

Board of Selectmen Minutes

03/25/2013

**MINUTES
SELECTMEN'S MEETING
GRIFFIN ROOM, TOWN HALL
MONDAY, MARCH 25, 2013
7:00 P.M.**

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

OTHERS PRESENT: Town Administrator James Merriam, Chief Clarke, David Spitz, Carolyn Carey, Dennis Hoye, Leo Cakounes, Clem Smith, Frank Tammaro, Gerry Loftus, and others.

CONSENT AGENDA

- Approve minutes – March 11, 2013 Regular Meeting
- Vote to accept gift of artwork to the Community Center from Elaine Felos Ostrander
- Vote to appoint Katie Varley as On-Call Special Police Officer/Keeper of the Lock-Up
- Vote to dedicate practice tee and range area at Cranberry Valley Golf Course to the memory of Mr. Charlie Mooney
- Vote to establish Cranberry Valley Memorial Fund and accept gift of \$1,000 for fund
- Vote to sign Golf Department Revolving Fund Orders
- Vote to approve recommendation to award contract for the Cranberry Valley Golf Course Restaurant to Country Club Elite with a lease payment of \$7,500 per year
- Vote to approve application for Change of Manager on liquor license for Go Industries d/b/a Perks
- Vote to approve 2013 General License Renewals
- Authorize Chair to sign letter to Executive Office of Energy and Environmental Affairs regarding Comments on Draft Comprehensive Wastewater Management Plan
- Vote to approve request by Nstar Electric to cut trees on Town property that have undesirable growth or structural defects per the recommendation of the Tree Warden and authorize Chair to sign permission forms
- Vote to authorize Chair to sign letter of support to Dept. of Public Utilities for transfer of net metering

Mr. Hughes moved approval of the Consent Agenda with the exception of Item G. Mr. Ballantine seconded the motion. With regard to Item L, the Board took comments from Mr. Cakounes. He asked the Board to table this item at this time to research the finances and have legal counsel review the changes to make sure they are in the best interest of the Town. Chief Clarke noted that the Town Administrator has done a lot of work on this and encouraged the Board to move ahead on it. Chairwoman Cebula stated that this has been through Town Counsel and Town Meeting and she believes there has been plenty of due diligence and Mr. Ballantine agreed. The motion carried by a unanimous vote.

With regard to Item G, Mr. Hughes moved to approve recommendation to award the contract for the Cranberry Valley Golf Course Restaurant to Country Club Elite with a lease payment of \$7,500 per year. Mr. LaMantia seconded the motion. Mr. Ballantine said he would be more comfortable if the lease specified the Board of Health requirement for number of seats and Mr. Merriam responded that the latest updated copy has that language. Chairwoman Cebula read a memo from the Golf Committee in which they indicate that they support this. Frank Tammaro stated that he was the other bidder that wasn't selected and noted that he wasn't asked any questions by the Committee. He further stated that he submitted a packet to the Selectmen's Office today and asked the Board to reconsider. Mr. LaMantia stated that this is not the place for this discussion. Chairwoman Cebula stated that the Board should be going with the Golf Committee's recommendation. Clem Smith stressed that the RFP is closed and the Golf Committee is in vigorous support of their decision. Mr. McManus said he didn't really see any clear statement of why they chose taking a lease that was so much lower. Chairwoman Cebula noted that there is more information in the dropbox and Mr. Ballantine and Mr. LaMantia responded that the information in the dropbox is consistent with the information the Board received last week. Mr. Ballantine stated that he was disappointed that there wasn't detail in regard to picking one over the other. Chairwoman Cebula stated that the motion should include that the lease include the number of seats and the insurance requirement and the Board agreed. The motion carried by a 4-0-1 vote with Mr. McManus abstaining from the vote.

OLD BUSINESS

- Response to Cape Light Compact issues raised by Leo Cakounes

Chairwoman Cebula briefly reviewed the issues and related responses (see attached). Mr. Cakounes questioned if the Board is satisfied that their representative can change the intergovernmental agreement without their input. Chairwoman Cebula suggested to Mr. McManus that he get this on the Cape & Island's Selectmen & Councilors Association agenda and the Board agreed that was a good idea. Mr. Cakounes also encouraged the Board to look at the operating budget for the Energy Efficiency Fund. Mr. Hughes requested that Mr. Cakounes put his questions in writing to the Board.

NEW BUSINESS

A. Budget Amendment #1 – *vote to approve*

Mr. Merriam outlined Budget Amendment #1. Mr. LaMantia moved approval of Budget Amendment #1. Mr. McManus seconded the motion and the motion carried by a unanimous vote.

B. Annual and Special Town Meeting Warrant articles – *discussion & possible vote*

1. ATM Article 33 – Fund Historic Restoration & Preservation of Albrow House
2. STM Article 13 – Accessory Apartments
3. STM Article 14 – Special Permits
4. STM Article 15 – Panhandle Lots and Shape Numbers

Mr. Spitz discussed the history of Article 14 and the position of the Planning Board. Board of Appeals Chairman Gary Carriero stated that his Board hasn't taken a position or voted on this and said it should be worked out in-house between the two committees. Mr. McManus moved to remove Article 14 from the Special Town Meeting Warrant and that the two bodies meet and concur on it over the coming year and make a recommendation next year. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. Spitz outlined Articles 13 and 15 and no action was taken. Chief Clarke commented that he had no issues with Article 15.

Chairwoman Cebula requested that Mr. McManus bring back information next week with regard to Article 33.

C. Special Town Meeting Warrant – *vote to sign*

Mr. McManus moved to sign the Special Town Meeting Warrant with the exception of removing Article 14 and renumbering the subsequent articles. Mr. Ballantine seconded the motion. With regard to Article 8 on the lease of the communication tower, Mr. LaMantia reported that the Water

Commissioners have generously voted to allow the \$60,000 to go against Town issues but during discussion it came out that they had maintenance projects planned against a portion of this money. Mr. LaMantia suggested splitting the money with them. Chairwoman Cebula suggested the money go into the stabilization fund and Mr. McManus stated that it is anticipated to be for expenditures for larger projects and if it is put in the stabilization fund we won't have it for routine maintenance. He noted that we have ignored routine maintenance which has resulted in having large catastrophic projects. Chairwoman Cebula stated that the explanation should indicate that the money will be split between the two.

Mr. Hughes noted that there is not enough time for the Historic District Commission to hold a hearing on Article 12. Mr. Hughes moved to amend the main motion to delete Article 12 of the Special to amend the Historic District map due to the notification requirement. Mr. LaMantia seconded the motion to amend the main motion and the motion carried by a 4-1-0 vote with Mr. McManus in opposition. Mr. McManus noted that he was asked to do this by the Chair of the Historic District Commission.

Mr. Merriam reported that Town Counsel has asked us to slightly amend Article 1 to insert the words "a sum of money to purchase and equip a new generator for Fire Station 1 and all costs incidental for Fire Station 1."

Mr. Merriam reported that the parcel in Article 17 is still under control of the Treasurer and this transfers it back to the Board of Selectmen but the Treasurer is still

looking for payment of the back taxes in the amount of \$107,000.

Mr. McManus amended the main motion to include editorial changes that have been made. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

Mr. Hughes moved to vote to sign the Special Town Meeting Warrant and Mr. McManus noted that he had already made this motion. Chairwoman Cebula stated that this motion is with the changes. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

D. Annual Election Ballot – *vote to sign*

Mr. Merriam recommended removing ballot question #1 (general override). The Board had an extensive discussion both pro and con with regard to ballot question #6 (Community Center Lower Level expansion). Mr. McManus moved to keep the ballot question for the Community Center expansion plans on the ballot. Chairwoman Cebula seconded the motion. The Board discussed this item further. The motion carried by a 4-1-0 vote with Mr. Hughes in opposition.

Mr. McManus moved that ballot question #7 (funding stabilization fund) remain on the ballot. Mr. Ballantine seconded the motion and the motion carried by a 3-2-0 vote with Chairwoman Cebula and Mr. Hughes in opposition.

Mr. Merriam noted editorial changes necessary in ballot question #8 (non-binding question) as recommended by Town

Counsel.

Mr. McManus moved to sign the ballot including the editorial corrections as specified by Town Counsel. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

E. Special State Senatorial Primary
Election Ballot – *vote to sign*

Mr. McManus moved to sign the special State U.S. Senate election ballot. Mr. Hughes seconded the motion and the motion carried by a unanimous vote.

- One-Liners – *discussion/possible votes*

Mr. Hughes moved to accept and adopt Article 4 Town Budget at \$28,552,559. Mr. McManus seconded the motion and the motion carried by a unanimous vote.

Mr. Hughes moved to accept and adopt Article 5 Monomoy Regional School District Budget at \$20,337,662 from available funds. Mr. McManus seconded the motion and the motion carried by a unanimous vote.

Mr. Hughes moved to accept and adopt Article 6 Cape Cod Regional Technical School Budget at \$1,421,910. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

Mr. Hughes moved to accept and adopt Article 7 Water Department Operating Budget at \$3,142,977 from the Water Enterprise account. Mr. McManus seconded the motion and the motion carried

by a unanimous vote.

TOWN ADMINISTRATOR'S REPORT

Mr. Merriam delivered the following report to the Board:

Fire Station Generator

South Shore Generator has evaluated Station one's generator which has caused multiple shutdowns when we experienced power outages and has recommended a replacement for \$102,000. I've included this information and drafted a ballot question for your consideration. We met with members of Utility and Energy Committee regarding a grant application.

New cell tower revenue

I met with the water commissioners and Craig this morning at their planned meeting.~ They have agreed that the fees can go to the Town rather than the water department.~ They ask for our support of their articles and that the TA follow up on the rfp and bids. They also indicate that they will continue to look for ways to generate funds without increasing water rates and will need to have an understanding of how this new revenue can be used...seems that they don't like the idea of continually raising the water rates.

During the discussion it was indicated that that had plans to use the funds for some maintenance projects and basically had calculated the 60m into the total funds they could possibly spend in fyi 14. ~I suggest that we[the BOS] demonstrate a willingness to work together for the Town as a whole and we split the income 50/50.

Angelo

Request to Verizon to remove double pole
(work performed this week)

Mr. Crossman,

There is currently a double utility pole at the north westerly corner of the Main Street and Oak Street intersection in Harwich.~ Both poles are numbered 37/550, the new pole labeled as Verizon, and the old pole as NYNEX.~ We are in the process of installing an ADA accessible crosswalk at this location, and the old pole may interfere with the curb cut.~ Would it be possible to remove the old pole at this location?~ If you are not the appropriate person for this request, please forward this message to the appropriate person.

Bob

Legal Steps re: Stop and Shop denial

Hi, Jim, just a couple of points on this.~ A written decision will need to be sent to the applicant, as it is their receipt of the decision that starts the 5 day window for an appeal to the ABCC to be filed.~ Therefore, the decision should expressly list all the reasons the Board had for its decision – the article listed several, so they should all be in the decision (as the reporter stated, trying to stifle competition for the small existing package stores by itself would not be a successful reason, but it seems the Board cited a few others as well).~ After it receives Stop & Shop's appeal, the ABCC will schedule a hearing, which seems to be about 6 – 8 weeks later these days.~ We will need a member of the Board of Selectmen to

attend the hearing to testify on behalf of the Board as to the reasons for denial, at least from his or her perspective.~ I know the ABCC sometimes schedules hearings somewhere on the Cape, but it could also be in Boston. ~ Any questions in the meantime, let me know. ~

Brian ~~~~

Town Counsel's advice re: STM Article 12 to amend Historic District map

Article 12:~ Since this article proposes to amend the Town's Historic District Bylaw, G.L. c. 40C, s. 3 requires that the proposed amendment be forwarded to the Historic District Commission, which has 60 days to make a report and recommendation to Town Meeting.~ Town Meeting cannot act on the proposed amendment unless such report and recommendation has been Made by the HDC or 60 days has elapsed since the proposed amendment was submitted to the HDC.~ Because there is now less than 60 days before town meeting, town meeting will not be able to act on this article if the HDC chooses not to make its report and recommendation before town meeting.~ In addition, it would appear that this article proposes to expand the geographic area of the historic district (although I have not reviewed the map on file in the Town's Clerk's office to verify this). ~If in fact this article proposes a physical expansion of the district, this proposal also requires a public hearing by the HDC within the 60 day period and referral to the Planning Board and the Massachusetts Historical Commission for a recommendation. In addition, the other procedures set forth in G.L. c. 40C, s. will have to be followed.~ If you would like a further explanation of the

steps required, please let me know.

Beach Nourishment (from Pleasant Rd to Beach Rd)

Re:~~~~~ Environmental Notification Form

Proposed Beach Nourishment

Beach Road to Pleasant Road

Nantucket Sound

Harwich, MA

Map 2 Various Parcels

~~~~~ EEA #14985

~

Dear John:

Attached please find a copy of the Certificate of the Secretary of Environmental Affairs on the Expanded Environmental Notification Form dated March 8, 2013 along with the received comments for the above referenced project. The determination was made that no EIR is required for the project. If you have any questions, please contact our office.

Amy Lipkind

Coastal Engineering Company, Inc.

Meals on Wheels

I participated with volunteer Bob to deliver meals to Harwich seniors under the Mayors for Meals Elder Services program on March 20<sup>th</sup>. I enjoy this annual opportunity to meet numerous residents in their homes. Elder Services volunteers delivered 12,143 meals in 2012.

Davis Lane

Conservation Agent Amy Usowski has requested that residents voluntarily remove an excessive number of private property signs at the end of the Bay View Rd path.

High School Septic Progress Report-

It's been 6 weeks since the issue came to light of transferring the high school septic project to local control.

- 3-19-13 had the first work session by request of ~the engineers and architects to discuss BOH regs and protocol. Chairman Kocot attended
- Engineers are still in the process of filing for flow reduction variance with DEP. My understanding is that the application is on hold at DEP pending completeness of documents filed by the engineer
- I had been assured by DEP 6 weeks ago that review would be prioritized once received as complete
- There were no new design drafts presented at the meeting by the engineer
- there was ~no draft ~work on the environmental impact report by the engineer
- Determined BOH will not require duplication of field assessment witnessed by DEP personnel
- BOH staff presented engineer/architect with local EIR requirements
- discussed possible scenarios- title 5; advanced treatment; sewerline hook-up in future; future deferrment of treatment; treatment at onset
- BOH staff presented engineer/architect with mtg calendar filing deadlines- appears as though May mtg is earliest available pending engineer initiatives

Paula Champagne

Article 19 Update- Allen Harbor Bulkhead

As discussed, I am working with the MA Department of Fish & Game to receive Fishing and Boating Access grant money to

help fund renovations of Allen Harbor town facility.~ I have met with Doug Cameron from the state who actually did a site visit to Allen Harbor to review the specific renovation projects that are needed (both myself and Don Monroe from Coastal Eng were present).~ Specifically, we are looking to do the following:

1. Replace the main bulkhead where our town floats are located
2. Re-grade/ replace parking lot surface with a pervious system to prevent storm water runoff
3. Construct a bulkhead above mean high water on the south end of the parking lot to prevent runoff
4. Renew existing fixed pier, gangway and float
5. Renew boat ramp.

Because the Town has 12 slips that we rent, the state will only fund a percentage of the total~ project.~ The enclosed site breakdown completed by Doug Cameron shows a rough estimate of how he comes up with a cost share percentage: 38.8% Town and 61.2% State.~ He figured that the common access through the parking lot should be divided equally, the area with the vehicle spaces support the Town dock rentals and therefore is the Town responsibility, and the trailer parking area is open to the public and therefore is the State's responsibility.~ The proposed cost share percentage will be used for the entire project if we (Town) agree to it.~ Once we agree in principle, I will work with Doug to develop a Land Management Agreement for signature.~ I recommend the percentages as proposed.

As you have directed, between Bob and

Don we need a cost estimate for each of the projects so we have a better idea of how much the Town will need to cover our share.

John C. Rendon

Harbormaster (see existing and proposed land management agreements)

As discussed yesterday, request that the BOS sign the updated Land Management Agreement for Saquatucket Harbor; the new agreement was provided by Doug Cameron from MA Dept of Fish & Game and coordinator of the FBA grant program.~ The new agreement specifically allows the Town to charge a separate fee for commercial haulers, which we are currently doing... so this just makes it official.~ Let me know if you have any questions or need additional information. Thanks.~ v/r,

Barry Worth update on CLC audit (now posted on Town's website)

Some time ago I announced to BOS an audit of clc finances.that audit is complete and I have electronic copy for the board. As expected,no real problems were found,only a few charges to incorrect accounts if you wish, I can appear before the Board to defend or at least explain the report.

DPU Letter of Support from Barry Worth  
3-21-13

Mark D. Marini

Secretary, Department of Public Utilities  
One South Station, 5th Floor  
Boston, Massachusetts 02110

Re: Application by the Town of Harwich for approval by the Department of Public Utilities of a transfer of net metering capacity to the Cape and Vineyard Electric

Cooperative, Inc., pursuant to G.L. c. 164, § 139(h). Docket D.P.U. 13-60.

Dear Mr. Marini,

I have been a resident of Harwich, chair of the Harwich Utility & Energy Conservation Commission, Town representative to the Cape Light Compact, Secretary of the Compact, former member of the Cape & Vineyard Electric Coop governing board and an advocate of the alternate energy projects undertaken by the town. I am writing in support of the Town of Harwich application with the Department of Public Utilities for approval of a transfer of 4.0 megawatts (MW) of net metering capacity to the Cape and Vineyard Electric Cooperative, Inc. ("CVEC"), pursuant to G.L. c. 164, § 139(h).

The Town of Harwich will directly benefit from the Cooperative's installation of photovoltaics on Harwich property. Please approve the transfer of 4.0 MW of net metering capacity to the Cape & Vineyard Cooperative, allowing the Cooperative to act as host customer in the System of Assurance application process.

Barry R Worth

## **ADJOURNMENT**

The meeting adjourned at 9:59 p.m.

Respectfully submitted,

Ann Steidel  
Recording Secretary