

**MINUTES  
SELECTMEN'S MEETING  
GRIFFIN ROOM, TOWN HALL  
MONDAY, FEBRUARY 24, 2014  
7:00 P.M.**

**APPROVED**

**SELECTMEN PRESENT:** Ballantine, Cebula, Hughes, LaMantia, McManus

**OTHERS PRESENT:** Town Administrator Christopher Clark, Jacqueline Etsten, Lou Urbano, Mary Warde, Joan McCarty, Bill Crowell, Ted Nelson, and others.

**MEETING CALLED TO ORDER** at 7:08 p.m. by Chairman LaMantia.

**WEEKLY BRIEFING**

Ms. Etsten updated the Board in her role as representative to the Cape Cod Commission. Mr. Ballantine requested that Ms. Etsten report quarterly to the Board.

Mr. Urbano asked the Board to request the School Superintendent come before the Board again to discuss his vision for the school and allow the taxpayers to ask questions. Mr. Hughes recommended that the Superintendent come in to outline reductions to the budget.

**CONSENT AGENDA**

- A. Approve Minutes
  - 1. February 10, 2014 Regular Meeting
- B. Approve application for renewal for Class IV Auto License for All Out Performance
- C. Approve committee appointments as recommended
- D. Reappoint Jacqueline Etsten as Harwich representative to Cape Cod Commission effective April 25, 2014 for a three-year term
- E. Approve request for assistance from the Caleb Chase Gift Fund

Mr. Hughes moved approval of the Consent Agenda. Mr. Ballantine seconded the motion. The motion carried by a unanimous vote with Ms. Cebula abstaining from Item A1.

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

- A. Public Hearing – Application for Seasonal, Common Victualler, All Alcoholic Beverages Licenses by Viera LLC d/b/a Viera Restaurant, 11 Route 28, W. Harwich

Mr. Hughes read the hearing notice into record. Attorney Matthew Kelley introduced applicant Benjamin Porter. Mr. Kelley presented the menu and abutter information to the Board. He noted that his client will be making minor structural changes to the building which will seat approximately 60. Mr. Porter stated that this will be a family run place using local products as much as possible. He noted that he hopes to open April 1 and it will be a seasonal business only. Mr. McManus pointed out that the patio is on floor plan but not on the description of premises so

they will not be able to serve on patio. Mr. Porter said he understood and added that he will only be open only for dinner. Mr. Hughes moved to approve the Application for Seasonal, Common Victualler, All Alcoholic Beverages Licenses by Viera LLC d/b/a Viera Restaurant, 11 Route 28, West Harwich. Mr. McManus seconded the motion and the motion carried by a unanimous vote.

## **OLD BUSINESS**

### **A. Warrant Article Review – *discussion & possible vote***

#### **1. Article 32 – Restore Open Days at Library**

Mary Warde, Chair of the Library Board of Trustees, spoke in support of Article 32 – Restore Open Days at Library. Chairman LaMantia said the Board understands the need but does not have a way to fund this. Mr. Crowell asked that it remain on the warrant so the voters can see that it was requested. The Board took no action.

### **B. Introduction to New Articles –**

1. Article 29 - Fund the Purchase and Installation of HVAC Systems at DPW
2. Article 73 – Use of West Harwich School House - *petition*
3. Article 74 – Wastewater Project Costs - *petition*
4. Article 75 – Re-Establish Traffic Safety Committee - *petition*
5. Article 76 – Fund Historic Restoration/Preservation of Albro House Exterior Phase III - *petition*
6. Article 77 – Fund Historic Restoration/Preservation of Albro House Interior Phase I – *petition*

Chairman LaMantia introduced the above new warrant articles. No action was taken.

## **NEW BUSINESS**

### **A. Request by Planning Board to extend 3 meeting allowance for use of remote participation per item #6 of Procedure for Remote Participation Policy – *discussion & possible vote***

Mr. McManus moved to approve the request from the Planning Board to extend remote participation through April 2014 and that in June of this year we get a report on essentially attendance and attendance by remote participation. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote. The Board agreed that there needs to be a better quality system in place so the public can hear. The motion carried by a unanimous vote.

### **B. Wastewater Implementation Cost Recovery policy – *discussion & possible vote***

Mr. Ballantine outlined his recommendation (see attached). He stated that he would like to try to spread the cost town-wide and move it into phases by moving it from a fee-based project into property taxes. Discussion by the Board focused on using rooms, meals and property tax to help fund the project. Chairman LaMantia stated that property tax is a good way for everyone to share in the cost and suggested reducing property taxes now by increasing fees. Mr. Ballantine

said he would like start moving on Section 53F. Mr. Clark stated that he had asked Attorney McKnight to follow up on the Nantucket model and we should start to convert the Nantucket language into the Harwich language. Noreen Donahue, Finance Committee representative to the Wastewater Implementation Committee, spoke in support of a flat fee for sewerage as the benefit is equal for all homes and should not be inflated by the value of the home. The Board heard comments from Richard Gunderson and Ted Nelson. No action was taken.

C. Distribution of materials at Town buildings policy – *discussion & possible vote*

Mr. Clarke outlined the library's policy on distribution of materials in their building and suggested the Board consider using this policy but allow for some for-profit organizations if space allows and include that the decisions would be made by the facility director. Ms. Cebula suggested listing the buildings' facility directors in the policy and to be specific about what types of things would be allowed in terms of for-profit. Mr. Hughes suggested circulating the policy to department heads for feedback. Mr. Ballantine disagreed with Ms. Cebula and said he would like flexibility for those responsible to be able to make judgment calls. Ms. Cebula said there should be consistency applied between buildings. Mr. Ballantine suggested there be a secondary review by the Town Administrator. No action was taken.

## **TOWN ADMINISTRATOR'S REPORT**

Mr. Clark reported that we have exceeded the snow and ice budget. He submitted letters of thanks to the Highway Department for their efforts in the recent storm which are on file in the Selectmen's Office.

## **ADJOURNMENT**

Ms. Cebula moved to adjourn at 9:10 p.m. Mr. Hughes seconded the motion and the motion carried by a unanimous vote.

Respectfully submitted,

Ann Steidel  
Recording Secretary

2/20/14

To: Harwich Board of Selectmen

From: Larry Ballantine

Subject: Harwich Wastewater Implementation Cost Recovery - Policy Discussion

My suggestion is that as a policy, three revenue sources should be adopted to fund the capital costs to implement the recommended program presented in Comprehensive Wastewater Management Plan (CWMP). Additional information regarding the proposed revenue sources are detailed in the attachments listed below.

1. Property taxes

Utilization of property taxes as a broad-based funding source is advantageous:

- Distributes expenses across all property owners and recognizes that all Harwich property owners benefit from our water resources
- Progressive which helps align each property owners ability to pay their fair share of the project cost
- Tax exempt
- Avoids penalizing "first adapters", i.e., those first on the system due to watershed and/or location within watershed
- Provides funding mechanism not tied to construction. Relevant for Harwich as an early phase includes conducting mitigation studies to determine the best way of moving forward and hopefully minimizing costs

2. Increase Motel room/occupancy tax:

- An increase to the local option motel room occupancy tax of 2% would help fund the capital expenses of implementation, offer some relief to the property tax burden and it is unlikely to have negative influence on tourism.

3. Increase meals tax:

- Adoption of a Home Rule petition to increase the local option meals tax 0.25% to a total of 1% would also help fund implementation.

Note the costs to implement the first three phases, through 2025, including the Muddy Creek Bridge Restoration, the Cold Brook Attenuation Study, Design and Construction of the Pleasant Bay Collection system, construction of a Chatham Treatment Plan upgrade and Seymour Pond restoration if we include potential increases in room and meals tax is estimated to increase property tax rates by approximately 30 cents resulting in a cost increase of \$113/year for a \$400k home through 2020. The tax rate increases to approximately 60 cents (\$235 for \$400k home) for years 2021 through 2025. Although more speculative, potential costs are provided in the attached table for years 2026 through 2032.

Property taxes are increased slightly if the possibility of rooms and meals taxes are excluded.

In addition to capital expenses, operating expenses and hook-up costs should be paid by property owners connected to the sewer system. Based on Chatham's experience a rough estimate for operating expenses is \$400/year. The Wastewater Implementation Advisory Committee estimated an average hook-up cost of \$4,424 per connection; Chatham estimated a range of \$3,000 to \$10,000.

The Wastewater Implementation Advisory Committee (WIAC) presented a very detailed set of recommendations on how the town might pay to implement the draft Comprehensive Wastewater Management Plan (CWMP) presently under review by the Cape Cod Commission and Massachusetts Environmental Policy Act (MEPA) Office.

In their deliberations, the WIAC provided a public forum for discussion of a variety of creative possibilities to pay for implementation of the CWMP. The report also provides an education on possible funding mechanisms and suggested possible actions to reduce overall costs.

I encourage you to refer to the draft CWMP and WIAC's final report as we formulate the BOS policy. Please also refer to the review of the legal and legislature questions raised in a review of the WIAC report by Kopelman & Paige. The WIAC's report along with K&P's legal review form the basis of my policy recommendations.

I agree with the WIAC's sentiment that we all contribute to the problem and we all need to be part of the solution. I'm reminded that we need always to

stress the purpose of the CWMP is not just an exercise in treating wastewater but it is to restore and protect healthy water bodies and groundwater sources to the benefit of all town residents. Needless to say, our personal and economic well-being is dependent on the quality of our water resources. A primary tenant of the WIAC discussions was that capital costs should be distributed among all town residents in a fair and equitable manner.

As recommended in the WIAC report, I proposed we explore if it is possible to establish, under G.L.,c.44, §53F 1/2 a means to deposit these taxes into an account to provide a dedicated funding source for implementation.

Please note that although the draft CWMP is implemented over forty years and eight phases, I propose the cost recovery discussion should focus on early phases which have the highest confidence of implementation. This approach is also a recent discussion topic within the Cape Cod Commission and MEPA as they develop wastewater management plans by watershed rather than by town. Harwich's approach of implementing subsequent phases of the plan only after previous data and any new technologies considered and town vision reviewed fits with this approach.

The following documents are attached as backup for your information:

- Discussion of cost recovery options/issues
- Kopelman & Paige Letter
- WIAC - CPWI Cost Recovery Spreadsheets
- CWMP Cost Recovery Spreadsheet based on prop tax, rooms and meal tax; estimated tax rate increase

## **PROPOSED COST RECOVERY DISCUSSION POINTS:**

In setting policy, it is important that implementation the CWMP consider:

- Flexibility:
  - Any cost allocation policy for such a long-term project must be understandable and provide a general approach. This is especially true with "adaptive management".
- Fairness:
  - Location: The draft CWMP proposes wastewater treatment for less than half of town residents so that the chances of an individual being part of CWMP is somewhat the luck of the draw. For example, once sufficient number of homes are included in a watershed to remove required amount of nitrogen to meet the TMLD other homes are left out of plan. It is likely that one household could be required to sewer as part of the CWMP while a neighbor would not be required to as his household flow nitrogen reduction is not needed to meet the TMLD.
  - Timing of the Phases: Those first involved should not bear brunt of costs in such a long-range project. It is quite possible that new technologies could significantly lower treatment costs in the future. It is interesting to note that even today the CCC Sec 208 Technical Advisory Committee has identified and is studying several promising new technologies. Technology will certainly continue to advance.
- Affordability: Costs should be distributed to be as fair as possible to all economic groups
- Town vision of housing, economic development and other social issues
  - Please note that initially CWMP's were focused on nitrogen management, i.e., removing nitrogen at lowest possible cost. Although this remains a very important objective, as discussions continue the importance that wastewater policies have on housing, economic development and other social issues are becoming a more prominent. For instance, affordable housing and economic development in which

additional infrastructure costs may occur may be beneficial in meeting social (housing) needs or in providing a net increase in tax revenues. The CCC is developing a "Triple Model Computer Program" to aid in a such a broad-based approach to addressing wastewater policies

Comments regarding WIAC proposed fees and betterments:

Impact Fee Difficulties :

- A single parcel flat fee - legal opinion; these not authorized under MA General Laws, would require special legislation
- New residential construction fees ranging from \$6,000 to \$18,000 is likely to have a negative impact on housing growth, particularly affordable housing. Also, may not be legal.
- New commercial construction fees equivalent to \$3,000 per bathroom will also most likely minimize commercial growth in Harwich. I think position of Board should be to control and focus growth not stop growth

Betterment Difficulties:

- Betterments are not tax exempt
- Due to location and timing factors discussed above, betterments raise fairness questions
- Interesting to note that the Town of Orleans had initially decided to fund 80% of their CWMP using property taxes and 20% through betterments but have recently decided to rethink this as using betterments fairly became an issue.

Water surcharge fee - see legal opinion.



**FUNDING OPTIONS  
HARWICH DCWMP  
CPWI COST RECOVERY MODEL (Preliminary)**

OPTION	DESCRIPTION	ANTICIPATED TOTAL FUNDING	PERCENT OF TOTAL
<b><u>Grant Opportunities:</u></b>			
1. Federal Block Grants (HUD)	Non-repayable funds disbursed by the federal government	\$0	0.0%
2. Rural Development Grants (USDA)	Non-repayable funds. Available "To develop water and waste disposal systems in rural areas and towns with a population not in excess of 10,000."	\$0	0.0%
3. Federal Clean Water Act Section 319 Nonpoint Source Grants (administered by Mass. DEP)	Non-repayable funds made under Clean Water Act Section 319, primarily targeted to provide "technical assistance, financial assistance, education, training, technology transfer, demonstration projects and monitoring to assess the success of specific nonpoint source implementation projects."	\$0	0.0%
4. Massachusetts Bill H.690 (pending legislation - 188th Session)	A petition (HD03103) calling for creation of a 10 year \$200 million annual Water Infrastructure Bond to fund local drinking water, wastewater and stormwater improvements was introduced in the Massachusetts House by Representative Carolyn Dykema (D-Holliston) in 2011. A bill (H.690) creating this capability is currently pending; includes provisions for some non-repayable funds.	\$0	0.0%
<b><u>Loan Opportunities:</u></b>			
1. Rural Development Loans (USDA)	Repayable funds. Available "To develop water and waste disposal systems in rural areas and towns with a population not in excess of 10,000."	\$0	0.0%
2. Massachusetts Clean Water State Revolving Fund (CWSRF or just SRF - Mass. DEP)	Repayable funds. A program run by the Massachusetts Department of Environmental Protection. The SRF Program provides low-interest loans to cities, towns, and other local governmental units for drinking water and wastewater-related infrastructure projects.	Use as available in lieu of issuing municipal bonds.	NA
<b><u>Betterments, Impact Fees and Non-Property Taxes:</u></b>			
1. Betterment Assessments	Betterment Fee imposed on all parcels served by the sewer system. Imposed after the sewer is available to the parcel. Financed by the Town over 20 years. These fees are not tax deductible. Total includes annual interest at 5%.	\$52,788,550	22.0% to 28.3%
2a. Impact Fees - new residences	Fees imposed on construction of new single family residences. Imposed on all new construction in sewer and non-sewered areas. These fees are not tax deductible.	\$22,752,000	9.5% to 12.6%
2b. Impact Fees - new multi-families	Fees imposed on construction of new multi-family residences. Imposed on all new construction in sewer and non-sewered areas. These fees are not tax deductible.	\$2,112,000	0.9% to 1.2%
2c. Impact Fees - new condos	Fees imposed on construction of new condominiums. Imposed on all new construction in sewer and non-sewered areas. These fees are not tax deductible.	\$480,000	0.2% to 0.3%

**FUNDING OPTIONS  
HARWICH DCWMP  
CPWI COST RECOVERY MODEL (Preliminary)**

OPTION	DESCRIPTION	ANTICIPATED TOTAL FUNDING	PERCENT OF TOTAL
2d. Impact Fees - Additions	Fees imposed on additions made to residences. Imposed on all new additions in sewer and non-sewered areas. Based on number of new bedrooms added. These fees are not tax deductible.	\$22,776,000	9.6% to 12.7%
2e. Impact Fees - New Commercial	Fees imposed on construction of new commercial buildings. Imposed on all new construction in sewer and non-sewered areas. These fees are not tax deductible.	\$864,000	0.4% to 0.6%
3. "All Parcel Flat Fee"	Annual townwide flat fee imposed on all parcels for a limited period. These fees are not tax deductible.	\$28,265,000	11.8% to 15.7%
4. Water Bill Surcharge	Approximately 9,800 water bills are sent to Harwich property owners. A "Wastewater Fee" could be added to these bills. Such a surcharge would not be tax deductible.	\$52,684,000	22.0% to 29.3%
5. Occupancy Tax Increase	The Town is permitted to raise the local Occupancy Tax from 4% to 6%. (The total Occupancy Tax, including the State tax, is now 9.70%)	\$10,002,766	4.2% to 5.6%
6. Meal Tax Increase	The Town may be able, under Home Rule, to raise the local Meals Tax, which is currently .75% (The total Meals Tax, including the State tax, is now 7.00%)	\$4,027,826	1.7% to 2.2%
<b>Other Sources:</b>			
1. Special Debt Exclusion (under Massachusetts Law MGL C.59, Section 21C(n))	Not a funding source, but a legislative grant of authority to shift costs from ratepayers to taxpayers.	\$0	0.0%
2. Model Water and Sewer Commission Act	Not a funding source as such; permits the inclusion of otherwise exempt properties in the betterment and other funding options.  Probably requires Town Meeting approval and the establishment of a Water/Sewer Board.	\$0	0.0%
<b>TOTAL NON-PROPERTY TAX REVENUE OVER THE LIFE OF THE PROJECT:</b>		<b>\$196,762,142</b>	<b>85.5% to 109.3%</b>
		<b>\$230,000,000 or \$180,000,000 DCWMP Adjusted</b>	
<b>If all of the above funding alternatives are adopted:</b>			
<b>Residual Project Funding Required From General Property Taxes:</b>	Taxes that must be collected <i>ad valorem</i> , i.e., based on the assessed value of real estate or personal property, over the life of the project and bond repayment period. These taxes would be tax deductible.	<b>\$33,237,858</b>	<b>-\$16,762,142</b>
		<b>DEFICIT</b>	<b>9.3%</b>
		<b>SURPLUS</b>	

Estimated Cost Recovery - Impact on Tax Rate  
Funding Based on Property Tax, Increased Room and Meals Taxes

YEAR	draft CWMP Phase	Est Total Cap Cost (M)	ANNUAL BOND PAYMENTS	ANNUAL BOND PAYMENTS	ANNUAL BOND PAYMENTS	Total	Room Tax Inc 2% Annual Inc	Meal Tax Inc 2% Annual Inc	TOTAL
2013	1	\$3	\$0						
2014			\$0				\$0	\$0	\$0
2015			\$0				\$0	\$0	\$0
2016	2	\$24	\$1,650,482			\$1,650,482	\$250,069	\$100,696	\$350,765
2017			\$1,650,482			\$1,650,482	\$255,071	\$102,710	\$357,780
2018			\$1,650,482			\$1,650,482	\$260,172	\$104,764	\$364,936
2019			\$1,650,482			\$1,650,482	\$265,375	\$106,859	\$372,234
2020			\$1,650,482			\$1,650,482	\$270,683	\$108,996	\$379,679
2021	3	\$21	\$1,650,482	\$1,398,251		\$3,048,733	\$276,097	\$111,176	\$387,273
2022			\$1,650,482	\$1,398,251		\$3,048,733	\$281,618	\$113,400	\$395,018
2023			\$1,650,482	\$1,398,251		\$3,048,733	\$287,251	\$115,668	\$402,919
2024			\$1,650,482	\$1,398,251		\$3,048,733	\$292,996	\$117,981	\$410,977
2025			\$1,650,482	\$1,398,251		\$3,048,733	\$298,856	\$120,341	\$419,196
2026	4	\$57	\$1,650,482	\$1,398,251	\$3,793,448	\$6,842,181	\$304,833	\$122,747	\$427,580
2027			\$1,650,482	\$1,398,251	\$3,793,448	\$6,842,181	\$310,930	\$125,202	\$436,132
2028			\$1,650,482	\$1,398,251	\$3,793,448	\$6,842,181	\$317,148	\$127,706	\$444,855
2029			\$1,650,482	\$1,398,251	\$3,793,448	\$6,842,181	\$323,491	\$130,261	\$453,752
2030			\$1,650,482	\$1,398,251	\$3,793,448	\$6,842,181	\$329,961	\$132,866	\$462,827
2031			\$1,650,482	\$1,398,251	\$3,793,448	\$6,842,181	\$336,560	\$135,523	\$472,083
2032			\$1,650,482	\$1,398,251	\$3,793,448	\$6,842,181	\$343,291	\$138,234	\$481,525

2/20/2014

Estimated Cost Recovery - Impact on Tax Rate  
Funding Based on Property Tax, Increased Room and Meals Taxes

Property Tax	Property Tax Impact \$45,349=1c 45349	Tax; ave \$400k Prop
\$0		
\$0		
\$0		
\$1,299,717	0.2866	\$115
\$1,292,702	0.2851	\$114
\$1,285,546	0.2835	\$113
\$1,278,248	0.2819	\$113
\$1,270,803	0.2802	\$112
\$2,661,460	0.5869	\$235
\$2,653,715	0.5852	\$234
\$2,645,814	0.5834	\$233
\$2,637,756	0.5817	\$233
\$2,629,537	0.5798	\$232
\$6,414,601	1.4145	\$566
\$6,406,049	1.4126	\$565
\$6,397,326	1.4107	\$564
\$6,388,429	1.4087	\$563
\$6,379,354	1.4067	\$563
\$6,370,098	1.4047	\$562
\$6,360,656	1.4026	\$561

2/20/2014