%, as opposed to a 50%. They should slow the process down.

Mr. Giudice said that it is a possibility, and they would have to look at the timing, especially for communities participating with the SR program.

Mr. Young said that Mr. Giudice and his team are updating the remaining work using those unit costs, that they just received. Also, the database that they had been using, just to make sure they are using the absolute latest cost available.

Mr. McManus asked about the \$24 million that was voted on a year ago, and approved for the construction budget that we have to work with was set 15 months before we opened the bid. So, it would have been nice to do estimate updates along the way. If the estimates show increasing there is not much you can do about it, because you have already voted the amounts. The other option would have been to hold on to it until you have 100% design package and not vote on it until you have a bid in hand.

Mr. Howell said that he totally agrees with what Mr. McManus just said. He said this has been very collegial and he appreciates that, but it's not individual it is the

Town of Harwich, it is a municipality. He said that these estimates are way off. Even if they used the constant percentage that was talked about, that only gives 12% in two years. This was done in March, two years ago, and it is the very poster child for everything that goes wrong, when you don't go to Town Meeting to ask for approval. He said the fire department was every example of how to do it.

He that he cannot support anything right now unless he can be assured they will get everything done. Mr. Howell read the explanation that was presented at town meeting and voted on:

*Explanation: Phase 2 of our Comprehensive Wastewater Management Plan requires design and construction of a Watershed Collection System. In FY18, the design dollars and our Intermunicipal Agreement with Chatham were funded. The FY19 request includes the actual construction costs of the collection system also including the tie-in costs with Chatham in their pump station and piping to their treatment facility. This will fully implement Phase 2 of our regulatory required plan.*

Mr. Howell does not see how they can go back to Town Meeting and say they awarded the first half of this, but we can't get it done. This is not that things happen. This is what Town Meeting was given as an estimate, and they were told this finishes everything. If they have to go back and ask for more, it will be disingenuous and then who is going to believe them in the future.

Mr. Clark said he is unhappy that they did not hit the targets. He explained that they had done a 50% design estimate and they did make some design changes to make things better for residents. He also said that things do change, and they need to realize they are subject to market forces, and the market forces in this case have been unfavorable. It is there intent to go out for contract 2, get done what they can, and maximize the zero interest, and put together a contract 3 for what is left.

Mr. Howell asked for reassurance that everything will get done. Mr. Clark said he cannot be held to account for how the economy is doing or be able to predict the future. The intent is to do the full scope of the project, it did not come in the way they wanted it to.

Mr. Howell also commented on how short of a time the contract was out to bid.

Mr. McManus said he remembers that they needed to rush due to the need for SRF funding.

Mr. Ballantine said that his frustration is that CDM fell behind in the whole process, by two to three months. He said that there may be reasons for that, but he does want to be sure going forward, that they have the proper resources to move it as quick as they can.

Mr. Young said that they were right on schedule when they submitted to DEP, then they hit some delays going forward. He explained the process and timing with the SRF funding, and that staffing was not an issue. He repeated, as Mr. Clark had said, the process for moving forward is to put out contract 2, within the next few weeks. They had to redesign the pumping station, to a suction lift pumping station, at their request. That is almost complete, and has been submitted to DEP and they hoping to get the final comments from them soon. Mr. Young said that they have about \$6.2 million remaining for a contract to be rewarded and they are allowing for the 5% contingency which the DEP requires in SRF projects to be held. So, they would be committing about \$12 million, which includes the bid price, plus the 5% contingency. That leaves \$6.5 million, take out the 5% and that gives you the \$6.2 million that they can award. Then anything that is not put in there, they would go out for a third contract. They could take that to a Special Town Meeting in the Fall.

Mr. MacAskill thanked Mr. Young for the explanation, and commented on the article that Mr. Howell read. He said that perhaps they should be more cautious on how they word articles. He said that he has been contacted by many people who urged him to vote no, but explained that he can't, because of the SRF funding. He said, people need to realize that they may be \$3.5 million up on the bid, but they are saving nearly \$15 million in the zero percent interest.

Mr. Howell said that he needed to explain why he won't vote for it. He said at some point someone is going to be held responsible. It is Town Meeting, it is not my money or their money. He said that they asked Town Meeting for \$24 million and they said it would fully implement phase 2. They don't have enough money to finish this project, and if it was anything else they would not be allowed to go forward until they secured the full amount of the bonding.

Mr. MacAskill said that he respects that, but it may end up costing more money if they delay it. They are not doing it because they want to, it is because they have to. They will have to go back to Town Meeting and explain their decisions.

The motion carried by a vote of 4-0-1, with Mr. Howell opposed.

### C. Review of Town Meeting Actions—Pass/Fail

Mr. Ballantine said he asked for this to be on the agenda to see if there were items that they would want to bring up for discussion going forward. Mr. Ballantine said that they can email it to him and they can bring it back for discussion. He also mentioned that they will need to bring back for discussion again is the Pet Cemetery.

### TOWN ADMINISTRATOR'S REPORTS

Mr. Clark reported that he attended the CPC meeting last week. They had an open session about what the needs of the community was. He tried to provide an overview of some of their projects, including recreation, historic, open space and housing. He said they seemed receptive.

Mr. Clark also attended the Finance Committee meeting and had to cover the Recreation Director that could not be there, to discuss going from the \$175,000 to \$200,000 that the Board had approved. The Finance Committee did vote and approved it, for the after school program. He said that the Finance Committee had also mentioned doing a follow up to Town Meeting to discuss about how Town Meeting can flow a little better. He suggested that perhaps they could do a finance book, to provide a listing of all the debt and debt impacts. They may look at that internally and put something together.

Also on the good news front, Mr. Clark announced that the Cultural Council received a \$5,000 grant. He said that this was thanks to the efforts of Ms. Cyndi Williams, Executive Director, Harwich Chamber of Commerce and Ms. Charleen Greenhalgh, Town Planner. This will be used to do some work at the Cultural Center.

Mr. Clark said also thanks to the efforts of Ms. Greenhalgh, they also received a grant for \$20,000 as part of the Municipality Vulnerability Preparedness Program.

He also wanted to let them know that the Safe Routes to School program, and the contractor with AECOM, will be meeting tomorrow from 2:00 pm to 4:00 pm. They will be meeting at the Elementary School if any of the Selectmen would like to join them.

### SELECTMEN'S REPORTS

No reports.

### ADJOURNMENT

Mr. McManus moved to adjourn at 8:28 pm. Seconded by Mr. Howell. All in favor, motion carried by unanimous vote.

Respectfully submitted,

Lisa Schwab  
Board Secretary