

Board of Selectmen Minutes

05/14/2012

**MINUTES
SELECTMEN'S MEETING
GRIFFIN ROOM, TOWN HALL
MONDAY, MAY 14, 2012
7:00 P.M.**

SELECTMEN PRESENT: Ballantine, Cebula, LaMantia, McManus

OTHERS PRESENT: Town Administrator James Merriam, Chief Mason, Kevin Considine, Richard Thomas, Richard Waystack, Frank Crowley, David Purdy, and others.

MEETING CALLED TO ORDER at 7:00 p.m. by Chairman Ballantine.

Chairman Ballantine reported that the Board had just come out of Executive Session where they discussed contract negotiations.

WEEKLY BRIEFING

- Presentation of Certificate of Recognition to Richard Thomas

Chairman Ballantine presented a Certificate of Recognition to Mr. Thomas on the occasion of his retirement from the Real Estate and Open Space Committee, Trails Committee and Bikeways Committee. The Board and members of the community, including Richard Waystack and the East Harwich Community Association, thanked Mr. Thomas for his efforts and leadership.

Frank Tavano asked the Board their position with regard to the proposed Little League field transfer should the School Committee ignore the Town Meeting vote. Chairman Ballantine responded that the Board is hopeful that the Monomoy Regional School Board will work it out. He added that their next step, which they haven't yet discussed in detail, is to encourage the School Committee and Monomoy Regional School Committee to separate that land out so it remains a Little League field.

CONSENT AGENDA

A. Approve Minutes –

1. April 17, 2012 Regular Meeting
 2. April 20, 2012 Regular Meeting – Perambulation
 3. April 23, 2012 Regular Meeting
 4. April 30, 2012 Regular Meeting
 5. May 7, 2012 Executive Session
 6. May 7, 2012 Regular Session
- B. Vote to hold Public Hearing on Beach 22 for June 18, 2012
- C. Vote to accept resignation of Richard Thomas from Real Estate & Open Space, Bikeways, and Trails Committees effective May 8, 2012
- D. Vote to award contract for Allen Harbor Float Bid to AGM Marine Contractors in the amount of \$69,290
- E. Vote to award contract for Emergency Inverter System and New Exterior Lighting at Brooks Library to Systems Contracting Inc. in the amount of \$55,800
- F. Vote to sign agreement with Animal Rescue League of Boston
- G. Vote to hold hearing on outside entertainment license for Cape Cod Claddagh Inn and Irish Pub for June 4, 2012
- H. Vote to approve 2012 Annual General License Renewals
- I. Vote to approve one day Entertainment License for wedding to be held at Winstead Inn & Beach Resort, Harwich Port on June 15, 2012
- J. Vote to approve second draft of contract for Concept Design for the Community Center project to Strekalovsky Architects in the amount of \$42,500

Ms. Cebula moved approval of the Consent Agenda. Mr. McManus seconded the motion. Mr. LaMantia requested to hold Item G and the Board agreed. The motion carried by a unanimous vote.

Mr. LaMantia stressed that the Cape Cod Claddagh should specify in more detail what they are asking for. Mr. McManus agreed and said they would need to provide the information well in advance of the hearing or else the Board should cancel the hearing. Ms. Cebula recommended that Mr. Merriam send a letter to the owners indicating that they have a deadline to get the information in. The Board agreed that the deadline for the Claddagh to submit this information should be May 24.

Mr. McManus moved to approve Item G. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

PUBLIC HEARINGS/PRESENTATIONS (7:15 P.M.)

- Public Hearing – Amend Beach Rules and Regulations – Parking Lot Hours
- Ms. Cebula read the hearing notice into record. Chief Mason reported that the Bank Street Improvement Team was concerned with the parking lot hours and said that closing

it at 10:00 is a good enforcement tool for the Police Department. He stated that the purpose of this is not directed at someone strolling on the beach or fishermen but rather the purpose is if we have large groups of people in the parking lot causing problems. Dave Purdy questioned if there will be a sign indicating the hours and Mr. Merriam said we would need to change the sign. Frank Crowley, Vice Chairman of the Recreation and Youth Commission noted that this was done after a great deal of discussion and many complaints. He added that the Police won't be bothering anyone unless there is a complaint. Mr. McManus stated that he has a problem with that and that if you are closing the parking lot then anyone who gets in should get a ticket and to do otherwise is selective enforcement. Chief Mason said it is called discretion and they are just looking for something to fall back on if there is a disturbance. Ms. Cebula stressed that selective enforcement is going to get us in trouble and that you either have a rule or you don't have one. Mrs. Purdy said she only calls the Police when there is extreme yelling with obscenities, rowdiness and drug dealing. She said a 10:00 closing is not too much to ask. Mr. McManus said he has no problem but reiterated that it should apply to all. Mr. Purdy said the Recreation Commission wrestled with this as there are people staying at the hotels and they wanted to provide access to those people. He added that he believes the neighbors have no problem with discretion. Mr. LaMantia also agreed that the rule should apply to all. He also suggested opening the beach at 5:00 in the morning and Mr. Crowley responded that it has always been 6:00 for as long as he has been on the Commission. John Fraize, President of the Braddock Lane Homeowners Association, said they support anything the Board would do to improve the situation.

Mr. McManus moved to close the Public Hearing. Ms. Cebula seconded the motion and the motion carried by a unanimous vote.

Mr. LaMantia moved to accept the recommendation of the Recreation Committee with 2 caveats – that the enforcement be equal to anyone breaking the regulations and that somebody does check the 6:00 hour to see if there is a good reason for doing it at 6:00 and not a little earlier. Ms. Cebula asked to amend the motion that we have a follow up report back from the Chief in early August as to how things are going down there and Mr. LaMantia agreed to the amendment. Ms. Cebula seconded the motion. Chairman Ballantine said they should leave it to the Recreation Commission if they want to change it to 5:00 as the Board could approve it in advance so it is left in the Recreation Commission's hands. Mr. LaMantia agreed. The motion carried by a unanimous vote.

- Bank Street Beach Improvement Team Final Report – *Chief William Mason*

Chief Mason outlined his report (see attached) and took questions from the Board. Mr. McManus said if you want to be serious about controlling speed on Bank Street there are speed hump designs that present no problem to street sweeping or snow plowing and that should be significantly looked at. Chief Mason responded that speed humps are a cost factor and he doesn't know what criteria the Board wants to set but he agreed they can be

effective. Mr. LaMantia suggested using a betterment approach. Mr. Cook of Bank Street said before they consider it for a betterment issue they should know that the whole Town will benefit from this and Mr. McManus agreed. Mr. LaMantia stated that the report indicates that they would like approval from the Board of Selectmen. Chairman Ballantine said it is clear the Board is in agreement and there is no need for a vote.

OLD BUSINESS

- Harbormaster & Natural Resources Director/Assistant Harbormaster Position
Descriptions – *discussion/vote*

Mr. Merriam reviewed his memo again and noted that he had changed the Harbormaster job description per the Board's edits. In reference to the Assistant Harbormaster position, Ms. Cebula questioned how a position is re-graded if we don't know how to measure it. Mr. Merriam responded he would use comps with like positions in other towns. Chairman Ballantine suggested a table comparing the current job description to the proposed which indicates what is increased in this one over the other one. Mr. LaMantia recommended moving on the Harbormaster piece and waiting for the table on the other one. Ms. Cebula moved Mr. LaMantia's recommendation. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote. Mr. McManus noted that we've deleted some of the responsibilities from the Harbormaster's position which may warrant a reduction in grade and Mr. Merriam responded that if you compare to other communities we don't have to worry about being above that. Chairman Ballantine suggested another table for this. Mr. McManus asked if we have negotiated these changes with the management union. Mr. Merriam responded that he has done so with the Harbormaster position but not the Natural Resources position.

Mr. McManus inquired as to the hiring process after the deadline for application. Mr. Merriam said the process is to form a screening committee, rank the applications, and make a decision on interviews. Mr. McManus asked if we have established a screening committee and Mr. Merriam responded that there has been conversation of it being a member of the Board of Selectmen, a member of the Waterways Committee and a Department Head. Mr. McManus suggested that both positions may be graded at the same level, possibly an M3, because there is less job responsibility than the incumbent who has carried both responsibilities.

NEW BUSINESS

- Vote to appoint Registrar from list submitted by Democratic Town Committee
Mr. McManus moved to approve the nomination of Ray Gottwald as a Registrar. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

- Pledge of Allegiance – *discussion/vote*

Mr. McManus moved that we start all regular sessions of the Board of Selectmen with the Pledge of Allegiance. 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:

Re: Report for weeks ending May 4 and 11, 2012

Harbormaster and Natural Resources Director Job Descriptions

Attached is a copy of the revised job descriptions and explanation of my proposal.

Community Center contract

I had expected to get a draft of the proposed agreement so I could review it with my attorney, Kathleen Hunter, and was surprised that the selectmen had all signed the document before I saw it.

Hopefully the attached comments from Kathleen are OK with you, and we can move ahead quickly. Unfortunately I didn't have a Word document to work with, so I had her prepare a memo. If you can send a revised draft in Word form to all on this e-mail I think it would expedite things.

I'm sorry to send this back to you, but Kathleen has some issues with some of the wording, and the changes should be negotiable.

I am away next week.....if you have any questions or comments please feel free to contact Kathleen (781 875 1778) or my office manager, Susan Vaughan.

I look forward to meeting with the Committee in May and getting started on this great project!

Best regards,
Vcevy

Walkway around Community Center ballfields

Friends of COA have agreed to donate \$8,000 towards ADA path/walking trail. (We currently have \$12,000 contribution from Disability Rights Committee funds.)

John Mahan

Community Center solar project –abutter concerns

Thank you Karen.

This confirms our worst fears. The PV panels will be placed directly behind our house~and our neighbors,~and nearly all of the buffer of trees will be removed.

As an abutter, I wish we could have advocated for a bit more buffer, maybe a some greenery to be planted, etc.

Again, thank you for providing me with this drawing.

Tom Caruso

~

I've Cced this also to Carolyn Carey, Director of the Community Center, and to Jim Merriam, the Town Administrator.

~

Brooks Parking lot awarded

Other than prevailing wage rates, there are no State procurement requirements for non-building public works construction projects less than \$10,000 (MGL c 30 sect 39M).~ However, I did solicit four quotes for this project from:

- 1.~ CC Construction
2. Chase and Merchant
3. Robert B. Our, Co
4. Barrows Excavation

CC Construction and Robert B. Our, Co. ~submitted a quote. The low quote for the items detailed on the plan was from Robert B. Our, Co for \$9,850.~

Bob

H3503/H3504

Good News in the State House News:~ HARWICH: The House enacted H 3504 relative to town charter of Harwich and the election of the members of the Monomoy Regional School District Committee.

HARWICH: The Senate enacted H 3504 relative to the charter of the town of Harwich and the election of the members of the Monomoy Regional School District Committee. Looks like the House engrossed in February and the Senate moved it into 3rd reading today! It's on the move too.

From the State House News today:~

HARWICH: The Senate ordered to third reading H~[3503](#)~amending the charter of the

town of Harwich.

Part of the Healthy in Harwich Series

~

Greetings to all of our Harwich 5K Road Race Supporters,

We are gearing up for the 3rd Annual Harwich 5k Road Race this coming June 23rd.

~We are very thankful to have received great sponsorship support including platinum levels from Wequassett and Koko Fit Club.

As we are about 2 months to race day—we still need your support. ~

If you haven't done so already—we still need SPONSORS.....at any level. ~Any money you can pledge goes a long way for our race and would be very much appreciated. ~

Regional Bicycle Planning Committee

CCC is seeking a Harwich rep to a new regional bicycle planning Committee. See attached.

Mr. McManus indicated that he had someone he would like to ask to fill this role and the Board agreed that Mr. McManus should ask that person and report back.

Red River dog walking suggestion

BOH reviewed the dog walking ~proposal last night and the sign.

While they are still philosophically opposed~ to the idea, they feel it was important for us to help shape the policy of the program as it appears to have much momentum. It is also important to note the formation of a committed group to self police the situation.

One major comment- the BOH wants it clear that this is Red River Beach only. Perhaps that should be the header on the sign.

Paula

Recreation Commission recommendation on Red River dog walking policy

Jim,~~~ just wanted to let you know that the Recreation Commission discussed the proposed reversal in the dog walking rules at Red River Beach to re-allow people to walk their dogs in the lot during allotted times.~ The Commission decided to stick with their original vote to prohibit it entirely.~ I am not sure where this leaves us now, but I know you said that there would be a public meeting on it on May 21.~ Just wanted to give you the heads up,

Eric

Cape Cod Senior Softball League

Attached is a letter from Charles Salerno, Commissioner of CCSSL, terminating the License agreement with the Town effective May 24th. He states that the League cannot afford to pay for maintaining the ballfield.

Retaining e-mails for public record from Foster

In order to aid in complying with public record requirements for email regarding retention and disclosure, I propose establishing one email account for each board, committee or commission and individual email accounts for each member of the Board of Selectmen. ~The conversion, licensing and setup required would be completed by 7/1/2012.

These email accounts will be hosted internally.~ The emails are retained in archives even after the account user has deleted them and can be recalled upon request by an administrator.~ Permanent deletions can be performed by an administrator as desired considering the appropriate retention schedule upon approval by the Attorney General's office and our local records retention officer.

Email addresses for the Boards, Committees and Commissions would be generic such as historic@town.harwich.ma.us or housing@town.harwich.ma.us.~ Addresses for individual Board of Selectmen members could follow the practice used by Town employees which uses "first initial" plus "last name" such as lballantine@town.harwich.ma.us.~

Emails received by "Officers of the Town" outside of their town issued email should be forwarded to the appropriate Town email to bring the record into our system.~ All outgoing emails from Boards and Committees should originate from the Town email account.

Foster Banford

The Board agreed to move forward with Mr. Banford's proposal.

Proposed LED streetlighting program

What is going to be proposed is a complete replacement program for all our streetlights (and the rest of cape also) to new LED fixtures. Cape Light Compact is going to pay for it with energy efficiency funds, so it is a great deal for us. Our existing lights are getting near the end of their useful life. This will save on fixture replacement, and significantly on energy consumption every year.

Would very much like your opinion on what you see, especially the fixture, the affect on public acceptance and also on the light pattern, They are going to have a demo site in each town. You might want to think about where we should show them off.

CDM review of Rt 137 corridor for Sewer connection to Chatham

At your request I took a quick look at the Rte 137 construction plans that Linc forwarded to me. Most of the road has a 60-ft right-of-way except for main intersection with Rt 39. New roadway layout is about 30-ft in paved width and remaining north/ south shoulders have either a gas line or water main along with new sidewalks and drainage structures/ leaching basins. Thus it does not appear feasible at this time to locate an 8-ft deep sewer off the road which is the question you asked. Good news is the road itself is fairly clear of utilities and could accommodate a sewer at or near the middle at some point in time. Let me know if you need anything further at this time.

To further clarify.....yes this impacts the Chatham scenario but it also impacts the other two scenarios under evaluation. Reason being it comes down to whether Harwich believes the Pleasant Bay watershed should be the first area to remove nitrogen from in the overall town program. If that answer is yes then it has the same impact on all three scenarios. If the answer is no, then the five year timeframe is not likely an issue.

~~

David F. Young, P.E.
Vice President
CDM Smith

Peace Officers Memorial Day- May 15th

(see memo from Chief Mason requesting flag lowering)

No Discharge- Nantucket Sound

Attached is Tom Leach's letter of support to EPA.

Bourne Town Counsel ruling

Town Counsel Robert Troy ruled Monday afternoon that May 7 Bourne Annual Town Meeting voters cannot approve Article 33, a bylaw amendment request that would have allowed the transfer of traditional moorings to immediate family members – in addition to the surviving spouse - upon the death of the permit holder.

The request advanced by Cataumet and Pocasset residents would have created a new bylaw and run contrary to two 3-2 votes by selectmen this past winter. The board twice upheld the current transfer of a mooring to the surviving spouse only.

The mooring transfer issue has been the subject of protracted hearings before selectmen. What mooring transfer proponents could not secure with selectmen, they tried to gain through a new town bylaw.

But Troy has now ruled this approach is not valid. He said that Harbormaster Tim Mullen retains the authority to issue mooring-related regulations in accordance with state law. Because statutory and regulatory authority governing the permitting of moorings and their

transferability does not provide modification by a town bylaw, it is my opinion as town counsel that the town meeting may not adopt Article 33.

Natural Gas prices- fixed

Please confirm Sprague will be purchasing the below term, volume and product at the below listed price for and on behalf of Town of Harwich:

Jun 12 – May 13 (12 mths) / 28,026 Dths / Daily Balanced with 10% Tolerance / Fixed price of \$7.07/Dth / 30 day payment terms

Brewster~ Perambulation

I will go in the field sometime tomorrow to see what I can find and flag it.

Paul E. Sweetser, PLS

Unemployment

Secretary of Labor and Workforce Development Joanne Goldstein has provided a letter dated May 2, 2012 in which she addresses a number of the Governor's concerns regarding recipients of unemployment benefits. (see attached)

FLU INSURANCE REIMBURSEMENT

Good news,

Our efforts paid off - I have just received a check for \$3663 from Commonwealth Medicine for insurance recovery costs from our flu clinic last fall. Not a bad return for the first time trying the new system. It was extra staff time on my part for processing and collating all the insurance forms, but hopefully, these will be the funds we use to buy next seasons vaccine. I have gone over the paperwork with Dave Ryan to coordinate the deposit. There are still outstanding claims, so hopefully, that amount will increase.

Paula

Red River project update

Remaining work is paving, guardrail, a sign at both sites and as Built plans by Horsley and Witten. We hope to receive Federal ARRA reimbursement by end of fiscal year. Kudos to Highway Dept. for undertaking project and completing on time and under budget.

Senior Volunteer Luncheon

Chairman Larry Ballantine and I attended the annual award ceremony at Riverway on May 10th to recognize and honor our volunteers.

SELECTMEN'S REPORT

Ms. Cebula referred to the April 17, 2012 minutes and stressed to Mr. Merriam that the Board is still waiting for the tax title list.

ADJOURNMENT

Ms. Cebula moved to adjourn at 9:05. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Respectfully submitted,

Ann Steidel
Recording Secretary