

Board of Selectmen Minutes

04/01/2013

MINUTES
SELECTMEN'S MEETING
GRIFFIN ROOM, TOWN HALL
MONDAY, APRIL 1, 2013
7:00 P.M.

SELECTMEN PRESENT: Ballantine, Cebula, LaMantia, McManus

OTHERS PRESENT: Town Administrator James Merriam, David Spitz, Larry Cole, Noreen Donahue, Sheila Bowen, Terry Hayden, Carole Ridley, and others.

MEETING CALLED TO ORDER at 7:10 p.m. by Chairwoman Linda Cebula.

WEEKLY BRIEFING

Mr. Cole stated that the Inter-municipal Service Agreements between American Capital Energy (ACE) and Nstar were signed a few weeks ago, the projects were submitted to the State and have been found to be eligible for net metering. He stated that ACE has its finances lined up and has strong incentives to finish the projects including our project by end of calendar year. He noted that the hold up has been with Nstar and the Interconnection Service Agreement has far exceeded deadline and Nstar has no incentives to add people to do the work. He said there is a provision for dispute resolution in the law and Nstar and ACE have been in that mode and that since then things have been going smoothly. Mr. Cole stated that the next step is for the interconnection construction to be done which has to be done by Nstar or a contractor approved by them and that is another place for possible slowdown but in any case, the projects should be moving ahead.

CONSENT AGENDA

- Vote to approve proclamation in support of Cape Light Compact and Cape and Vineyard Electric Co-op
- Vote to hold a Public Hearing for Harbor Management Plan amendments on April 29, 2013
- Vote to approve 2013 seasonal renewal of All Alcohol Package Store License for Harwich Spirits Shoppe

- Vote to approve 2013 seasonal renewal of All Alcohol Common Victualler License for Bishop's Terrace

With regard to Item D, Chairwoman Cebula noted that Bishop's Terrace has not applied for renewal as they have some work to do.

Mr. Ballantine moved approval of Items A, B and C. Mr. LaMantia requested to hold Item A for discussion. Mr. McManus seconded the motion.

Regarding Item A, Noreen Donahue objected to several items in the proclamation and said we should leave Harwich's relationship with CVEC as is and not take this extraordinary action. Sheila Bowen reiterated Ms. Donahue's remarks. Terry Hayden agreed and said this topic was never discussed at any meetings of the Utility and Energy Committee. Mr. LaMantia commented that the proclamation is over the top. Mr. McManus stated that this proclamation was presented to the Selectmen's Association as a whole but not to the Executive Committee. He recommended waiting to see what actions our neighboring towns take on our request to revisit the Inter-governmental Agreement on the issue we have raised before we take any action. Mr. Ballantine amended his motion to withdraw Item A. The motion carried by a unanimous vote.

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

- Natural Resource Protection Zoning/Conceptual Discussion – David Spitz
Mr. Spitz presented a Power Point on this topic which is on file in the Selectmen's Office. He took questions and comments from the Board. The Board also took comments from Carole Ridley of the Pleasant Bay Alliance. No action was taken.

NEW BUSINESS

- Middle School re-purpose/ possible RFP – *discussion and possible vote*
Mr. McManus stated that space is being sought for emergency dispatch. Mr. Ballantine moved to develop a Request for Information on the building and in addition authorize the Town Administrator to promote the building wherever is appropriate including to the dispatch people. The Board agreed that a motion was not necessary.

- Annual and Special Town Meeting Warrant Articles – *discussion & possible votes*

ANNUAL TOWN MEETING ARTICLES

Mr. McManus moved to take a position of accept and adopt on Article 1 - Town Officers & Committees, Article 2 – Report of Town Officers & Committees, and Article 3- Elected Officials Salaries. Mr. LaMantia seconded the motion and the motion carried by a

unanimous vote.

Mr. Ballantine moved to make no recommendation pending further information on Article 8 – Fund Union Agreements, Article 9 – Fund Non-Union Compensation Plan, and Article 10 – Fund Contract Employee’s Compensation Schedule. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. McManus moved to take a position of accept and adopt on Article 11 - Capital Plan Adoption. Mr. LaMantia seconded the motion. Chairwoman Cebula suggested holding on this as there are changes forthcoming. Mr. McManus stated that the changes will have to be made on Town Meeting floor. The motion carried by a unanimous vote.

Mr. Ballantine moved to accept and adopt Article 12 - Fund New Fire Engine. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. McManus moved to approve Article 13 - Fund Ambulance Computers. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. Ballantine moved to accept and adopt Article 14 - Fund Highway Paving and Sidewalks. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. McManus moved to approve Article 15
- Lease or Purchase and Equip
Vehicles. Mr. LaMantia seconded the
motion and the motion carried by a
unanimous vote.

Mr. McManus moved to accept and adopt
Article 16 - Fund the Purchase of a New
Recreation Passenger Van. Mr. Ballantine
seconded the motion and the motion carried
by a unanimous vote.

Mr. Ballantine moved to accept and adopt
Article 17 - Beach Parking Lot Paving. Mr.
McManus seconded the motion and the
motion carried by a unanimous vote.

Mr. McManus moved to accept and adopt

Article 18 - Long Pond Beach Restroom. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. Merriam stated that they are still working on Article 19 - Allen Harbor Bulkhead Repair and Parking Lot Drains. The Board agreed to hold on this article

Mr. Ballantine moved to accept and adopt Article 20 - Add to Dredging Reserve Fund to Dredge Various Entrance Channels. Mr. McManus seconded the motion and the motion carried by a unanimous vote.

Mr. Ballantine moved to accept and adopt Article 21 - Fund Completion of the CWMP. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. McManus moved to accept and adopt Article 22 - Muddy Creek Culvert Construction. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

Chairwoman Cebula requested that Article 23 - Community Center Lower Level - Phase II be held until Mr. Hughes returns and the Board agreed.

Mr. Ballantine moved to accept and adopt Article 24 - Fund Multi-Mission Patrol Boat for Harbor and Fire Operations. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. McManus moved to accept and adopt

Article 25 - Greensand Water Treatment Facility. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. LaMantia moved to accept and adopt Article 26 - Fund Water Department Vehicle. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

Mr. McManus moved to accept and adopt Article 27 - Fund Police Computer Replacement. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. Ballantine moved to accept and adopt Article 28 - Fund Garage Door Replacement at Public Safety Facility. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. McManus moved to accept and adopt Article 29 - Fund Library Technology. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. Ballantine moved to accept and adopt Article 30 - Install Venting and Air Conditioning in Library Basement. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. Merriam stated that there is no funding source for Article 31 - Fund Library Building Maintenance Projects, Article 32 - Fund Brooks Free Library Phase II Restoration and Preservation, and Article 33 - Fund Historic Restoration and Preservation of Albro House. The Board agreed to hold on these articles.

Mr. Ballantine moved to accept and adopt Article 34 - Promote the Town of Harwich. Mr. McManus seconded the motion and the motion carried by a unanimous vote.

Mr. McManus moved to accept and adopt Article 35 - Chase and Harwich Port Libraries. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

Mr. McManus moved to accept and adopt Article 36 - Fund Reconstruction of Skinequit Road through Private Road Betterment. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

At Chairwoman Cebula's request, the Board agreed to hold on Article 37 - Rescind Vote on Article 21 of the May 7, 2012 Annual Town Meeting, until Mr. Hughes returns.

Mr. McManus moved to accept and adopt Article 38 - Home Rule Charter Amendments – Chapter 9 Financial Provisions. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. McManus moved to accept and adopt Article 39 - Amend Town By-Law Chapter 271, § 1A. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

At Mr. Merriam's request, the Board agreed to hold on Article 40 - Long Term Solid Waste Contracts.

Mr. Ballantine moved to accept and adopt Article 41 - Departmental Revolving Funds Authorization. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. LaMantia moved to accept and adopt Article 42 - Golf Capital Improvement Fund. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. Ballantine moved to accept and adopt Article 43 - Expand the Use of the Waterways Capital Improvement Receipts Reserve Fund and Article 44 - Capital Improvement Receipts Reserve Fund. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

At Chairwoman Cebula's request, the Board agreed to hold on Article 45 - Funding Town Capital Stabilization Fund.

Mr. McManus moved to accept and adopt Article 46 - Create and Fund Trust Fund for Post Employment Benefits. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. Ballantine moved to accept and adopt Article 47 - Transfer Care and Custody of the Albro House. Mr. McManus seconded the motion but noted that the Council on Aging needs to vote on this. The motion carried by a unanimous vote.

Mr. Ballantine moved to accept and adopt Article 48 - Appropriate Funds for Certain Land Taking and Article 49 - Transfer Land in North Harwich for Affordable Housing

Development. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. LaMantia moved to accept and adopt Article 50 - Sale of land – 172/178 Queen Anne Road. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

Mr. Ballantine moved to accept and adopt Article 51 - Pleasant Bay Resource Management Plan Update. Mr. McManus seconded the motion and the motion carried by a unanimous vote.

Mr. Ballantine moved to accept and adopt Article 52 - Medical Marijuana Moratorium. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. Ballantine moved to accept and adopt Article 53 - Reserve for Future Appropriation Amounts from FY 2013 Community Preservation Fund Estimated Annual Revenues. Mr. LaMantia seconded the motion and the motion carried by a 3-0-1 vote with Chairwoman Cebula abstaining from the vote.

Mr. Ballantine moved to accept and adopt Article 54 - Affordable Housing Development Project. Mr. LaMantia seconded the motion and the motion carried by a 2-1-1 vote with Mr. McManus in opposition and Chairwoman Cebula abstaining from the vote.

Mr. LaMantia moved to accept and adopt Article 55 - Harwich Affordable Housing Buy Down Program. Mr. Ballantine

seconded the motion and the motion carried by a 3-0-1 vote with Chairwoman Cebula abstaining from the vote.

Mr. McManus moved to accept and adopt Article 56 - Catalog and Conserve Brooks Family/ Robert G. Davis Collection. Mr. LaMantia seconded the motion and the motion carried by a 3-0-1 vote with Chairwoman Cebula abstaining from the vote.

Mr. McManus moved to accept and adopt Article 57 - Restoration, Preservation and Digitalization of Harwich Cemetery Records. Mr. LaMantia seconded the motion and the motion carried by a 3-0-1 vote with Chairwoman Cebula abstaining from the vote.

Mr. Ballantine moved to accept and adopt Article 58 - Restoration of Floors at Historic Chase Library. Mr. McManus seconded the motion and the motion carried by a 3-0-1 vote with Chairwoman Cebula abstaining from the vote.

Mr. McManus moved to accept and adopt Article 59 - Restroom Facilities at Multi-Purpose Fields at the Harwich Community Center. Mr. Ballantine seconded the motion and the motion carried by a 3-0-1 vote with Chairwoman Cebula abstaining from the vote.

At Mr. Merriam's recommendation, Mr. LaMantia moved to indefinitely postpone Article 60 - Fund Purchase of Land for Open Space Purposes. Mr. Ballantine seconded the motion and the motion carried by a 3-0-1 vote with Chairwoman Cebula

abstaining from the vote.

Mr. McManus moved to accept and adopt Article 61 - Compensating Balance Agreement, Article 62 - Liability Tidal/Non-Tidal Rivers and Article 63 - Herring Fisheries. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

SPECIAL TOWN MEETING ARTICLES

Mr. McManus moved to accept and adopt Article 1 - Fund New Generator for the Fire Department. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

Mr. Ballantine moved to accept and adopt Article 2 - Replenish Police and Fire Claims Trust Fund Account. Mr. McManus seconded the motion and the motion carried by a unanimous vote.

Mr. McManus moved to accept and adopt Article 3 - Execute New Permanent Nstar Easement for New Monomoy High School. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

Mr. Ballantine moved to accept and adopt Article 4 - Americans with Disabilities Access. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. Ballantine moved to accept and adopt Article 5 - Fund Purchase of Land for Open Space Purposes. Mr. LaMantia seconded the motion and the motion carried by a 3-0-1 vote with Chairwoman Cebula abstaining from the vote.

Mr. McManus moved to accept and adopt Article 6 - Appropriate Funds for Certain Land Taking. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

Mr. Ballantine moved to accept and adopt Article 7 - Supplement Snow and Ice Budget. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. McManus moved to accept and adopt Article 8 – Fund or Lease Telecommunications Tower. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

Mr. McManus moved to accept and adopt Article 9 - Purchase or Lease of New Dump Truck for the Water Department. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. McManus moved to accept and adopt Article 10 - Fund Repairs and Painting of Lothrop Avenue Water Storage Tank. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

The Board agreed to hold on Article 11 – Acquire Land on Shore Road for a Public Beach, Article 12 – Amend Code of the Town of Harwich Chapter 325 Zoning – Accessory Apartments, and Article 13 - Amend Code of the Town of Harwich Chapter 325 Zoning – Panhandle Lots and Shape Numbers.

Mr. Ballantine moved to accept and adopt Article 14 - Replace Bank Street Boardwalk.

Mr. McManus seconded the motion and the motion carried by a unanimous vote.

Mr. McManus moved to accept and adopt Article 15 - Transfer Land in North Harwich. Mr. Ballantine seconded the motion with the understanding that is funded by the Affordable Housing Fund. The motion carried by a unanimous vote.

- Article 33 – information on Albro House window painting and storm window installation estimate – Ed McManus – *discussion*

Mr. McManus outlined the work that is necessary on the Albro House windows including removal of paint, priming, painting, repairing damage and broken glass, glazing and replacing sashes for which he received an estimate for \$9,200. He further noted that he also received an estimate for installation and caulking of windows at a price of \$2,750. Mr. Ballantine moved to accept and adopt Article 33 for the sum of \$12,000 out of free cash. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

TOWN ADMINISTRATOR'S REPORT

Mr. Merriam delivered the following report to the Board:

ADA Crosswalks (I requested \$7k for Crosswalks plus \$5k for stonedust topping at Community Ctr walking path) .

I attended the~Historic District and Historical Commission meeting this past Wednesday. The Commission gave conditional approval of your application for

the crosswalks in Harwich Center. The conditions as I understand them are;

1. removal of the existing curb cuts and crosswalk on Main St. in front of the Library,
2. removal of the second utility pole at the corner of Oak and Main St. (I was pleased to see on Thursday that the pole has been removed),
3. the removal of the "grinding wheel" from the sidewalk on the corner of Oak and Main St. so as to be relocated to a suitable location of historic significance,
4. the curb cuts are constructed with brick,
5. the crosswalks are constructed with a design similar to the crosswalks constructed on Sisson Road near the Shaw Market.

Paul Erickson

Harwich Disability Rights Committee

I'm not sure what they mean by items 4 & 5, but if the intent is to construct the curb cuts, transition ramps and crosswalks out of brick or brick imprint, the \$7k I quoted you is entirely out the window.~ That is,~we would have to hire a mason to construct the transitions and there is only one company that I am aware of that does the imprints.~ Both are expensive and, off the top of my head, would turn this job into a \$20k-\$25k job.~

~

Link

I never considered Bob's point about the removal of the curb cut in front of the Library in our quotes.~ Doing so will probably add another \$1k-\$2k if hired out.~ We can do this in-house, but it wouldn't be until fall that we would have the personnel to do it.~ If it is your or the BOS' intension to incorporate the list below into this project,

I recommend issuing an RFP for it as I suspect it will be over \$25k.~ Link

~

Link

The MAAB nor the DOJ have come out and specifically stated that bricks cannot be used for sidewalks and curb cuts.~ However, it has been my experience that bricks used on curb cuts specifically very rarely meet the MAAB or ADA requirements.~ This is due to the bricks creating a change in level if not laid properly, the heaving that happens during freezing and unfreezing conditions, and the damage done during plowing. If brick is chosen for any portion of the project, wire cut ones should be used.~ The tumbled bricks have been found over and over to be non compliant. Even in an historic district, any work must comply with MAAB and/or the 2010 ADA Standards. I hope this helps.

Jeffrey L. Dougan
Assistant Director for Community Service
Massachusetts Office on Disability

EPA Financing

EPA is evaluating the financial capability of municipalities to comply with Clean Water Act requirements. See attached memorandum dated January 19,2013.

Fire Station generator

Deputy Chief Farrenkopf and I met with Barry Worth to seek CLC grant funding for the generator.

1055 Oak St- buildable lot

In good faith I would continue to maintain that it appears that the permitted "taking

down" of the house did not adversely impact the zoning calculation to replace the single family structure by right as long as the new, permitted single family structure conformed to current setbacks and coverage (see §325-54 A.(4)). Please reference my e-mail to you and Town Counsel sent on 3.22.11 for more background or I can provide a copy as required.
Geoff

Voter information Committee (taping on 3-26-13)

Peg, Chris and I would like to~thank you~for~the informative presentations today.~Discussing complex issues clearly and concisely~provides the public~with important information that is easier to understand. What a difference team work makes! ~As always, Peg, Chris and I appreciate your efforts. Channel 18 will broadcast today's program tonight and tomorrow night at 6 P.M., Friday-Monday nights at 7 P.M. and on Demand tomorrow.~It will be interesting to hear~comments about the program. In the past, they've been overwhelmingly positive.
Joanne

From Richard Waystack re: Dogs on beach (DPW placed trash cans at beaches on 3/26)
Decided to take a walk on Earle Road Beach at lunch today.~ The attached picture shows (disgustingly) what I was welcomed with, bags and bags of dog waste!~ With Easter weekend upon us, this is not the best way to show off our beaches to any family or visitors!~ Can we let our dog owners know that this is beyond unacceptable?~ Didn't we have this discussion last year?

Brooks Library parking lot lights installed

Jim, just an FYI that the lights in the library parking lot have been installed and are working.~ There was one bad ballast out of the box that is being replaced today.~ I went by last night and I think there is plenty of light there now.~ John and Lenny did a great job.~ Link

Monomoy request for solar project

I got a call from Monomoy's architectural firm a couple of weeks (Arnel? ~was the man's name) ago inquiring whether CVEC may be able to do PV on the new Monomoy High roof. That's the background of this inquiry. If we can't add it now, they'll have to do it on their own, or wait for CVEC (if and) when it does a round 3.

Mark

We did not get a "no" from DOER on your question; but we did not get an outright "yes" either.~ I sensed a willingness from DOER to make this one work but Eileen McHugh needs more info before she can suggest how CVEC should proceed.~

Do you know who owns the land the High School is on?~ Does the Town of Harwich lease the land to the Regional School District?~ Also, who would enter into the PDA and PSA with CVEC for the High School site – the Regional School District or the Town of Harwich?

I'll leave it up to CVEC, but this may also be the time to ask Broadway if they have any interest in the project, before Eileen and I spend time figuring out how to document getting the project in under the 2011 RFP.
Audrey~

Stop and Shop appeal of Board's denial of
Liquor license transfer

We received notice from Attorney Eugene Richard , representing Packaging Center, Inc, d/b/a Stop and Shop Supermarket dated March 25, 2013 that they had filed an appeal of the Board's license transfer application denial.

Draft CWMP

A letter has been sent to the Secretary of EOEEA and Director of CCC re: the Town's build out assumptions in the Draft Comprehensive Wastewater Management Plan from representatives of the Harwich Conservation Trust, Association to Preserve Cape Cod, Friends of Pleasant Bay and East Harwich Community Association. (see attached)

NSTAR notification

In a letter received on March 28th, I received notice from NSTAR of their intent to schedule mechanical vegetative management on their ROW through Harwich. The attached map highlights the transmission line from the Dennis Town line in the northwest corner to its substation just north of Great Western Rd.

Barnstable County Human Rights
Commission

Chairman John Reed is seeking a Harwich Representative to the BCHRC

Transfer Station small parcel for sale

The Board of Health voted last week to de-certify this small parcel which was split off from the larger parcel regarding site assignment for a landfill. I believe this was the last hurdle before we can sell the

property. I've asked Bob Cafarelli to proceed with preparing a bid package.

ADJOURNMENT

Mr. McManus moved to adjourn at 9:46 p.m. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

Respectfully submitted,

Ann Steidel
Recording Secretary