

**MINUTES
SELECTMEN'S MEETING
GRIFFIN ROOM, TOWN HALL
MONDAY, OCTOBER 27, 2014
7:00 P.M.**

APPROVED

SELECTMEN PRESENT: Cebula, Hughes, LaMantia, McManus

OTHERS PRESENT: Town Administrator Christopher Clark, Assistant Town Administrator Julie Quintero-Schulz, Supt. Carpenter, Katie Isernio, Skip Patterson, Pam Groswald, Jon Idman, Terry Russell, Matt Hart, Clem Smith, and others.

MEETING CALLED TO ORDER at 7:00 p.m. by Vice-Chairman Hughes.

CONSENT AGENDA

- A. Approve minutes – October 6, 2014
- B. Award contract for reconstruction of Skinequit Road to Robert B. Our Co. in the amount of \$147,010
- C. Approve the Skinequit Road Betterment Estimated Assessment
- D. Award FY15 Road Salt contract to Eastern Minerals in the amount of \$69.85 per ton delivered
- E. Approve appointments to various committees, boards and commissions
- F. Approve appointment of Philip Michael Southworth as Regular Police Officer as recommended by Police Chief
- G. Appoint Matt Hart as representative from Waterways Committee to serve on the Saquatucket Development Committee

Mr. McManus moved approval of the Consent Agenda and the recommended actions thereon. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

PUBLIC HEARINGS/PRESENTATIONS *(Not earlier than 7:00 P.M.)*

- A. Annual Meetings:
 - 1. Waterways Committee

Mr. Hart provided the annual report of the Waterways Committee.

- 2. Golf Committee

Mr. Smith provided the annual report of the Golf Committee.

- 3. Golf Building Committee

No one appeared before the Board.

- B. Joint meeting with Finance Committee and Monomoy Regional School Committee to discuss budget guidelines for the FY16 Monomoy Regional School District budget

Supt. Carpenter provided the attached power point presentation. He and Ms. Isernio took questions and comments from the Board, Finance Committee and the public.

ADJOURNMENT

Vice-Chairman Hughes adjourned the meeting at 8:34 p.m.

Respectfully submitted,

Ann Steidel
Recording Secretary

To **Board of Selectmen**
From **Linda Cebula, Angelo LaMantia**
 Selectmen's Interview/Nomination Committee

Re **Nominations**
Date **October 22, 2014**

We recommend to the Board of Selectmen the following appointments:

Name	Committee Appointment	Expiration of term
Dean Knight	Saquatucket Development	June 30, 2015
Kent Drushella	Saquatucket Development	2015
Bob Hartwell	By-Law and Charter Review	2017
Bob Hartwell	Conservation	2016
Katie O'Sullivan	By-Law and Charter Review	2017

Related Documents 10-27-14 BOS Meeting

Agenda

Minutes

Skinequit Road Contract.

Skinequit Road Betterment

Road Salt Bid.

Committee Appointments.

Police Officer Appointment.

Waterways Appt to Saquatucket Dev Comm

Waterways Committee Report

Golf Committee Report.

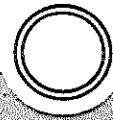
Golf Building Committee Report.

Monomoy Regional Schools.

**MONOMOY REGIONAL SCHOOL DISTRICT
OCTOBER 1, 2014 ENROLLMENT**

	CHATHAM RESIDENT STUDENTS	HARWICH RESIDENT STUDENTS	SCHOOL CHOICE STUDENTS		TOTAL STUDENTS
CHATHAM ELEMENTARY					
Pre K	22	0	0		22
K	38	3	10		51
Grade 1	29	11	10		50
Grade 2	36	5	11		52
Grade 3	28	10	6		44
Grade 4	35	13	10		58
Total	188	42	47		277
HARWICH ELEMENTARY					
Pre K	4	44	0		48
Kindergarten	0	94	8		102
Grade 1	2	84	15		101
Grade 2	0	113	13		126
Grade 3	0	92	18		110
Grade 4	3	97	13		113
Total	9	524	67		600
MRMS					
Grade 5	41	95	19		155
Grade 6	23	96	17		136
Grade 7	27	92	24		143
Total	91	283	60		434
MRHS					
Grade 8	27	105	26		158
Grade 9	27	93	16		136
Grade 10	28	72	18		118
Grade 11	25	73	13		111
Grade 12	22	59	13		94
Sped Gr 15	2	4	3		9
Total	131	406	89		626
Sped/SES		2			2
Out of District	2	9			11
Total	421	1266	263		1950

Regionalization Update & Budget Reflection

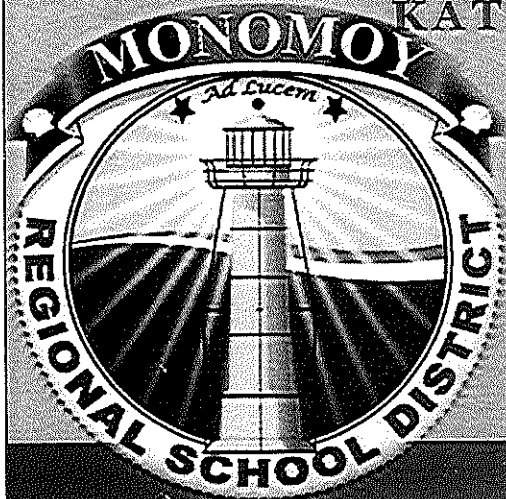


PRESENTATION TO THE HARWICH
SELECTMEN AND FINCOM

SCOTT CARPENTER, SUPERINTENDENT

KATIE ISERNIO, BUSINESS MANAGER

OCTOBER 27, 2014

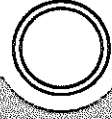


FY16 Budget Process



- Regular Finance Team Meetings with Regional School District and both Town Managers and Town Finance Directors (July, Sept, Oct, so far)
- Met with Director of Technology, Facilities Director, and Director of Student Services to develop 5-year forecasts of needs in each area
- Beginning of November, Monomoy Administrative Team to develop FY16 Budget outline to share with School Committee
- Finance Subcommittee of MRSD met to discuss FY16 challenges

Five Year Financial Plan



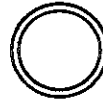
- Five-year projection of enrollment, demographics, technology, facilities, and Special Education completed
- Five-year capital needs shared with Town Managers and Finance Directors last week
- Draft will be ready to share with School Committee and beyond in November

Enrollment: Good News



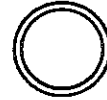
- Enrollment is up in Monomoy from 1902 students last year PreK-12 to 1947 students for the 2014-2015 school year
- Of the 45 net student increase:
 - 31 are high school students
 - 21 are Chatham residents vs. 4 Harwich residents
 - 20 are School Choice Students

School Choice & Charter Story



	FY13 Actuals	FY13 # Students	FY14 Actuals	FY14 # Students	Revised FY15	FY15 # Students
School Choice Tuition Out	\$ 1,072,669	188	\$ 1,062,677	184	\$ 1,068,711	174
Charter School Tuition Out	\$ 707,868	59	\$ 996,558	70	\$ 1,156,396	73
Total Tuition Out to Public Schools	\$ 1,780,537		\$ 2,059,235		\$ 2,225,107	
Total Tuition In from School Choice	\$ 1,555,378	244	\$ 1,507,345	243	\$ 1,501,717	263
Difference	\$ (225,159)	-3	\$ (551,890)	-11	\$ (723,390)	16

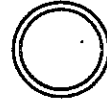
2014-2105 Class Size: High School



	Enrolled in Classes	Independent Studies	FTE	Avg. Class Size
Art	414	10	4	20.7
Business	77	0	1.1	14.7
English	637	0	8	16.3
Language	459	0	5	18.4
Math	606	0	7	16.8
Music	260	9	2	26.0
Science	594	1	6	19.1
Social Studies	768	0	9	17.3
Technology	256	3	3	17.0
Wellness	415	0	4	21.3
8th Grade Seminar	78	0	0.8	19.4
Average of All Departments				18.4

School Committee Guideline: 19 ± 2 at the middle & high school level

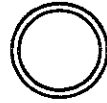
2014-2105 Class Size: Middle School



	Enrolled in Classes	FTE	Avg. Class Size
Grade 5 Core Subjects	155	8	19.1
Grade 6 Core Subjects	136	8	16.9
Grade 7 Core Subjects	143	8	17.3
Universal Art Electives			
Art	all	1	24.1
Health	all	2	19.7
STEM	all	1	24.1
Music	all	2	24.1
Language	all	3	11.7

School Committee Guideline: 19 ± 2 at the middle & high school level

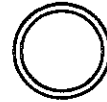
2014-2105 Class Size: Harwich Elementary



	Enrolled in Classes	FTE	Avg. Class Size
Kindergarten	102	6	17.0
Grade 1	101	6	16.8
Grade 2	126	6	21.0
Grade 3	110	6	18.3
Grade 4	113	5	22.6

School Committee Guideline: 18 ± 1 at the elementary level

2014-2105 Class Size: Chatham Elementary



	Enrolled in Classes	FTE	Avg. Class Size
Kindergarten	51	3	17.0
Grade 1	50	3	16.7
Grade 2	52	3	17.3
Grade 3	44	3	14.7
Grade 4	48	3	16.0

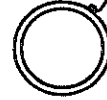
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Budget Summary FY13 – FY15

Total Budget History	FY13	FY14	FY15
General Fund (excluding Debt & Capital Projects)	\$30,570,626	\$ 30,638,337	\$ 30,247,201
School Choice	\$ 1,817,251	\$ 1,563,243	\$ 2,557,722
Circuit Breaker	\$ 420,408	\$ 598,902	\$ 480,691
Total Operating Budget (excluding Debt & Capital Projects)	\$32,808,285	\$ 32,800,482	\$ 33,285,614
Debt	\$ 282,654	\$ 305,912	\$ 779,476
Capital Projects	\$ 201,312	\$ 101,312	\$ 71,312
Total Budget, including Debt & Capital Projects	\$33,292,251	\$ 33,207,706	\$ 34,136,402
General Fund, including Debt & Capital Projects (used for assessment)	\$31,054,592	\$ 31,045,561	\$ 31,097,989
Annual Operating Budget Increase (Decrease), w/o Debt & Capital		-0.02%	1.48%
Annual Total Budget Increase, including Debt & Capital		-0.25%	2.80%
Annual General Fund Budget Increase (Decrease), with Debt & Capital		-0.03%	0.17%

“Over reliance on School Choice funds to balance FY15” and prior school budgets.

School Choice, Circuit Breaker, Excess and Deficiency Funds



	FY12	FY13	FY14	FY15
School Choice				
School Choice In (Revenue)		\$ 1,555,378	\$ 1,507,345	\$ 1,501,717
School Choice Account Expenditures		\$ 1,817,250	\$ 1,563,243	\$ 2,557,722
Available School Choice funds to support subsequent year's budget	\$1,465,261	\$ 1,203,389	\$ 1,147,491	\$ 91,486
Circuit Breaker				
Circuit Breaker In (Revenue)		\$ 454,141	\$ 525,197	\$ 464,733
Circuit Breaker Account Expenditures		\$ 420,408	\$ 598,902	\$ 480,691
Available Circuit Breaker funds to support subsequent year's budget	\$ 192,812	\$ 226,545	\$ 152,840	\$ 136,882
Excess & Deficiency	\$ -	\$ -	\$ 514,648	\$ 1,401,630
Total Capacity to Support Subsequent Year's Budget	\$ 1,658,073	\$ 1,429,934	\$ 1,814,979	\$ 1,629,998

Class Size Summary 2014-2015 Academic Year

School Committee Established Guidelines:

Supportive class sizes, where all students are active participants in their learning

18±1 at the elementary level

19±2 at the middle & high school level

Monomoy Regional High School

Department	Enrolled in Classes	Independent Studies	FTE	Class Size
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Business	77	0	1.1	14.7
English	637	0	8	16.3
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Monomoy Regional Middle School

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Harwich Elementary School

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Chatham Elementary School

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Grade 3	44		3	14.7
Grade 4	48		3	16.0

Christopher Clark

From: Janelle M. Austin <jaustin@k-plaw.com>
Sent: Thursday, September 04, 2014 2:42 PM
To: Christopher Clark
Cc: John Giorgio
Subject: RE: thompson s field

Dear Chris,

John Giorgio asked me to respond to the below inquiry related to the Town's potential liability associated with personal injuries that may occur on Town owned park and recreation land, including for personal injuries caused by dogs.

In my opinion, the Massachusetts Recreational Use Statute, G.L. c. 21, §17C, may limit the Town's potential liability for negligence if there are no fees charged for an individual's use of Town recreational land. In my further opinion, repeated injuries caused by similar circumstances, such as dog bites, for which the Town has not taken any remedial action to limit such injuries, may give rise to a claim that the Town is "reckless," which would abrogate the Town's potential immunity.

The Massachusetts Recreational Use Immunity, G.L. c. 21, §17C, ("Statute") applies if a recreation participant does not pay for the use of recreational property. Subsection (a) of the statute provides, in relevant part, that any person who "lawfully permits the public to use such land for recreational...purposes without imposing a charge or fee therefor,...shall not be liable for personal injuries or property damage sustained by such members of the public, including without limitation a minor, while on said land in the absence of willful, wanton, or reckless conduct by such person." Specifically, the Statute provides, in relevant part, that any person who "lawfully permits the public to use such land for recreational...purposes without imposing a charge or fee therefor,...shall not be liable for personal injuries or property damage sustained by such members of the public, including without limitation a minor, while on said land in the absence of willful, wanton, or reckless conduct..." [emphasis supplied]. To be liable for "reckless" conduct (which is not protected by the statute), the Town would have to have intentionally or unreasonably ignored a "high degree of probability that substantial harm will result to another." Dunn v. City Of Boston, 75 Mass. App. Ct. 556, 562 (2009). This is a fact specific inquiry. Of note, the Appeals Court has held that the failure to remedy potentially dangerous conditions due to budgetary constraints is not the kind of action or inaction that could be characterized as willful, wanton or reckless. Id. I further note that the Statute's immunity does not, however, apply in the event a member of the public brings a wrongful death claim against the Town. McCarthy v. Town of Hamilton, 9705507, 2000 WL 282929 (Mass. Super. Jan. 7, 2000).

In my opinion, if the Town does not charge individuals to use recreation land, then the immunity afforded by the Recreational Statute would apply to a negligence claim made against the Town so long as the Town was not willful, wanton or reckless in ignoring a known risk. I note that if there are repeated instances of dog bites that the Town is aware of, but no action has been taken to remediate such conditions, an injured party may claim that the Town's conduct is reckless and, therefore, not subject to the Statute's immunity. I also note that the Town may also be able, in my opinion, to assert other immunities if it is sued for injuries resulting from a member of the public's use of the recreational land in Town, including those under the Massachusetts Tort Claims Act, G.L. c. 258.

Please do not hesitate to contact me or John Giorgio to discuss in further detail.

Best,
Janelle

Janelle Austin, Esq.
Kopelman and Paige, P.C.

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From: Christopher Clark [<mailto:cclark@town.harwich.ma.us>]
Sent: Thursday, August 28, 2014 6:04 PM
To: Linda Cebula
Cc: Amy Usowski; John Giorgio
Subject: RE: thompson s field

Linda,

I am copying John Giorgio on this response. The Town does have additional protections against Liability for Park and Recreation land in general. I will need to find out from Amy if the property when it was acquired or given to the Town was done as Conservation, Recreation or Park. I think it would be good for John to review the question and provide guidance. I know of a City of Newton case that has changed liability if the Town charges a fee for use but I believe that is only when a Town charges a fee for use on certain lands.

Chris

Christopher Clark
Town Administrator
Town of Harwich
732 Main Street
Harwich, MA 02645
Tel. 508.430.7513
Fax. 508.432.5039
cclark@town.harwich.ma.us

From: Linda Cebula [<mailto:maccebula1@verizon.net>]
Sent: Tuesday, August 26, 2014 5:23 PM
To: Christopher Clark
Cc: Amy Usowski
Subject: thompson s field

"I was leafing thru the file in the BOS /Ta files and noticed that ,in 1999, the then conservation agent asked the then TA about possible liability to the town re "hunting, dog bites, vehicular accidents, etc,"

There was not a response in the file. Would it not make sense to get an opinion from C & P on this dog attack/dog bite/dog aggression for us? I would be willing to bet that, even if there was a response to this somewhere, that case law etc has probably changed the landscape sine 1999. With multiple complaints and actual attacks in the

past couple of years, it would seem that the town is ripe for trouble.

The question would probably be some thing like, if the town knows that there is a history of dog attacks, and did nothing about it, are we liable? Even if we put up signs that say caution dogs may be off leash.

And at what point are we driving walkers out of a public area? and what is our liability then? And this is a public area, not a dog park. To my knowledge, this area has never been advertised or announced as a dog park.

We need to deal with this before we have something serious and life threatening happen.

Linda