



APPROVED

RELEASED

**MINUTES  
SELECTMEN'S MEETING  
GRIFFIN MEETING ROOM  
Monday, November 18, 2019  
6:30 P.M.**

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

**ALSO PARTICIPATING:** 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. He explained he first called the meeting to order at 6:15 pm for an Executive Session, in which they discussed the strategy sessions with respect to collective bargaining for HEA Contracts- it was an initial discussion getting ready for the upcoming contract season.

**WEEKLY BRIEFING**

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

Mr. Powers stated that there is a slight change, or an update, to the construction schedule for this week.

The one week look ahead, for November 18<sup>th</sup> - November 22<sup>nd</sup>, the Mainline Sewer Crew # 1 will continue installation on Route 39, west from Spence's Trace, and the detours are still in place there. The Mainline Sewer Crew #2, will continue installation on Route 137, also with a detour. Regarding the second crew, they did receive a request from the contractor, Robert B. Our, to see if the town was agreeable to extending the hours of operation. The hours of operation that have been agreed upon over the past month, have been Monday through Friday 7:00 am - 5:00 pm. They have requested to extend those hours for this week, Tuesday, November 19<sup>th</sup>, Wednesday, November 20<sup>th</sup>, and Thursday, November 21<sup>st</sup> until 7:30pm, specifically at the intersection of Sou'West Drive and Route 137. Mr. Powers spoke with Mr. Charlie Sumner, Wastewater Public Outreach Coordinator, Mr. Griffin Ryder,

Town Engineer, Dan Pelletier Water/Wastewater Superintendent, as well as, Ms. Abby Our and CDM Smith. Essentially all parties agree that there are going to be times that it is necessary and prudent to expand the hours, when they are dealing with deep man holes at intersections. They expect it to be done within the three days and do not expect to do it again, until they reach another similar point. His recommendation is to grant the extension. Mr. Ballantine confirmed there is a consensus to move forward with that.

The two week look ahead for the week of November 25th, again, no work will be conducted on Thanksgiving or the day after. Mainline Sewer Crew # 1 will continue installation on Route 39, west from Spence's Trace, working more on service and sideline subs. The Mainline Sewer Crew #2, will commence installation on Herndon, for three days only. Detours will be in place in some areas, but hopefully will ease up in some areas with the holidays. They will know more tomorrow after the construction meeting.

The three week look ahead for the week of December 2<sup>nd</sup>, Mainline Sewer Crew # 1 will continue installation on RT 39, west from Spence's Trace, working more on service and sideline stubs and commencing installation on Old Heritage Way. Mainline Sewer Crew # 2 will resume work on Route 137 and will necessitate detours.

Mr. Ballantine mentioned that the concern he has been getting lately has been the detours, but understood there was not much they could do about that. However, he asked that the signs are always there, and they continue to evaluate so that it remains efficient.

Mr. MacAskill asked if they could get ahead of contract 2, because they will hit the ground running. He asked what that would do to the traffic pattern in East Harwich and if they could get a handle on what is going to happen, when the other contract shows up.

## **PUBLIC COMMENTS/ANNOUNCEMENTS**

- A. Ms. Jamie Goodwin, Station Manager, Channel 18, said she was present tonight on behalf of the Emergency Management Team for the Town of Harwich. She explained that they had a meeting in July, following the Tornado, and they thought that they could have done better. Therefore, they created an emergency alert system, which went live on Friday. Today is the

first day that people can sign up for emergency alerts. She worked with Ms. Wellesley Marsh, Harwich Water Department, Mr. Dave LeBlanc, Fire Chief, Mr. Kevin Considine, Deputy Chief of Police, Mr. Lee Culver and Mr. Foster Banford, IT Director, on this project. People can also sign up for additional alerts such as, Water Department alerts, police detours, beach updates, Community Center events, Cultural Center events and employment opportunities. To sign up go to [www.harwich-ma.regroup.com](http://www.harwich-ma.regroup.com).

- B. Mr. Gary Conroy, 235 Bay Road, was present to discuss the Town Administrator position. He said that a group of concerned citizens would like to have some input into the selection of the next Town Administrator. He said that the next few years will certainly have an impact on future generations to work, live and vacation in their wonderful community. While the challenges seem overwhelming at times, they believe in Harwich and that its leaders can navigate the next decade with much success. Their first question is regarding the process of selecting the next Town Administrator. They would like to know what the timeframe will be and how the selection process will look like. Also, will the town hire a temporary administrator. Mr. Conroy also asked how the Board will communicate and keep the Town updated on their search? Will a search committee be formed, which would provide another layer of input for the selection of the Administrator? He then made note of a person that they all know, and believe would be a successful Town Administrator, his name is Leo Cakounes. He said that Mr. Cakounes would bring many qualities and much experience to Town government and could hit the ground running. He continued to provide an overview of Mr. Cakounes background and experience. His group would like to thank the Board for considering Mr. Cakounes as a potential candidate for Town Administrator.

Mr. Ballantine thanked him for his statements and it will be an open process and include looking at a search committee and hiring a temp TA. We are not at the point to consider Mr. Kakounes or anyone at this point. But it will be an open process once we go through the interviews and hopefully come back with several outstanding candidates and go from there, and everyone will have a chance to be heard.

- C. Mr. Ballantine announced that Brax Landing Restaurant is hosting the Lieutenant Governor and other officials tomorrow at 1:00 pm. They are the recipients of a grant award, after the tornado to help rebuild their business. There will be a ceremony recognizing that. They are gathering at 1:00 pm and it will start at 1:30 pm

## **CONSENT AGENDA**

A. Vote to approve Caleb Chase Fund request in the amount of \$800.00

Mr. Ford moved to approve Caleb Chase Fund request in the amount of \$800.00. Seconded by Mr. MacAskill. All in favor, motion carried by unanimous vote.

## **NEW BUSINESS**

A. Annual Meetings with the Board:

1. Community Preservation Committee
2. Mr. David Nixon, Chair, Community Preservation Committee, said that they have his report and he will just hit the important points. He said that they need one more member and that would be a selectmen appointee. That is one thing they are down.

Mr. Nixon reported that in 2019, the committee received 15 applications, with request totaling \$3,691,593. All 15 applications are being presented to the committee for review and deliberation. There is a grand total of approximately \$3,005,451, available for distribution. He explained that there is a different number that has come up and he wants to explain this to the newest member of the board, because he always tells the Board, that when he presents numbers, they always change.

Mr. Nixon read an update, he had just received from the State, on the November statewide CPC fund distribution. It stated that the Coalition had obtained primary information regarding this year's Community Preservation Trust Fund distribution to the CPC municipalities. However, this year's distribution and information that accompany it will be quite different than previous years; for two reasons: 1. The DOR has not posted any data information on this match. 2. There is still a potential for an additional \$20 million in the budget for funds that would be distributed by CPC at a later date. Mr. Nixon said that no one knew this was coming, it constantly changes. He gave them a number here totaling \$3,691,593, and \$1.2 million of that money has been taken off the table. There has been an application that was withdrawn, which it is not official, but it is there.

Mr. Ballantine asked if the debt payment was included in that number. Mr. Nixon said he cannot say, he will need to confirm it. This is all new information and he has no idea how much is going to change right now, but he will get the information.

Mr. Nixon continued that as of October 17, 2019, the committee has successfully rescinded and closed out previously funded articles that were either completed, or uncompleted, with many years of non- activity, in the amount of approximately \$129,904.96. All monies were returned to their respective fund reserve. When he wrote the report, that is the way it was considered. He said that Ms. Coppola, Finance Director, got some information from DOR that \$129,904.96 is considered in this total number that he gave them originally, but they are not going to be able to use that. It is the process DOR has in looking at money in general. The funds are vetted in the CPC, then they go to the Board of Selectmen, then they go to Town Meeting and they are approved. So they get distributed to the applicants. Sometimes they do not use all the money and they bring it back. Now DOR says you have to consider that as new monies and be re-certified and brought through the process again.

Mr. Ballantine said to clarify, if they can use it, but not till the following year. Mr. Nixon said yes, not till the following year.

Mr. Nixon said he wanted to acknowledge two members of the board that were there with him, Mr. John Ketchum and Ms. Mary Maslowski.

He also wanted to acknowledge and thank Ms. Kathy Green and Mr. Chris Rockett, who both served on this committee for several years. They have moved on, and have our sincere appreciation. They were really helpful and their information was really valuable.

Mr. MacAskill said he wanted to thank them for all the work and time they spend on CPC, and the accuracy they bring to the numbers.

Mr. Howell said he wanted to compliment Mr. Nixon and the committee. They imposed structure where there was none and things have vastly improved. It is a tribute to him and the members.

Mr. Ballantine repeated their need for one more member.

### 3. Golf Committee

No one was present.

- B. Vote to designate Joseph F. Powers as temporary Town Administrator for a period not to exceed ninety (90) days

Mr. McManus made a motion to designate Joseph F. Powers as temporary Town Administrator for a period not to exceed ninety (90) days. Seconded by Mr. Howell. All in favor, motion carried by unanimous vote.

## CONTRACTS

- A. Weights and Measures Services Inter-Municipal Agreement between Town of Harwich and Town of Barnstable - vote

Mr. Ballantine commented that this is going to take some time, that it is a heavy load. Mr. Powers said that there is material in their packet and a presentation to be done. However the recommendation presently is that the Board should not come to conclusion on the agreement, because it is still being vetted by Council and the Finance Director.

Mr. Richard Scali, Licensing Director, including the Weights and Measures, for the Town of Barnstable, explained that for the last 20 plus years, the Town of Barnstable has provided Weights and Measures Services for nine towns on the cape. Unfortunately the agreements have not been reviewed in 20-years, so in the packet is the agreement which was signed by the Board of Selectmen back in 2001. They have undergone a process over the last two-years of reevaluating and looking at those agreements, and they have concluded that they will have one agreement for all of the towns.

Mr. Scali explained that they had provided a full presentation to Mr. Clark back in September, which took an hour, however, he will not take an hour this evening, but will review the highlights. In the packet there is a list of all the services that they provide to each town, including; the number of devices, price verification, packets checking, oil tank meters, and a number of other services as well. Mr. Scali reviewed the brochure that is in the packet and the

read through the items that they inspect: Taxi Cab Meters, Oil Truck Meters & Air Eliminators, Retail Store Scales, Industrial Scales, Vehicle Scales, Gas. Station Dispensers, Marina Pumps, Cordage Measurers, Store Scanner Systems, Linear Measures, Wholesale Fuel Racks, and Airport Refuelers. Also, in the packet is a list of all the Harwich businesses that they have served over the number of years.

Mr. Scali reviewed the list of their revenues for FY19, which is for calendar year 2018. He said that they have this in the packet and can see that basically they bring in about \$18,004.00 in fees, and about \$7,800.00 in fines, for a total of \$25,804.00 per year. That does not cover all of their expenses.

He said they also have in the packet the report showing the results of FY19 inspections- whether they passed or failed, sealed or not sealed, and the total fees collected. Determined by violation, and the hours that they provide are 143 hours per year for Harwich.

Mr. Scali then introduced Jane Zulkiewicz, Principal Division Assistant, with Weights and Measures. He said she is the technical person, so any technical questions she is the person to ask. She prepares the annual report each year, which is submitted to the State. Ms. Zulkiewicz is the sealer, and they have three deputy inspectors, as well as himself. They are all certified inspectors and are all experienced. Mr. Scali further explained that in the packet is a list of equipment they provide, along with an item pricing summary, which lists exactly what they have done in Harwich. They are also required by the State to process the amount saved by consumers, and the amount saved by merchants. There is an impact statement provided to the state every year showing the savings. He continued to review what is included in the packet and the costs for doing business. This year Harwich will have 253 devices out of the 3,900 devices they serve throughout the 10 towns. They have divided up the fee and Harwich would put in \$12,300 for FY21. There will be a 2 ½% increase, for cost-of-living, in the upcoming years. The proposal is for a new agreement that would be three-years and automatically renew each year and to be reviewed after three years, with an automatic escalator after that.

Mr. MacAskill asked for clarification on the auto renewal and how long the term is of the whole agreement. Mr. Scali confirmed it would auto renew for three years, and after three years it will be reviewed and then go back into auto renewing for each three year period, as agreed upon. It cannot exceed 25 years.

Mr. MacAskill also asked to clarify whether the amount he discussed earlier which totaled \$25,804.00 per year was additional. Mr. Scali said yes.

Mr. MacAskill continued and asked what the other towns are doing that do not use them. Mr. Scali said that they either have their own sealer for Weights and Measures, or they are under a population of 5,000 and have the State do their sealing.

Mr. MacAskill asked if they can use the State. Mr. Scali said no that the only option would be for the Town to come up with their own program. Mr. MacAskill also asked about being charged as a business owner. Mr. Scali said that businesses pay for the fee that they charge for the sealing of the devices, and the town contributes to the expenses, for the cost of the services. Mr. MacAskill confirmed that the Town paying, provides a benefit to the business owners.

Mr. Powers added that this is an Inter-Municipal Agreement, which is regulated by chapter 40, section 4A and typically requires signing by the full Board. It is exempt from procurement. The Finance Director and himself had some concerns about the escalator clause, and the indemnity clause under item four, section 3, tends to negate the whole purpose of the actual statute that it is written on. Therefore, Council's direction is that they are still working on it, and he implored the Board not to sign under this condition.

Mr. Powers said that the way it reads, is that if the Town of Harwich were to be a part of this agreement, as it is written, the Town of Barnstable is indemnified and we are indemnified, except that we are responsible for everybody. So, it is problematic at present. He is not suggesting that they cannot come to an agreement, but there is some more work to be done. Mr. Ballantine asked if he is suggesting to bring it back for December 2<sup>nd</sup>? Mr. Powers said that December 2<sup>nd</sup> should work.

Mr. MacAskill asked how many towns have voted already. Mr. Scali said that all of the towns have accepted it, but they are in the same stage and looking at the details of the agreement.

Mr. MacAskill asked who has been paying the deficit until now? Mr. Scali said Barnstable has, and they could bill the towns, but they have not.

Mr. McManus asked if the revenue information which they presented was only for the Town of Harwich. Mr. Scali stated that the other town's information is there as well, the chart explains each town's portion of what they would contribute based on how many devices they have.

Mr. Ford asked if there are other entities like themselves, besides the State? Ms. Zulkiewicz said that they are an anomaly there. Each town that is over 5,000 is obligated to have a Weights and Measures sealer. The State covers everyone under 5,000. Towns used to have the option to sign on with the State, but they are not accepting any more towns because they can no longer keep up.

Mr. MacAskill asked, for the people watching, if they could briefly explain what they do as a consumer protection mechanism and why.

Ms. Zulkiewicz said that they are obligated to ensure the interest of the consumers and the merchants, to make it an equal playing field in the marketplace. She said that it goes back to the 1700's in the days of John Adams, where they saw it as something that was needed to keep people from being ripped off and to keep exchanges equal. Now, they ensure that all the scales in supermarkets, fish markets, pharmacies, truck scales, and jewelry scales, to make sure they are accurate and being weighed correctly. They are there to test and to make sure they are accurate; including gas pumps.

Mr. MacAskill asked about the gas pumps and if they were not accurate, what happens? Ms. Zulkiewicz responded that if they find a meter that is out of tolerance, they are all trained and knowledgeable to adjust the devices. Many towns charge an adjustment fee. However, provided the inspector is knowledgeable, because they do not want to make that device worse for the merchant, they can adjust the device and then they test it again. So, the merchant does not have to call a service technician, which there are none on the Cape. They are able to get it back in service to accommodate the merchant and make the inspection complete at that time.

Mr. Ballantine confirmed that they will hold off on this until December 2<sup>nd</sup>.

- B. Change Order #8 for Fire Station #2 in the amount of \$18,040.66 – Approve and authorize the Chair to sign

Mr. Powers said that the Fire Chief submitted this, staff reviewed it and the Finance Director has confirmed the funding. They would recommend that the Board authorize this and for the chair to sign the said order.

Mr. MacAskill moved to approve change order #8 for Fire Station #2 in the amount of \$18,040.66. Seconded by Mr. Ford.

Chief Norm Clarke said he would like to give a quick explanation as to why there is an \$18,000 change order. He said that when they first started out with this project they were faced with their own independent septic system. They knew the sewer was coming, so they worked with the Health Department and they have been able to continue to use the current Title IV at the old station, until the sewer goes in. So, this amount is going to pay for the change to move it to Route 39, and the removal of equipment and removal of pumps.

All in favor, motion carried by unanimous vote.

## **OLD BUSINESS**

- A. Vote to endorse CPC Agreement for Cape Housing Institute in the amount of \$7,500.00

Mr. MacAskill moved that they endorse CPC Agreement for Cape Housing Institute in the amount of \$7,500.00. Seconded by Mr. Howell.

Mr. Powers added that this agreement will be between the Town and the Community Development Partnership. The changes have been made to that language. Mr. MacAskill thanked him for the explanation in the packet.

All in favor, motion carried by unanimous vote.

- B. Vote to endorse CPC Agreement for Habitat for Humanity in the amount of \$300,000.00

Mr. McManus moved that they vote to endorse CPC Agreement for Habitat for Humanity in the amount of \$300,000.00. Seconded by Mr. Howell. All in favor, motion carried by unanimous vote.

C. Weston & Sampson - Agreement for Wastewater Consulting Services - DHY  
Third Party Wastewater Project Reviews - Discussion

Mr. Ballantine said that in summary the three towns have agreed to hire Weston & Sampson to do an independent review of the finances and operation. They are doing this partially because of the experience they have had in Harwich and wanting to know what their finances are. The total bill from Weston & Sampson is \$18,000, and their portion of that is \$6,000.

Mr. Powers added that Council is in the process of vetting it, however they were working on the assumption that the rejoin agreement was not from us. Though he was the one that worked on the original agreement, the amendment does not cause any conflicts to the original agreement, so there is no concern there. Council has not finished, however the Finance Director has confirmed the funding is available and he would recommend that the Board approve this, as they do not expect any objection from Council. If the Board were to approve it this evening and they heard anything different from Council he would inform them before for final execution.

Mr. Ballantine reiterated that this is to be more cautious than they have before.

Mr. MacAskill asked if Ms. Coppola had mentioned where the money was coming from? Mr. Powers responded that it would be coming from the sewer enterprise fund from this year's annual Town Meeting, the original appropriation of that was \$125,000. The two towns, Dennis and Yarmouth, have confirmed their funding, and the Finance Director will be billing them upon the execution of the contract, so that the net payout from the Town of Harwich is \$6,000.

Mr. Howell said that he will not argue using those funds for this purpose, but he would suggest that they do not continue to do that in the future.

Mr. McManus moved that they approve the agreement with Weston & Sampson for the Wastewater Consulting Services on the DHY Third Party Wastewater Project Reviews in the amount of \$18,000. Seconded by Mr. Howell. All in favor, motion carried by unanimous vote.

Ms. Sharon Pfleger, from the audience, asked about the DHY meeting that they had a couple of weeks ago. She said that they had brought something up about the Board voting in the beginning of December, which was the agreement for the DHY. Mr. Ballantine said they had agreed to postpone that until January because they wanted this information prior to that. Ms. Pfleger continued and asked when they expected to have meetings with the Town about the DHY, as at the last one they talked about the extension of the area that it would cover. Mr. Ballantine said that is a continuing conversation and they will be having further discussions.

Mr. Howell pointed out that, regardless of what the scope of the work is, A) they have to approve it and each of the three towns have to approve whatever the deal is, and B) this is to have someone looking over the engineering, in this case CDM Smith, who presented the agreement. This gives an opportunity for another set of eyes, from another company, to review and make sure whatever the scope is, there are accurate figures being presented.

Ms. Pfleger asked if they really expect one engineering firm to contradict a second engineering firm, within the same area? How valid do we really feel this would be? Mr. Ballantine said a little cynicism is always warranted, but he thinks that other towns have used this review successfully. Mr. McManus also added that from the high school, they brought in a second engineer to evaluate and they were very critical of the work.

All in favor, motion carried by unanimous vote.

## **TOWN ADMINISTRATOR'S REPORTS**

Mr. Powers said that he was advised by the Town Planner today, following a memo that was circulated back in late October, regarding the Harwich Local Comprehensive Plan. They are specifically looking for the Board, to add them to a future agenda, to designate a Local Planning Committee. He said that the Planning Board could be named, but, the Town Planner is requesting that they consider a specially designated committee, which would draw from a number of different boards and committees throughout the Town. He thinks there is merit to that and it would be good to talk about at a future meeting.

Also, he wanted to advise the Board that Ms. Danielle Delaney in the Administration office, has been working on the annual license renewal process. All of the liquor

licenses establishments have received notice for November 1<sup>st</sup> for renewal, and are required to get the forms back to us by November 30<sup>th</sup>.

Mr. Powers said that Ms. Delaney is also working on all the other annual licenses coming up, and he will have more information at their meeting tomorrow. They are looking to start their voting process as early as December 2<sup>nd</sup>.

Mr. Ballantine asked to confirm if their deadline is the end of the year. Mr. Powers said yes, they are expected to complete everything by the last meeting on the 23<sup>rd</sup>. Mr. Ballantine said that since this is a new process, it would be good to have it come in pieces, instead of all at once.

## **SELECTMEN'S REPORT**

Mr. Howell said that he and Mr. Ford were up at the county where the Cape Cod Commission took up the issue of the district's critical planning concern for Captain's Row in West Harwich. He was pleased to say that they unanimously voted to refer the issue with a positive recommendation to the Assembly of Delegates. Mr. Ballantine asked when they will meet, but neither Mr. Howell nor Mr. Ford were sure. They said they should find out at the next meeting.

Mr. McManus said that he wanted to remind people that this Thursday, November 22<sup>nd</sup> at Monomoy High School at 7:30 pm, the Cranberry Festival is sponsoring a concert featuring a group called Child's Play. It is an assortment of different violins and string instrument music. Mr. McManus also announced that on November 30<sup>th</sup>, they will be holding an after Thanksgiving Community Market. It will be in the gymnasium at the Community Center, and will have 50 different local artisans, craftspeople and antiques. Also, the high school key club will have a bake sale table. Profits from both of these will go to the scholarship programs.

Mr. MacAskill said that he wanted to follow-up on the list of 40 items that was presented three weeks ago. Some were completed, some were partially completed and he would like to know where they stand with that. Mr. MacAskill also reported that the Noise Containment Committee was getting ready to request a date to come before the Board to provide an update on where they are at.

Mr. Ford said he just wanted to mention from the meeting that the Commission had, it has become clearer that they need to address the overall town planning more now than they have had to.

Mr. Ballantine said that he couldn't agree more. This also ties into the sewer, for instance. The sooner they can talk, and get more public participation, the better they would be.

## **ADJOURNMENT**

Mr. MacAskill moved that they adjourn at 7:42 pm. Seconded by Mr. Ballantine. All in favor, motion carried by unanimous vote.

Respectfully submitted,

Lisa Schwab  
Administrative Assistant