

APPROVED

RELEASED

**MINUTES
SELECTMEN'S MEETING
GRIFFIN ROOM, TOWN HALL
Monday, October 15, 2019
6:30 P.M.**

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

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

Mr. Ballantine opened the meeting at 6:30 pm.

WEEKLY BRIEFING

A. Sewerage Work Improvement Phase 2 – Contract #1 – Construction Schedule – Weekly Update

Mr. Clark said that he had two things tonight on the sewer work, they did receive the three week look ahead and there will be one crew focused on Route 137. The pipe is 21 to 26 feet deep and that is going slow, though they are making progress. This is the area on Route 137, from Stop and Shop to Cemetery Road, and it is expected to take to the end of November. On Route 39 they have added a second crew and they are working from Spence's Trace to the 400 Plaza. They are trying to not to have both roadways closed, but the power people specifically asked to get into that area.

He is having a meeting at the end of the week with the Our Company. He has gone out to take a look, and Selectmen are welcome to going out as well. Hard hats and safety vests are required.

Mr. Clark also took a moment to explain to the Chairman that he understands he has missed some meetings and has had some family concerns that have taken him away a bit. He asks for their understanding as he works through that. He is available and will continue to serve the Town. Mr. Ballantine said, that as Chairman, he has told Mr. Clark to put his family first.

PUBLIC COMMENTS/ANNOUNCEMENTS

- A. Ms. Carolyn Carey, Director of the Community Center, just wanted to remind everyone that on Friday from 5:00 pm to 8:00 pm, at the Community Center, there will be the boutique to pick out a costume, they have fun games and all is free. They will also be having the Halloween party on October 31st and, she commented how thankful they are for the businesses in town.

Ms. Carey also made note that they have requested to be on the agenda for next week about the Seaside Marketplace. This is the right time to start looking at it, as people are looking at their schedules. They will have some recommendations for the Board.

- B. Ms. Erica Strzepek, Program Aide for the Cultural Center, wanted to announce that they are starting to plan for ArtWeek, which will be May 1st through the 10th. Harwich will be a featured case study on the ArtWeek website. She said that Ms. Sue Dahling Sullivan, the ArtWeek Lead Champion and Chief Strategic Officer of the Boch Center, and is the festival producer, will be doing a Sparks session on November 14th from 2:00 pm to 3:00 pm. This will be held in room four, at the Community Center. The Sparks session is a good time to ask questions and to get guidance. They open early online registration is in November.

Mr. Ballantine asked about the website, they will be featured in. Ms. Strzepek replied that it is www.ArtWeekMA.org. This will showcase how Harwich has really grown ArtWeek, and how it is becoming a bigger community event for the Town.

- C. Ms. Cyndi Williams, Executive Director, Harwich Chamber of Commerce, announced that this week is restaurant week for Harwich. They have 12 restaurants participating and information can be found on their website. Ms. Williams is also doing a daily video on Facebook.
- D. Ms. Cynthia Hartman, artist and resident of Harwich Port, said that she was here to discuss the Bottle Project. Her goal tonight is to explain the project, answer questions, and ask that they vote on the final installation place, at the next Town Meeting.

Mr. Ballantine agreed she could give them an explanation and it can go on the agenda next week, for a vote. Ms. Hartman then explained that the Bottle Project is supported by a grant from the Harwich Cultural Council, the Cultural Center and herself as the designer, and Baskin's Ace Hardware has donated all the paint and supplies. It is a project created by the community for the community; which involves cutting plastic water bottles, painting them and putting them into a canvas. It has received a lot of publicity and it shows the community that we care about our plastic disposal and there are other ways to use this kind of trash.

Ms. Hartman said that there are two places they are looking at putting the final project; the Cultural Center, or the new Harbor Master office. She would also be happy, if they have other ideas. She said that it has received interest from the Blue Institute International World Wide Ocean Conference. They have asked if they could speak about or present it at their conference. Also, a national organization called the Surfrider and Wellfleet SPAT have expressed interest. She said the final goal is to install it in time for the Christmas stroll.

Mr. Ballantine asked where she was getting the bottles. Ms. Hartman replied that the community has been bringing them to her, instead of the dump. Mr. Ballantine also asked what the size of the final product was going to be. She replied, that it the maximum that it will be is 4' x 8', she has looked at also as a chandelier. However, the final location will determine the size.

Mr. MacAskill commented if they are going to vote next week they should receive a memo from the considered locations showing approval. Mr. Ballantine agreed and asked Mr. Clark to review that, and also to find out if any permits would be needed. Ms. Hartman confirmed that it is currently at the Cultural Center and they are welcome to view it, but she will be adding her twist to it now so it will be changing. Mr. Ballantine ended with a thank you and they will follow through.

CONSENT AGENDA

- A. Vote to accept the resignation of Christopher Rockett, Community Preservation Committee effective 10.3.19
- B. Vote to affirm the re-appointment of Ralph Smith to the Community Center Facilities term to expire 6.30.22

- C. Vote to affirm the appointment of Matt Antoine to the Board of Health , full position, term to expire 6.30.20
- D. Vote to affirm the appointment of Arthur Rouse to the Planning Board, alternate position term to expire 6.30.20
- E. Vote to affirm the appointment of Heather Skowronek to the Noise Committee, full business position, term to expire 12.31.20
- F. Request to waive the room rental fee of \$100.00 for Monomoy High's National Art Honor Society. The event will be held on 10/23/19 at 6:30 PM at the Harwich Cultural Center

Mr. Ford moved to accept the Consent Agenda items A, B, C, D, E and F, listed above. Seconded by Mr. Howell.

Mr. Ford mentioned, that as they nominate names for each of these positions, it would be nice if the people on the nomination committees could just give a little background on the people and why they are appropriate. It may be helpful, and just a suggestion he is throwing out.

All in favor, motion carried by unanimous vote.

NEW BUSINESS

- A. 10.5.19 - Noise violation by Embers submitted by the Police Chief - schedule Public Hearing and designate the Town Administrator as Hearing Officer

Mr. Clark said that he had a conversation with the attorney and is waiting for a recommendation on the first three violations, which they already had a hearing on. Then subsequent to that, they had two additional violations that the Board voted on a week or so ago. Mr. Clark said that on October 5th they also had an additional violation. His goal would be to schedule the three violations, and to take all three at one hearing. He asked for the Board appoint him as the Hearing Officer again, and they will go through them.

Mr. MacAskill moved to send the noise violation by Embers submitted by the Police Chief to the Town Administrator as Hearing Officer. Seconded by Mr. Howell.

Mr. Ballantine asked if these are six different violations, by six different individuals that issued the complaint. Mr. Clark believes they are all different.

All in favor, motion carried by unanimous vote.

B. East Harwich Fire Station – Discussion & Possible Vote

Mr. Clark provided a quick overview of an image that he sent to the Board. He said that it makes sense at this point, to move forward with the demolition. He said that he had shared the letter from someone that had expressed an interest in the building, however, the recommendation from staff, is still to go ahead with the demolition.

Chief Norman Clarke, Harwich Fire Department, said that he had toured the site with staff and the Administrator last week, to get a flavor of what they are talking about. He added that he will take some responsibility for someone approaching about the building, which he thought was a great idea. However, that does not mean that it can be done. He said that when you drive around the building, you see just how close the new station is. He does believe that the land is worth more than the building. Chief Clarke said that he was thrilled to see there was interest to reuse the building, and he hopes the interest will continue to the property. After really taking a hard look and listening to the professionals, the prudent thing to do is to follow the original plan, and take the building down.

Mr. MacAskill moves to continue as originally planned and demolish the East Harwich Fire Department. Seconded by Mr. Howell. All in favor, motion carried by unanimous vote.

CONTRACTS

- A. Change Order for Fire Station #2 in the amount of \$41,731.16 – Approve and authorize the Chair to sign

Mr. Powers explained that this is a very straightforward change order and this will be change order number seven for Fire Station #2. He said that Chief Clarke presented it, the procurement team went over it, and they recommend that the Board approve it and authorize the Chairman to sign.

Chief Clarke said that as he had mentioned before, he tries to group change orders together for a full vision of what they are doing. They have tried to minimize change orders, but they have to make changes and adjustments. He is happy to answer questions and ask for their support.

Mr. McManus asked about the completion of epoxy floors and lines, as originally proposed. He asked if that is the lines in the parking lot. Chief Clarke answered, that it was about the epoxy floors that had called for backup lines and squares for the trucks to park. Through the process to put specifications together, it was missed.

Mr. Howell moved to approve the change order for Fire Station #2 in the amount of \$41,731.16, upon the recommendation of the Assistant Town Administrator. Seconded by Mr. MacAskill with discussion.

Mr. MacAskill would like to know if there is a pending change order for the septic and waste water, as well. Chief Clarke confirmed that there is, and the amount is \$18,000, though it has not been processed yet.

All in favor, motion carried by unanimous vote.

- B. Overview of Phase 2 Sewer Project
- C. Discussion and possible vote to award the Phase 2 Contract 2 Sewer Project to RJV Construction Corp - \$6,621,306.25

MOTION:

Authorize the Town Administrator to execute the Phase 2 Contract 2 CWSRF4424/2 to RJV Construction Corp in the amount of \$6,621,306.25

Mr. Clark provided an overview as requested by Chairman Ballantine. He said that CDM made recommendations for Phase 2 of the project, and in 2017 had put together the numbers and projections. Then in April of 2018, they had a request to update the numbers for Town Meeting. As shown, the numbers went up for construction from \$17,680,000 to \$18,500,000, and also for policing which went from \$389,000 to \$725,000. They also added in easement and legal for \$310,000. Also, for the Chatham Pump Station and the agreement with Chatham that we share a proportional cost and that number was recalibrated and went from \$2,150,000 to \$2,950,000.

Mr. Clark said he does not have all the answers tonight, but the construction numbers were really in the wheelhouse of CDM, and he found out, after the fact, that they only did an internal estimate. They did the estimation and as you can see it went up from \$18.5 million to \$26.5 million. As shown on the cost summary variations, it is not shown on the slide, but he feels it is on CDM by using an in-house side of their company. They are an excellent design firm, but he has had real issue with the contractors' side and their estimates. The ones they had provided for what they saw for April 2018, the design plans were only at 50% complete. They had to increase to the distance of the pipe and that increased cost. There have been design changes and design of the pump station buildings. They were going to do similar to what Chatham did, but a decision was made to drop the costs of the easement. Mr. Clark said that more significantly has been the market conditions, they had anticipated getting eight to ten bidders, but only got three or four. He said the timing of the project and number of contractors interested had an impact. He said that also the paving costs increased by 50%. Mr. Clark thinks that they have realized now that the market conditions were an impact for contract 1, and they are on target for contract 2. The Our Company won the contract on contract 1, and RJV won the contract for contract 2, and it does show that market conditions do have a relevancy to the contracts.

Mr. Clark said in regards to the decrease in costs to the taxpayers on interest, he said that they will need to look at things over time, and the decisions that were made. The original estimate was for \$22.4 million, with \$17.7 million of construction costs. Also, to remind folks, SRF, the State Revolving Loan Fund, only funds the \$17.7 million, the construction piece. The town has to go out to the market place for all the design work and other peripherals. Projections were made to show what the impact would be, if not funded by SRF. Interest cost would be around \$15 million, for over 30 years at a 4% rate.

In April 2018, there was an update of \$24.8 million with \$18.5 million in construction costs. They started getting more information, once the agreement with Chatham was finalized. The projections made went down to 2%, assuming they would make it to the funded portion of the SRF list. The SRF is submitted throughout the state and they can only fund a certain amount, so the higher you are on the list, the better. The Town is very lucky to be first on the list. Now looking at 2019, they are number one on the priority list and the Town is now eligible for 0% interest, for contract 1 and \$11.3 million for 1/2 % of loan forgiveness that was about \$400,000 worth of savings. So, not

an insignificant amount of money. Mr. Clark said that if the Board approves contract 2, it would get us closer to spending the \$18.5 million, which was approved at the 2018 Town Meeting, and would be at the 0% interest. We did miss our window for the loan forgiveness, so it would not be included in this second round.

Mr. Clark said that one of the questions that came up recently at the three town meeting, with the three Boards of Selectmen, was what happened to the original \$240 million. Mr. Clark explained that the number was generated in 2014 and when you compound out a 3% construction inflation, it goes to \$313,145,564 in 2023. This does not include any pending revisions to the CWMP, with completed work and DHY assumptions. For example, the \$240 million includes in there the treatment plant located in Harwich, at the DPW facility, was in the ballpark of about \$60 million. So, to add in the revised CWMP that includes the DHY work, that number of \$60 million goes down plant only to about \$17-\$18 million. However, there would then be additional piping costs to get the piping to that area. So, the savings would not be the delta between the \$60 and the \$18, it would be a lesser number to get pipe to the other areas.

Mr. Clark next explained that Mr. Mike Guidice, CDM Smith, provided a breakdown of the costs for phase 2. This showed that from the 2018 Town Meeting the \$18.5 million and the Chatham Pumping Station at the \$2.95 million, with the total amount of appropriation being \$21,450,000. The contract price for bid 1, the Our Company work, which is being done now is \$11,368,663, and requirement by SRF to have a 5% contingency, which has been built in.

Mr. Clark said that what is being asked in front of the Board tonight is for contract 2, which was priced in such a way to maximize the available amount of money, to do as much as they could of phase 2. That came in at \$6,621,306 again with a 5% contingency built of \$331,065. The Chatham Pump Station came in less under contract 2, and the remaining construction funds will be \$150,533. Then you can see the additional phase 2 appropriation of \$610,000 for general services and the other town costs.

He said he has had a lot of opportunity to think about this, and how he felt that they did not need to go out to bid to select a designer, that CDM deserved the opportunity. He does feel that they have had misses. He does feel that they need to finish with them, but it will need to go out to a third contract and that

should go out to bid. They should see if they can find a firm with more reliable numbers to move forward with.

Mr. Howell read from an email string from June 17th, which was the night they were told they needed to act now or lose \$15 million and there wouldn't be any zero percent financing. The email was from Nate Keenan, Deputy Director of Massachusetts Clean Water Trust, to the MassDEP asking about a waiver for the Town of Harwich, for missing the deadline. The response said that they don't provide waivers for that, and the town would lose the principle forgiveness for missing the June 30th deadline. The town does need to provide a revised project schedule and ask for an extension for awarding of the contract. If it is accepted, they will grant a waiver for awarding the contract, but not for principle forgiveness at zero percent. There was also an email from the town's Financial Advisor to the Finance Director overviews the loan options; which did not provide principle forgiveness and the charges that would incur. Mr. Howell's second thought was that he agrees with the Administrator about CDM Smith, and he had fought to make it a competitive bid. The actual bid specs the day they issued it, was even more off. In comparison, Chatham's estimate, using Weston & Sampson, was spot on. The prices were higher, but the estimates were consistent with the bids received. This was the same for Barnstable. The final thing is why this got broken out into three projects, instead of one and lost the opportunity to get larger companies to bid on it, with a larger project. They are in a bad position, and if they award this contract they will have no control. He will not vote for a contract 2 to only get 2/3rds of the project done.

Mr. MacAskill thanked the Town Administrator for admitting the need to look at another engineering firm for the next projects. He is also concerned with spending this money and awarding this contract. They have done nothing but rush from the beginning of this. They said at the Town Meeting they had solid estimates, because that is what they were told. Mr. MacAskill said that he voted for the last contract because he didn't want to cost the tax payer's \$15 million. He was disheartened to find out the savings were not that. Why were they told \$15 million, and he had done the math, it did not come up with that as a savings. The bids that came in, were all very close, which means that they were correct, and the engineer just plain screwed up. They rushed from the beginning and now is an opportunity, not to rush. They are dropping 1/3 of the homes and to go back to Town Meeting, apologize after the fact and say to get to where they are supposed to get to, will cost \$8 million more. They don't have any exact costs and could not answer most of the questions

that were asked of them at the three town meeting. Mr. MacAskill said that Mr. David Young, CDM Smith, said that he had answered those questions, but he has not. There has been frustration from the Wastewater support committee from the beginning and they have all resigned, so they have no representation there. He also pointed out that the person they hired for a Wastewater Superintendent has been involved in very little and was not included by the engineer or the Town Administrator. The three town meeting, every other town brought their professionals, Harwich did not, and the questions that came up to Harwich, they could not answer. Are they really going to go to town meeting spend the rest of this contract money, without an apology, or take the time to demand answers. They are doing a terrible disservice to this Town. They are not prepared and they need to go back and look at what they are doing and what else may have been forgotten.

Mr. Howell asked if the total amount of the \$24 million dollars, was a proportional short fall. If it was partly design, engineering and construction or was the design and engineering paid and the shortfall falls to construction.

Mr. Clark said that was a great question, he has been advised that they will probably expend their original appropriation to finish contract 2 and probably will be coming to the town and asking for additional for contract 3.

Mr. Ford then asked to Mr. Clark, if it would be wiser to take a look at what they have to do going forward to rebid that, or potentially paying more money. Would it be more fiscally responsible to rebid, even with contract 2, or will that hurt tax payers more? He said that they are trying to protect the tax payers.

Mr. Clark has relied on CDM for a lot of the information that he has made decisions on, because he is not an engineer. What he is recommending is that they have a known commodity and a known bid, so they should move forward. If they wait, they would have the increase with the 3% construction inflation, plus they are number 1 on the list, with 0% interest. It makes sense to go forward and finish with this phase. Mr. Clark had asked CDM to put together Phase 3. However, to make the case for the \$8.4 million, they do know the bid environment and anything they do for the town perspective, would have to go out to the bid on contract 3, to present before Town Meeting. This is not a good position to be in, having to rely on CDM, but knowing that they have a 0 % and that they are number one on the list, it makes sense to go forward and then create a bid environment.

Mr. Ford said that his great concern is putting them in a position where they will pay more. He said that he agrees, it has been a huge disappointment by how they have been guided by CDM, and it is clear the Board has some real reservation with the relationship. He doesn't want to jump in with a reaction and end up costing the tax payers more money.

Mr. MacAskill asked, so it is clear to the public, is if the Town is in jeopardy of losing the 0% financing for phase 2. Mr. Clark said that the town is on the list, but if there is a delay, they would need to apply to get an extension.

Mr. MacAskill also commented on the 3% inflation and that it is standard practice for contractors to hold price, while getting through political actions like Town Meeting. They should go back to the contractor and ask them to hold the price without the inflation, which has not been done. So that is an answer to a question that they have not asked yet, and also a larger contract would likely have less cost. He asked if Mr. Clark is saying with certainty that this is going to go up, more than 3%, and our savings is going to be less than 3%, without doing any homework, and they are being asked to vote on this tonight?

Mr. Clark said that he is not saying that and he could not speculate. In the past it has been 3% and to his point the economy of scales, the bigger the project, potentially the better off you can be with price. In this circumstance though, you are talking about going out in different areas, that would not be contiguous. He is not necessarily sure that the economy of scales and having construction done in one area would yield as much benefit. There are a few operational concerns.

Mr. MacAskill said that they had told Town Meeting, very clearly, what they were going to do in Phase 2. He said that in all of their conversations and everything they had done was for sewerage 600 homes. There was an \$8 million mistake made, which they do owe the public an apology for, and an explanation for. He does not have a lot of confidence in the engineering plans and they should have a review to see if they are going down 28', where perhaps they shouldn't be. He would also like to know what the Town of Chatham thinks of only sewerage 400 homes. They needed the flow, and now is the Town paying for the 600 homes regardless? Mr. MacAskill repeated that there is a lot that they do not know tonight, and they are being asked to vote on a contract.

Mr. Clark said that he had advocated not to pay until they have the flow going, but it was decided to just pay on a schedule. So, over seven years, they pay the full amount. He said that it is to their advantage to do the construction sooner than later.

Mr. MacAskill replied that they voted and the deal is what it is. He said that without knowing those numbers it is going to add to everything else that they are doing. As far as DHY goes, they are not even close, and he hopes the board will take the time to have long conversations and to get confidence back in the voters.

Mr. Ford asked if they actually need to vote on this tonight and Mr. Ballantine confirmed that they do not, because they need to have some questions answered first.

Mr. Ballantine said that they are all disturbed by how poorly the estimates were made. He doesn't understand how CDM Smith broke their own protocol and only used in-house. However, where he does disagree somewhat with Mr. Howell and Mr. MacAskill, not with their concerns, but about the estimates. He said that they have good bids and even though they missed the estimate by large numbers, he is comfortable with contract one. He said that they had five bids, and four of them came in very close. The bids for contract two have also come in very close, so he is confident the cost is the cost. They do have some serious trust to build up in the town from missing the bid by so much. He would propose to bring it back.

Mr. MacAskill said that he agrees and this is not about the contractor. They have a great estimate. However, it is more that we told the voters and going back and apologizing to them and they should vote, not necessarily us.

Mr. Ballantine further explained that although they messed up, the cost of doing this work, he is comfortable with. There is a lot of debate on the estimates, but the cost of doing work is what it is at this time.

Mr. Howell said that he is hoping they can talk about this with the knowledge of if they can keep their bid price. However, again quoting from the warrant article, *this will fully implement phase 2 of a regulatory required plan*. He said that they promised them up front that they were going to finish up with that amount of money. They shouldn't have gone forward, if they knew they

were going to run out of money. Mr. Howell said that they were essentially railroaded, they had thirteen days left until June 30th, and they were told they were going to save \$15 million, that was not true. They were told they were going to lose the 0% interest, that was not true. Mr. Howell said that all it took him was about a half hour with the Director of Finance and making some phone calls to find out it wasn't true. It is not speculative, it is the DEP and the Clean Water Trust, they are in writing. He said that they need to be able to reestablish some trust with the public that they are partners with them.

Mr. Ballantine said that they should get answers to their questions and bring it back.

Mr. Clark said to clarify, on the IMA, the \$7 million gets paid over seven years period. The amount of flow is on us. He is not sure what the question is. Mr. Ballantine asked if he could recheck on the IMA what the start date was supposed to be and what the obligation was to start delivering flow to them.

Mr. Clark said number one the amount of flow does not matter to Chatham, they get paid no matter what, on a timeline. It accelerates the timeline if they send them flow early. He said that the big think they were successful in doing is on the coordination. It did not make any sense to do contract one or two, if Chatham did not have the pipe to accept it. He also said to Mr. MacAskill's point, he thinks Chatham would like to have the 300,000 gallons so that they could assess the plant. He will put the IMA in the packet for them to go through it. He said the follow up question is how long will RJV be willing to hold their price.

Mr. MacAskill said, just as a follow-up, the tax payers need to know that they will maximize the \$7 million investment, first and foremost. If they are going to recommend spending the \$8 million to finish phase 3, it is important for tax payers to know that they are paying the \$7 million no matter what. As far as O&M costs and flow costs, in those negotiations, in good faith they had told Chatham that they were going to deliver from 600 homes, they did not say might. They got approved at Town Meeting for \$21.5 million to sewer 600 homes, and they negotiated in good faith and now they are taking a third out.

He thinks their projections for O&M costs and everything else was under the assumption that they were going to do what they said they would do. He would like a meeting to happen between Chatham and the Town Administrator and

to hear them say that they are ok with the change. He does not think that they should assume anything.

Mr. Stan Pastuzak of Nor'east Drive approached the Board to share three points. He agrees Mr. Ballantine that the biggest problem is the estimate not the costs. They have good bids right now. He is not sure why they would not go with those bids, because that is not going to change. Mr. Pastuzak said as for what Mr. MacAskill had said, he wanted to know if there was an economy of scale, of combining 400 homes, or continuing with the 200 and then going to the town with the other 200. If there is not an economy of scale, he is not sure why they wouldn't go with the bid right now. Also, he wanted to know if there was a problem, why didn't they stop with approving contract one, if they thought they would not be able to finish the project with the money they had? They knew that when contract 1 was bid out.

Mr. MacAskill said they were told that the Town of Harwich taxpayers were going to lose \$15 to \$21 million, if the contract was not voted, on that night. He said that he had made his vote that night and the statement, that the savings to the tax payers were going to be \$15 million. He said that the reason why they are not bidding out and approving contract 2, because they have to go back for the \$8 million. He said that it is about the taxpayers in East Harwich, they want a shot at this and want to understand these mistakes. They want a shot at this, and they need answers to the questions. If they are going to approve the contract they would have spent everything Town Meeting said they weren't and he is not comfortable doing that, until they have answers to the questions. They are basically forcing an extra \$8 million on the taxpayers.

Mr. Pastuzak agreed that there should be more people there at the meeting to ask some of these questions.

Mr. Ballantine said to remind everyone this is not an issue they are just doing, this is an issue for them because they are trying to clean their abatements, they are under regulatory requirements for that. They still have a lawsuit that is not settled. There was an article in the Cape Cod times arguing that they are not moving fast enough. He said that he takes the point that they were misled and moving too fast for the dollar value, but they felt they were under some pressure. They will bring this back and just wanted to make statement that they are not doing this, just to dig holes.

Mr. McManus added that they all have questions about how they have been served by CDM. He thinks the general conclusion is they could have been served much better. He wants to make it clear that he is not saying this in any way to offer an excuse, but he thinks as they move forward, it would be good to hire a Project Manager. As plans are brought forward, to make sure that schedules are followed, and all the things a project manager does in construction. For the design, the costs are what they are. They should look at the mobilization costs.

Mr. Ballantine asked Mr. Clark to find out how much it would cost to have an independent review of the design? To see if we want to move forward. Mr. Clark said that he could check with Weston & Sampson.

Mr. Ballantine thanked Mr. Clark and the Selectmen for the conversation.

TOWN ADMINISTRATOR'S REPORTS

A. Preliminary Discussion - Potential Easement/License Agreement (between Zylpha Road & Ocean Avenue)

Mr. Clark said that it came to his attention that the property owner with property between Ocean Avenue and Zylpha Road that has a seawall. The seawall part is on Town property. He explained that what they have done in the past is to put together a license agreement to allow the homeowners to reconstruct the wall and make improvements. They will do an easement at Town Meeting at a subsequent date. Mr. Clark said that they are represented by Attorney Crowell, and he had told him that he would bring this in front of the Board and bring the form of a license agreement. He said that if they were to do a license agreement for the value of the land, or the value of the easement, they would need to get an appraisal and then go to Town Meeting. Then the homeowners to pay for the town property that their structure is on. He said that the attorney did confirm that this is a course that they would like to pursue.

Mr. Clark said this is informational and once the license agreement is done, they will put it on the agenda.

B. Castle in the Cloud Discussion

Mr. Clark said that he does not want to be in the middle of this. He said that the School Department is on one page about what they would like with plans to the CPC to change out the playground and the renovations. Mr. Clark said that he was asked to attend a meeting on the 24th, to go and look at the site with Mr. Scott Carpenter, Superintendent and some people from the school. He said that he would like to know if the Board is in favor of replacing it or not. He will work with the insurance company, to limit liability for the Town, and again, he is looking for direction from the Board.

Mr. MacAskill said that they put it on the agenda for next week. He said that based on the safety audit, the school should shut the playground down and stop letting kids use it. He said that is not their decision, they are a tenant and if they deem it unsafe, they should shut it down. When are they going to make that decision? Also, he looked at the plan they submitted to CPC. He asked if there are any thoughts of them coming in front of the Board of Selectmen, since they are the ones that actually control the land behind the middle school, and asking to use that land, before they submit an application. He said that he is not against it, but they should ask them.

Mr. Ballantine, agrees about the safety issue being a liability, and it is hurting kids. He said the second part he is concerned about, is the grand plan which is very expensive. If they are going to go to CPC for this, they should at least look at fixing the playground problem. He said that the dollar amount they were looking at would take all the CPC funding they had, and they have other issues too.

Mr. Howell said he was the president of the organization that built the playground. He said that there was not a single penny that came from state federal or local funds, it was all a volunteer organization. He listed names of those that were the primary fundraisers. He said that he was on the technical side. He said that he had started out in the Federal Government and was the person that issued the schedule contract for playgrounds. He said that he was involved in all the spec'd out stuff, and he ordered all of it. Mr. Howell said that he is really appalled they never did any maintenance on it. There was no proposal to refurbish the playground, they just planned to tear down, and that was before the safety audit and all of the assessments. He is not surprised it is splintering because they had done nothing to sand it or seal it. He agrees with Mr. MacAskill, they need to close this down. They have never

replenished the fibar and it now just wood chips, and it is not good. He would have started with letters to find out what the costs would be in sections. He knows how the whole thing is constructed, but they have not talked to him.

Mr. Ballantine said we should bring this back and we need a clear understanding of where the boundaries are, and where the responsibilities are.

Mr. Ford said that the CPC was surprised too and there is a limit the amount of money they have available. There were a lot of assumptions made.

Mr. McManus said he has two questions, one about the playground, and the second about the grant. He doesn't see how they can present a project on property, they don't have control over. He also said that the playground facility keeps being said it is about Monomoy, however, up until six or seven years ago, it was the Town and they approved the maintenance.

Mr. Ballantine said the past is the past, and their concern should be going forward. Mr. MacAskill said the number one concern is safety and it is still on Harwich, they are our kids, it is still us.

Mr. Clark said that the meeting for the playground is on the 24th at 10:00 am. If anyone would like to join in. Mr. Ballantine asked Mr. Clark to post the meeting, so it is considered a public meeting.

C. Preliminary Capital Budget Plan

Mr. Clark said he put the material in the budget, so they could take a look at it. They just had the Capital Outlay Committee meeting that afternoon, so he will update the information. He will have an updated version and look at the budget calendar, if they want to have a preliminary look. He said that the Capital Outlay did vote on some items already and he will work to have it for next meeting. Mr. Clark said that Capital Outlay are meeting again on the 24th at 4:00 pm. They do want to make some adjustments and Mr. Clark will be sure to identify the changes for the Board.

D. Assumption on Budget Discussion

Mr. Clark that that he had heard some of the conversations, with Ms. Carol Coppola, Finance Director, about the short term rental money. He said that money is coming in now, and that money comes in as a local receipt. He said

that it is interesting that the town of Dennis has made a decision of putting 25% of this toward their sewer program. Really, right now it is a point of assumption to try and get a sense of the money that is coming in as a resource.

Mr. Ballantine said his question was, that as far as he knew, they hadn't gotten a report from the State yet. Do they know the amount of money coming in?

Mr. Clark said they took the hotel/motel statute and they amended it, so they get an amount of money that comes in from hotel/motel and they have not segmented off yet what is hotel/motel and what is short term rental. That is something that is having an effect of bringing in more money of local receipts.

Mr. MacAskill asked if this is assuming the 4% to 6%? Mr. Clark responded that he knows the Town of Dennis is looking to do the 4% to 6% change there too. He said that is something they could put into their assumptions, and to see early on if that is something they would want to consider. There are several towns on the Cape considering this.

Mr. Clark made the Board aware that the CVAC contracts were downstairs. He said that Ms. Argo brought them by, and he would plea with them to get their signatures.

SELECTMEN'S REPORT

Mr. MacAskill asked for a status update for the Firehouse on Bank Street. If they can get an update on when it will be torn down. Some interested neighbors said that there are animals living in there and they would like to know if the animals will be relocated or terminated prior to the tear down. Mr. Clark responded that they did do a 500 page report on the environmental concerns, and he did ask Mr. Sean Libby, Facilities Manager, to help do a spec to mediate that before being demolished.

Mr. McManus mentioned that another property in Town that neighbors have been wanting to see demolished, which is the one on Doane Rd. Mr. Clark said that he will get an update on the status.

ADJOURNMENT

Mr. MacAskill moved to adjourn at 8:13 pm. Seconded by Mr. Howell. All in favor, motion carried by unanimous vote.

Respectfully submitted,

Lisa Schwab
Board Secretary

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