

Board of Selectmen Minutes

05/21/2012

**MINUTES
SELECTMEN'S MEETING
GRIFFIN ROOM, TOWN HALL
MONDAY, MAY 21, 2012
7:00 P.M.**

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

OTHERS PRESENT: Town Administrator James Merriam, Dorothy Parkhurst, David Spitz, Brian Widegren, Geoffrey Larsen, and others.

MEETING CALLED TO ORDER at 7:05 p.m. by Chairman Ballantine.

Chairman Ballantine reported that the Board had just come out of Executive Session where they discussed real estate matters.

SWEARING IN OF ELECTED OFFICIALS

Town Clerk Anita Doucette swore in the following elected officials:

Larry Ballantine, Selectman
Kathleen Remillard, Brooks Library Trustee
Robert McCready, Housing Authority

PUBLIC COMMENT/ANNOUNCEMENTS

Ms. Parkhurst stated that she had many phone calls about the Health Insurance for Surviving Spouses ballot question from people who were confused on how to vote. She asked if the Board would consider putting it on a Town Meeting warrant. Chairman Ballantine responded that those discussions have already been started assuming there will be a Town Meeting in September. Mr. LaMantia and Ms. Cebula asked to put it on an agenda for discussion.

CONSENT AGENDA

- A. Approve Minutes – May 8, 2012 Regular Session
- B. Vote to accept gift of \$8,000 from the Friends of the Council on Aging to be used

to defray the cost of the ADA Walkway at the Ball Fields project

C. Vote to accept gift of \$20,000 from the Friends of the Council on Aging to be used to defray the cost of the Community Center expansion project

D. Vote to approve the Contract for ADA Walkway at the Ball Fields to Robert B. Our Company in the amount of \$20,256

E. Vote to approve request by Cape Cod Hospital Auxiliary to hold annual Tag Day event at various locations on August 2, 2012

F. Vote to approve partial clearing of the Crowell Barn site so that materials can be brought in

Ms. Cebula moved the Consent Agenda with the exception of item C. Mr. Hughes seconded the motion. Mr. McManus requested to hold the last item and the Board agreed. The motion carried by a unanimous vote.

With regard to item F, Mr. McManus said that at their March 19 meeting where they approved the project conceptually, it was agreed that the proposers would bring in an engineered specific site plan for final consent and that was the basis on which the vote was taken. He stated that before we start clearing it we ought to have the site plan presented for approval and that this is premature. He also noted that the materials in the Board's packets indicate bringing in the trailer to unload. He pointed out that the trailer is licensed in Maine and was last registered in 2006 and it is not proper to move it around Town without getting its registration and insurance in order. Mr. Spitz stated that the committee felt strongly that the site was the best place to look at all the materials so the proposal is to leave the buffer untouched and clear the brush in the interior of the site and just to leave enough room for the trailer to get in and drop off the materials. He said he doesn't think we need to do leveling to do that. The Board requested a site plan and Mr. Spitz agreed to have it ready for next week's agenda.

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

- Public Hearing – Application for a Seasonal, General On-Premise Wine & Malt Beverages License for Go Industries, Inc. d/b/a Perks, located at 545 Route 28, Harwich Port

Mr. Hughes read the hearing notice. Ms. Novak handed out plans to the Board and outlined her proposal. She said it will be an alternative evening dining adventure or atmosphere where families with small children can bring the children in wagons, the children can get cupcakes and pastry products they serve and the adults might enjoy a cup of coffee with wine based syrups. She stated that they reconfigured the entire outside seating area and she worked very closely with the Board of Health to obtain permission to consider their convenience seating as a generalized seating area and they are permitted to have 34 seats according to the Board of Health and the offset for that option is that she agreed to close her building from September 15 to May 1 with a water shutoff, the

apartment being unavailable for rent and the building being totally closed with perhaps the minor exception that during the Christmas stroll that the Harwich Mariners might be able to sell their products in her building. She stated that they intend to have inside and outside signage that people are not to leave the property with an open container and will be advised by employees as well and if they do so they will call the police. She stated that they have three restrooms on site but they are not handicapped accessible. She stated that the intent is to bring more foot traffic into Harwich Port and not to target the pub crowd but to target families.

Chairman Ballantine stated that the Chief is still concerned about control as of today. Mr. Larsen stated that he would hesitate to weigh in as a designer for the establishment however there has been a sequence including the building permit in 2008 which probably lends itself to a solution for the owner and the design professional to sort out. He said it is currently being sent to the Planning Department for some sort of review and in the context of that review he thinks the exterior of the outside space should be addressed to offer some delineation of the space to control the potential of someone walking off with a beverage. He said that the outside space technically is part of the egress for the building. He stated that he believes it is correct to determine that the reference to the disability bathroom was not triggered by a threshold called out in the code. He added that in the context of the site plan review it can be addressed and formalized and then he could sign off.

Mr. Spitz stated that the one remaining regulatory issue is what exactly is the control of the access to the street in relation to a liquor license.

Ms. Cebula questioned the plan noting that there is no indication that there is gate at the back of the patio. Ms. Novak responded that there is and Ms. Cebula questioned if it is locked to which Ms. Novak responded that it is not and someone would have to go through two gates in the dark to get out. Ms. Novak stated that she would be using color coded cups to indicate which are the alcoholic drinks. She added that she can have an employee posted there on weekends.

Mr. LaMantia stressed that they need to know what physical area gets this license. Ms. Novak responded that there is an area designated as the patio color coded in grey. Mr. LaMantia asked if it is the area marked as café and Ms. Novak responded that it is. Mr. LaMantia made reference to the red line on the plan in the building which leads to the bathroom and he questioned what is in the building. Ms. Novak responded that there is a refrigerator, a sink, and 2 steps up and across from a 3 bay sink is a restroom. She noted that they are not proceeding through any service area. Mr. LaMantia questioned if that is part of the café and Ms. Novak responded that it is and noted that the door is deadbolt locked. Ms. Cebula noted that the plan doesn't show a door and Ms. Novak approached the Board to explain the details on the plan.

Mr. Hughes stated that the application indicates Ms. Novak's residence as Miami and he questioned if she will be managing from Miami or if someone else will be running it. Taylor Powell approached the podium and stated that he would be running the establishment and added that he had just gotten done running a 325 seat restaurant and bar in Colorado.

Mr. McManus read the description of premises from the application and he questioned what the porch area is. Ms. Novak said it is utilized by Isabel's Boutique and it's an outside area for husbands and children while wives shop. Mr. McManus noted that it is in her licensed premises description and Ms. Novak said it is not. Mr. McManus re-read the description of premises from her application after which Ms. Novak stated that she will be happy to remove the seats from the side of the building but the benches in front of the building are an intricate part of the area for husbands while women shop. She stated that if she needs to strike the porch area from the application she would be happy to do so. Mr. McManus stated that if it is included he doesn't see how they could license it noting that it is an extreme distance from the serving area. He added that if she wants to modify her application then they would have to hold the hearing again. Mr. LaMantia stated that they also need to wait for site plan review and he commented that it is confusing and difficult to read these plans. Mr. Spitz reported that the Planning Board meeting is June 26.

Ms. Cebula stated that there should be a gate delineating how far you can go with drinks.

Mr. McManus moved to continue the hearing until May 29. Ms. Cebula seconded the motion and the motion carried by a unanimous vote.

- Public Hearing – Recreation and Youth Beach Regulations regarding Dogs at the Beach

Mr. Hughes read the hearing notice into record. Elaine Ostrander stated that the dog walkers would like to retain their right to walk their dogs at Red River Beach and she asked the Board to reconsider their vote and reinstate dog walking there.

Dean Knight noted that there is a leash law and Chairman Ballantine stated that the dogs have to be on leashes.

Jim Coyle said it's dangerous to have children run through this and it's a mistake to allow this. He added that only one third of the people pick up after their dogs.

Scott Travers suggested instituting a dog tag system at a fee for dogs to use Red River Beach.

Mrs. Rolley and Kathleen Vogt were also in support of lifting the ban.

Mr. McManus stated that we need to raise the entire public's conscious that it is inappropriate not to clean up after your dog no matter where you are in town. He stressed that we need to be aggressive about it to create a real culture that it is unacceptable.

Ms. Cebula suggested additions to the sign by adding "No dogs on beach" and "Dog must be on leash held by person."

Mrs. Thompson suggested a printed sheet of rules be distributed at beach sticker stations.

Donna Tavano stated that this runs contrary to our present Town by-law that states that dogs must on a leash or under strict voice control.

Mr. McManus said the rules should be handed out when people get their dog licenses.

Judy Heath thanked the Board for all the work they put into this.

Mr. McManus stated that we have to maintain an enforcement effort. He moved to go out of the Public Hearing. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. McManus moved that we establish the Friday before Memorial Day to Labor Day dog walking hours in the parking lot at Red River Beach from dawn to 9:00 and 5:00 to dusk under the conditions as outlined in the memo with the signage that we have recommended tonight. Ms. Cebula seconded the motion and the motion carried by a unanimous vote.

Ms. Cebula moved to rescind the current policy. Mr. McManus seconded the motion and the motion carried by a unanimous vote.

OLD BUSINESS

- Request by We Can Corporation for waiver or reduction of fees for Building Permit Application – *vote to approve*

Ms. Andi Genzer explained what We Can does. Mr. Hughes moved, subject to the securing of the property, to waive the building permit fees totaling \$845. Ms. Cebula seconded the motion and the motion carried by a unanimous vote.

- Request for fee waiver for utility pole work and request to extend construction until June 22, 2012 – *vote to approve*

Mr. Hughes moved to grant the request to waive the fee on the 10 utility poles for Verizon. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. McManus moved to authorize Lawrence Lynch to continue to work until June 22, 2012. Mr. Hughes seconded the motion and the motion carried by a unanimous vote.

- Little League Field discussion – *take appropriate action/vote*

Brian Widegren stated that the Building Committee has finalized the site plan and it resolves the issue of where the septic and reserve system is going to go. He stated that the Monomoy Regional School Committee has not received the property yet so they are not in a position to do anything with regard to it. He reported that many of their members have expressed support for it continuing to be a Little League field so he expects there to be support for it. He added that in anticipation they have asked their attorney to work on possible lease provisions. Mr. Merriam stated that there is a difference between a license and a lease and he doesn't believe the Monomoy Regional School Committee can lease the property without a further Town Meeting vote. He stated that the School Committee does have the authority to license without a Town Meeting vote. Mr. McManus stated that the action that was taken by Town Meeting forming the region requires a lease from the Town to Monomoy and we can also place certain conditions on it and one of those conditions is that we could ask to be included in the lease between the Town and the Monomoy Regional School District to add protection now that it appears that there is no particular need in terms of development purposes for the property, that the school district be required as part of the lease to enter into a license agreement with the Little League to continue the use of the field as a Little League field. Mr. Merriam stated that Counsel for the School Committee is drafting that lease right now and it has to be executed by the Board by June 30. The Board took questions and comments from Dean Knight and Jon Idman after which Chairman Ballantine stated that we can ask the Monomoy Regional School Committee to declare it surplus and return it to us. Mr. Merriam stated that we have a legal opinion contrary to that but we could challenge it. Chairman Ballantine directed Mr. Merriam to explore it. Ms. Cebula recommended just doing it and Mr. Hughes agreed. Mr. Merriam stated that the Board is a party to the lease agreement so if their position is that they won't sign it unless a certain condition is met, then we should write the condition. Chairman Ballantine moved to do it. Ms. Cebula seconded the motion and the motion carried by a unanimous vote.

NEW BUSINESS

- Monomoy Regional High School Building Fee – *discussion/possible vote*

Mr. Merriam stated that Mr. Larsen has been asked by the School Building Committee to opine on the projected costs of building permit fees for the High School. He explained that the Board has a policy on municipal projects, one on non-profits, and we have a past practice established with the Lighthouse Charter School building permit fees so this particular question is pending. Mr. McManus said that to be correct, first of all the Building Committee hasn't even addressed this issue, and it was at a meeting between the architect, project manager, co-chairs of the Building Committee and the permitting group. He said that Mr. Larsen at one point mentioned the Town's procedure on waiver of fees which raised the question in someone's mind as to what level the fees are. He stated that in discussion this morning with the project manager they are aware that there is no waiver for inspections for gas, plumbing and electric. He stated that they do have a question regarding the Building Inspector being responsible for making every certification and what would be the appropriate reimbursement for the inspection services and extra processing work needed by secretarial staff. He said there needs to be some charge because it is our Building office that bears the brunt of it as it is being built in our Town not in Chatham so we need to get the costs set so that the towns each pay their appropriate share. He stated that at this point they don't need to know it and given the complexity of the project they would like a chance to meet with the Building Commissioner as they get further along in design development so he can get a better assessment of what his interaction will have to be in the process. He stated that they are going to make an estimate of an appropriate fee for inspectional services for this type of project and when design documents are put in place at the end of the year whoever is bidding on it will have an idea of what their actual costs will be. Chairman Ballantine instructed Mr. Merriam and Mr. Larsen to proceed and get a better fix on the cost.

- Release of old deed rider for 30 Cedardale Road (ATM Article 35) – *vote*

Ms. Cebula moved to release the old deed rider and replace it with a new one. Mr. Hughes seconded the motion and the motion carried by a unanimous vote.

- Letter to Nuclear Regulatory Commission and the Governor regarding radiological response plan around the Pilgrim Nuclear Power Station (Ballot Question #4) - *vote to sign*

Mr. Hughes moved to sign. 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:

Senate Ways and Means

The W/M Committee funded Unrestricted Aid for Harwich at \$364,746 or \$413 higher than the House and Monomoy Ch.70 at \$2,460,460 or \$75,920 higher than the Monomoy budget estimate of \$2,384,540, but net State Aid for Monomoy is \$8,253 less than House State Aid.

Sheriff Billing for CMED

The Cape Fire Chiefs met with Senator Wolfe last week on the issue of the Sheriff issuing invoices for the CMED Ambulance patches to the hospitals.~ The agreement that has been brokered is that the bills for the current fiscal year will be forgiven, no payments required.~ For the fiscal year starting this July 1st the Sheriff will bill at a half rate, 50% of the actual bill amount.~ Full billing amounts will be issued the following fiscal year to allow for proper budgeting.~ The Sheriff also agreed to have an independent over site board formed to have input on the billing process.~ I will need a FD budget adjustment for the next fiscal year billing.~ I estimate the amount to be around six thousand dollars.
Norm

Harbormaster Screening Committee

I have selected for the Harbormaster Screening Committee the following: Representing Selectman- Angelo LaMantia, Waterways- Cam Smith, and Department Heads- Norm Clarke. Applications/ resumes are due by May 25th.

Smarter Cape Summit

Chairman Larry Ballantine, Foster Banford, Ginny Hewitt and I attended a 2 day conference on Monday and Tuesday at Seacrest in Falmouth. Topics included the environment, development, economy, education, government, transportation and healthcare.

Chapter 97 Acts of 2012

Governor Patrick has signed H3504, which amended the Town Charter to reflect the new Monomoy Regional School District.

HARWICH: The House enacted H~[3503](#)~relative to the town charter in Harwich
Sarah Peake

Queen Anne parcels for sale

I have been computing the property line closures and have started drafting the plan. I have scheduled some field time with Bob Reed from Dennis Engineering for us to do the survey needed to finalize the plan. The time is scheduled for next week with the idea that we have to keep an eye on the weather.

Paul E. Sweetser, PLS

South Meeting house Cemetery swap

Bob Cafarelli and I are on our way down to the site to put a couple more corners in on the street line.

Paul E. Sweetser, PLS

We are in the process of having the fence moved as soon as that is completed I will let you know.~ We had to order additional granite corner posts for new lot line.

~

Robbin Kelley Cemetery Administrator

Chapter 90 delay

MMA seeks pressure to release money.

Surviving Spouse health insurance

Given the confusion because of the statutory question asked, I would recommend that we submit an article for the August STM warrant and be given the opportunity to fully explain the question before the voters. I received numerous inquiries and calls stating voters lack of understanding the question, including the CC Times story the following day. I have asked Town Counsel to verify acceptance by Town Meeting.

Ms. Cebula requested a summary of the issue including the history and she stated that we clearly did a poor job educating people. She stated that the summary should include who is going to do the educational process.

Tax Title list

As per your request, Treasurer Mary McIsaac's office has provided the following list of outstanding tax title accounts. These include locations unknown as well as owners unknown.

Ms. Cebula stated that she wanted to know which of these have had any action on them. She stated that their status is not indicated and that is what she wanted.

Mr. Ryan urged the Board to make a policy on this as he needs to know what direction to go in. Mr. Merriam agreed to draft a policy.

Route 137 Fee Waiver

Jim, This is just a reminder that Verizon has informally requested a fee waiver for approximately 10 utility poles that are required to be relocated due to the Route 137 project.~ I will~pass your answer to the Verizon rep at the next Route 137 utility

coordination meeting scheduled for May 30.~ Thanks, Link

Little League Field (see legal opinion from Ed Lenox)

Jim,

I think we're going to need a bit of legal and technical advice about whether to carve out the field from the lease or to create language that ensures the LL's longterm use.~ My inclination was to carve out the space, but there is some sense that language might be better.~ Either way, we'll need the site planner and architect to look at the area first to determine the district's options.~ The space between the field and driveway is pretty limited, and we need to know how much clearance would be necessary.~ We also need to have the DEP approval for the septic siting, but I don't see any difficulty with that.~ I spoke to Vince Veary today and explained the willingness of the MRSC to work with the LL to protect the field and that we'd be working on language.~ I also sent him the legal opinion Ed Lenox prepared for the HSC.~ I'm not sure whether I shared that with you (I remember explaining it), so it's attached.

Carolyn

NSTAR Interconnect update

Subsequent to completing NSTAR's impact study phase, American Capital Energy must now submit a Work Order Application.~ This application initiates an engineering effort to determine the specific utility grid upgrades that will be required for the Landfill PV Project. We have been advised that as the work affects municipal property your reply, as a Town Official, acknowledging and approving of ACE's submission is sufficient to start the process.

A copy of ACE's NSTAR Work Order Application is attached for your information.

Ron Collins, Cape & Vineyard Electric Cooperative, Inc. ("CVEC")

Sidewalk repaired

Dear Mr. Hooper and Team,

Thank you very much for repairing the side walk near the corner of South Street and Parallel Street. As always, your work is prompt and complete. Thank you for a job well done. Best wishes for your continued success!

Anna Murphy~

[Barnstable County](#)'s Commissioners and the Cape Cod Commission are working with the region's citizens and organizations to create a Capewide network of walking trails called Cape Cod Pathways. Cape Walk is a biennial event of Cape Cod Pathways and is a nine-day opportunity to promote a 100-mile end-to-end walking trail along Cape Cod.

The 2012 walk takes place June 2nd–10th beginning in Provincetown and ending in Bourne. The walk each day is 7–15 miles with an experienced volunteer Walk Leader. The day begins at 8.30 a.m., with a designated lunch stop and a shuttle that is always

available in case a walker needs a little extra boost. Some participants walk all 100 miles, some for part of one day; everyone is welcome and there is no sign-up needed. So put on some walking shoes (and a rain jacket in case of bad weather) and join in on this fun adventure that allows you to experience the Cape in a whole new way! And thank you to our 2012 co-sponsors, AmeriCorps Cape Cod and the Barnstable County Department of Human Services Mass In Motion Initiative funded by the Massachusetts Department of Public Health.

Christine Clements Stein, PhD, MPH
Senior Project Manager
Barnstable County Dept of Human Services

New Water Treatment Plant

Craig Wiegand conveys that SRF funding is still available for the new treatment plant if the August Special Town Meeting warrant is posted by June 30th.

SELECTMEN'S REPORT

A. 2012 Board of Selectmen Summer Meeting Schedule

The Board agreed to accept the proposed summer schedule which provided for meetings to be held on July 9 and 23 as well as August 6 and 20.

Mr. McManus stated that there was a series of emails that went back and forth with the Board regarding the 32B ballot question and it constituted a discussion that the public needs to be made aware of and we need to attach them to the public record of tonight's meeting.

Mr. McManus stated that he was called by a member of the Board of HECH who was aware that there is a meeting scheduled for tomorrow between Valerie Foster, Pam Parmakian and Linda Cebula and the question was what authorization the Board had given for Ms. Cebula to act on the Board's behalf. He stated that he didn't remember the Board voting any authorization so he didn't know how to respond. He said they were less inclined to have that meeting without knowing on what basis they were being called. Ms. Cebula responded that a couple of times over the past few months she has questioned the status of the payments on American Dream because Depot Street, which is one of the 4 properties of American Dream 1, is not being built because of title issues and she wanted to know how much money was spent on Depot Street, and therefore should be remaining in the Town's kitty. She noted that she had spoken to Jack Brown about it as there is some CPA money involved and she has also done some research with Dave Ryan. She said she has gotten some information but is unsure if anyone has the complete picture at this point. She noted that Valerie Foster has sent her some emails and she is not

sure where Valerie is coming up with how much money she thinks the American Dream project has paid out versus what is coming through Dave Ryan's accounts so this was an attempt to see if we can agree on what these numbers are and what more research can we do. She pointed out that she has discussed this in open meeting and said she was going to do this. She added that unfortunately this hasn't gotten through to the HECH people and she apologized for that. Mr. McManus questioned if we have sent a letter to HECH requesting an accounting and Mr. Merriam responded that we have not. Mr. McManus said that would be the appropriate thing to do and Ms. Cebula responded that they should have talked about it when she brought that up. Mr. McManus said he remembered when Ms. Cebula brought it up and he assumed a letter would have been sent out. Ms. Cebula noted that her first email was to the Executive Director of HECH who directed her to Valerie Foster. She asked who she should call and Mr. McManus said she should call Bob Murray. Ms. Cebula responded that Bob Murray was copied on the emails by Valerie Foster. Mr. LaMantia moved to authorize Ms. Cebula to meet with Valerie Foster tomorrow at 3:30 and report back. Mr. Hughes seconded the motion and the motion carried by a unanimous vote.

Mr. Hughes recommended inviting the Middle School Re-Purpose Committee in to report on what they are doing.

Josh Ford, a Harwich High School Sophomore, stated that he has been accepted to the People to People Program for a 20 day trip to different countries to experience different cultures. He noted that he has fundraised \$5,500 of the \$7,000 needed for the trip and he asked for support from the Town. Mr. Ryan reported that there is some grant money on the books for the Youth Counselor and he could contact her about making a contribution to help. The Board agreed that Mr. Ryan should look into this further.

ADJOURNMENT

Mr. Hughes moved to adjourn at 10:11 p.m. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Respectfully submitted,

Ann Steidel
Recording Secretary