

# **Board of Selectmen Minutes**

## **08/06/2012**

**MINUTES  
SELECTMEN'S MEETING  
GRIFFIN ROOM, TOWN HALL  
MONDAY, AUGUST 6, 2012  
7:00 P.M.**

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

**OTHERS PRESENT:** Town Administrator James Merriam, David Ryan, David Spitz, Lincoln Hooper, Bob Cafarelli, Eric Beebe, Brian Widegren, Peter DeBakker, Pam Parmakian, Valerie Foster, and others.

**MEETING CALLED TO ORDER** at 7:15 p.m. by Chairwoman Linda Cebula

Chairwoman Cebula reported that the Board had just come out of executive session to consider the purchase, exchange, lease or value of real estate and to discuss strategy with respect to collective bargaining or litigation.

### **CALL TO ORDER**

The Board called for a moment of silence on the passing of former Town employee Carol Mason.

### **NON-RESIDENT TAXPAYERS MEETING** (*Not earlier than 7:00 P.M.*)

The following topics were covered by the speakers as indicated reviewing the progress in the past year:

- Monomoy Regional High School Project – Brian Widegren
- Routes 124 and 137 Projects – Lincoln Hooper
- Wastewater Management – Comprehensive Wastewater Mgmt Committee Peter DeBakker chair
- Allen Harbor Dredging – Bob Cafarelli
- Upgrades to Saquatucket & Wychmere Harbors – David Spitz
- Beaches/Dog Walking – Eric Beebe
- East Harwich Initiative – David Spitz

## **GENERAL OPEN DISCUSSION**

Mr. Ryan clarified a statement by the Harwich Taxpayers Association that said that our taxes are projected to go up 23.6%. He stated that based on all the information we have we are looking at an average of a 13.9% increase over 4 years.

Mr. Costello of 79 Shore Road complemented the Town on behalf of everyone who uses Grey Neck Road Beach as it is beautiful and is kept in great shape.

The Board took comments from Sandy Levine on the East Harwich Initiative. Mr. Widegren answered questions from John Percot and Joe LaRosa regarding the proposed school building project.

## **CONSENT AGENDA**

- Minutes:
  1. July 16, 2012 – Regular Session
  2. July 23, 2012 – Executive Session
- B. Vote to authorize Chair to sign Request for Change Order to Municipal Street Light System Operation and Maintenance Agreement
- C. Vote to approve the Participation Agreement for LED Street Light Demonstration Retrofit Project and authorize the Chair to sign
- D. Vote to accept gift of an office unit from Barbara Bliss for the Council on Aging
- E. Vote to approve list of Election Officers as recommended by Democratic Town Committee
- F. Vote to approve list of Election Officer as recommended by Republic Town Committee
- G. Vote to approve renewal of Junk Dealer License for Olde Square Exchange
- H. Vote to approve renewal of Class IV Auto License for All Out Performance
- I. Vote to approve request for block party on Braddock Lane on September 1, 2012
- J. Vote to approve request for Change of Manager for A.J. Luke's of Harwich
- K. Vote to approve one day Entertainment License for wedding to be held at Lavender Farm on August 18, 2012
- L. Vote to approve request for a transfer from the Cable Fund for the purchase of a "Video on Demand" system for Channel 18 in the amount of \$14,000.00.

Mr. Hughes moved approval of the Consent Agenda. Mr. Ballantine seconded the motion. Mr. McManus questioned why we don't allow un-enrolled voters to serve as election officers. Chairwoman Cebula asked Mr. Merriam to follow up on that. The motion carried by a unanimous vote.

## OLD BUSINESS

- Monomoy Regional School District Lease – *discussion*

Chairwoman Cebula noted that the Board has a new draft lease from Town Counsel John Giorgio. Mr. Merriam said the changes have been reviewed by Chatham's Town Counsel but Mr. Widegren has indicated that the Monomoy Regional School Committee has not taken a formal vote. Mr. Merriam said he has raised a couple of questions with the Superintendent but hasn't heard back. He commented that this is being given to the Board as a status report and he is not asking the Board to adopt this. Chairwoman Cebula requested that the Board review this and provide comments and questions to Mr. Merriam.

## NEW BUSINESS

- A. Request for Budget Transfers – *vote to approve and authorize Chair to sign*

Mr. McManus moved to approve the recommended budget transfers for FY2012 as written out in a list from David Ryan dated July 23<sup>rd</sup>. Mr. Hughes seconded the motion and the motion carried by a unanimous vote.

- B. Request from HECH for funding from the Affordable Housing Trust for the 93-97 Route 28 project – *discussion and possible vote to send letters to Housing Authority and Housing Committee*

Ms. Parmakian and Ms. Foster outlined the project and took questions from the Board. Mr. Hughes moved to grant the request for \$60,000 from the housing fund to be committed within 24 months and, if not, returned. Chairwoman Cebula noted that we are sending letters to the Housing Authority and Housing Committee to get their agreement as well. Mr. LaMantia seconded the motion and the motion carried by a 4-0-1 voted with Mr. McManus abstaining from the vote.

- Community Center Assessment Committee for Expansion of Lower Level and for Addition of Aquatics Program – *discussion/possible vote*

Chairwoman Cebula said there a group that has been meeting to discuss the lower level of the Community Center for a buildout or potential addition for an aquatics program and it seems to make sense that we formalize the committee. Mr. LaMantia said it should be clear that this is to build a pool and not just for an aquatics program. Mr. Hughes said it should be on the Capital Plan. Ms. Cebula said that Ms. Carey has been before the Capital Outlay Committee 4 times to request that it be put on the Capital Plan and it has not been done. Mr. LaMantia stated that we are trying to set priorities and Recreation was supposed to cover themselves. He questioned operating expenses for this project. Ms.

Cebula said that everything Mr. LaMantia is questioning is outlined in the initial phase of the charge.

Mr. Hughes suggested deleting reference to the aquatics program and just talk about the lower level expansion. Chairwoman Cebula noted that funds were donated from a family to develop a pool concept and we need to keep that in mind.

Ms. Carey stated that we are just trying to get it on the Capital Plan and in order to do so we need hard facts and that is what we are trying to do. She said they always want more information. Ms. Carey further commented that she believes this can bring some money in but in order to get there we need to come up with a plan. She also noted that she has financial information from the other towns with pools.

Mr. McManus stated that we approved the contract to hire the architect and we need this committee to oversee it.

Mr. Ballantine moved that we establish the charge for the Community Center Assessment Committee for the expansion of the lower level and for the addition of a pool. Mr. McManus seconded the motion and the motion carried by a 4-0-1 vote with Mr. LaMantia abstaining from the vote.

## **TOWN ADMINISTRATOR'S REPORT**

Mr. Merriam delivered the following report to the Board:

### Hinckley's Pond

Heinz Proft and Paula Champagne have issued an advisory re: blue-green algae at Hinckley's Pond. (see posted notices)

### Monomoy High School Project

Harwich FinCom voted 5-3 in favor of project; Chatham FinCom voted 6-3 not in favor. I attended a meeting on August 1<sup>st</sup> at Chatham Town Hall annex in which MSBA Director Jack McCarthy informed the Building Committee / audience re: process if there is a failed vote to fund the project. (see "Monomoy Regional High School Building Project" handout from meeting.

### Legal opinion re: Surviving Spouse statutory acceptance

Sandy sent me a copy of the 1998 town meeting vote.~ After reviewing it, I would agree that the statute was not properly accepted by the Town in 1998 for three reasons:~ First, the form of the warrant article did not follow the required statutory form as set out in G.L.

c. 32B, sec. 9D and ½.~ Second, the question as voted at town meeting was incorrect because it stated that approval of the question would result in the Town's paying 75% of the cost of health insurance when in fact the statute, if properly adopted, allows the Board of Selectmen (not town meeting) to set the subsidiary rate above 75%. ~Third, the explanatory information was incorrect and misleading because it stated that it was only~an informational article. Having said that, it is still my recommendation that the Board of Selectmen select only one of the two statutorily acceptable methods for adoption of section 9D and ½; i.e., either a town meeting vote or a ballot question, but not both, for the reasons stated in my email yesterday.

John W. Giorgio, Esq.

Kopelman and Paige, P.C.

Fincom recommendation re: Surviving Spouse

FinCom voted 8-0 in favor of Article 4.

Hi Jim

I'll review this over the weekend and try to make sense out of it.....however if you and/or selectmen would like to recommend some language for FinCom write-up (since I guess that is the only thing that can be changed at this point), I'll be happy to review (and probably use) that also!

Noreen

Harbormaster proposed HMP amendment re: Introduction

1.0

a. The purpose of these Harwich Harbor Regulations is to promote public safety, define proper area usages and encourage mariner awareness of local Waterway By-Laws and Harwich Harbor rules and regulations. The Town of Harwich, through these regulations, intends to make assignment of moorings, slips and commercial permits under its jurisdiction fair, equitable and transparent. A clear goal is to enhance the enjoyment of the harbors for the recreational boater and usability/functionality for all commercial boaters.

**b.** These regulations are promulgated by the Board of Selectmen and the Harbormaster. The Board of Selectman, per the Town Charter, shall enact rules and regulations establishing town policies not otherwise governed by general law. The Waterways Committee, with input from the harbormaster, shall be responsible for the development of regulations and recommendations to the Board of Selectmen on waterway issues. The Harbormaster, per M.G.L. Chapters 102 and 91 Sections 10A and 10C, and its implementing Code of Massachusetts Regulations (310 CMR 9.00), shall adopt regulations for the permitting of moorings and the stationing of vessels, including commercial vessels lying within Town harbors. In addition the Harbormaster and Assistant Harbormasters are responsible for the enforcement of all applicable local and state laws and regulations, including the provisions of M.G.L. Chapter 90B and 323 CMR.

**c.** Nothing in this Harbor Management Plan shall be construed as altering in any way the

content and/or meaning of provisions of Chapter 47, Boating and Waterways of the Town of Harwich By-Laws, MA State statute, or Code of Massachusetts Regulations.

MIIA Rewards program and Grant

Harwich has earned \$21,039 in rewards for efforts to prevent injuries and claims. (see press release)

Treasurer Mary McIsaac secured a \$10,000 grant to evaluate procedures and practices for revenue documentation and subsequent training.

Jill request to purchase Cable equipment –under consent

Morning Jim,

I have been in touch with technicians at Tighrope Media. They have started to rebuild our system and I hope it will be done today and ready to ship back. I also have done research on the "ON Demand" feature and have gotten the latest quote. I would like to move forward and purchase this feature which will work with our current system and will provide us with additional back-up capabilities. The cost with installation and set-up will be approx 13,000.00. I have talked to Foster as he is thinking of hosting the video on his server for internal viewing. I would like to move ahead with adding this feature to my system and if we want to add additional places to host the BOS meeting we still can do that. Thanks.

Jill

Municipal LED Street Light Conversion Project –under consent

The Cape Light Compact is offering a conversion program in which they will pay for new light fixtures and installation. The Towns are expected to save 35-40% in annual maintenance costs. Barry Worth, Link Hooper and I selected 8 contiguous poles for a demonstration project both commercial and residential (from 715-732 Main Street and 338-304 Bank Street. Please vote to participate; see attached.

Eric Beebe monthly report

The Community Center fields are in use this summer. The fields are also ADA accessible. (see excerpt from Director's report)

- We were given permission from the Highway Department to use the grassy area of the new multi-purpose fields 3-4 days per week for the summer. We have been running our summer lacrosse program there, as well as activities through our daily summer playground camp program. We will begin full use of the fields in the Fall with activities such as: soccer, flag football, lacrosse, after-school intramurals etc.

Brooks Library HVAC still not working properly – Bob Cafarelli assigned to oversee

The meeting is Friday at 11.~ It would be good to have you there, Bob, if you can come but at this point my plan is to insist that Rise start sub-contracting with Dan Durgin at

Healthy Air and to use Dan as our consultant if not the project manager. ~Dan is an HVAC engineer and understands the system. David Mitchell, the project coordinator at Rise, is not an engineer. Apparently the new chiller is incompatible electronically with our control system (the installer told me after the fact). I don't know if Rise knew this ahead of time or if it was a surprise, but in any case, we were promised any needed control work would be done ahead of time. We knew the control system needed repairs and improvements, but we should have had basic AC as soon as the chiller was installed in late June. There have also been almost daily issues with the chiller not starting up or shutting down unexpectedly. I spoke with Dan this morning and he has a lot of ideas on what should be done to get basic air conditioning going.~He and Nicole Price from Cape~Light Compact will be at the meeting and Vin Graziano, the President of Rise, who has promised to make things right.

Ginny

#### ATA Search

I have re-started the search to fill the ATA vacancy by forming a Screening Committee consisting of Selectmen's rep Linda, Dept. Heads rep Mary McIsaac and Community rep Joanne Rys.

#### HGTV shoot - Magnetic Productions from ivan valderrama

[[ivan.c.valderrama@gmail.com](mailto:ivan.c.valderrama@gmail.com)]

Jim,~

Thanks for taking the time to help us secure this shoot. ~The show Going Yard is going to be shooting at: ~162 Main St., Harwich, MA 02645, between 9/4 & 9/8. ~The because we're a backyard makeover show, we shoot only during daylight hours, and usually twelve hour days. ~A normal day may look like 7am-7pm, or 8:am-8:pm, again a lot of it depends on available sunlight. ~

We are always careful to not start any heavy machinery till after production has begun. ~It usually takes us a little set up time before we start shooting anyway. ~We leave enough space for emergency vehicles to pass through and for neighbors to not be obstructed from coming and going from the residences, and we even send them a flyer notifying them of the upcoming shoot and leave a space for them to fill should they have any concerns, this way we can address asap. If there is anything else that you need please let me know and I will get right on it. ~

Ivan ~

~

P.S. ~Is there a letter someone could write me, via email works great too, stating that a actual physical permit is not needed? ~This way I can show proof to my supervising producer when she asks. ~Thanks again. ~

#### Muddy Creek bridge update (see draft MOA with Chatham)

Larry Ballantine, Bob Cafarelli and I met with Jill Goldsmith, Bob Duncanson, Carole

Ridley and Martha Reinhart to scope the RFP for bridge engineering/ permitting. If we cannot secure Federal funds by end of year, we wish to request a line item in the FY 14 State Budget sponsored by Senator Wolf and Representative Peake. We agreed that Harwich will lead and Bob will draft Mass DOT spec.

#### Whitehouse Infield

We met with Ben Layton, the Mariners General Manager re: rebuilding the infield with the \$25kCPA funds under the 2008 ATM Article 43, now that the CPA has been amended. Bob will draft spec with plan for BOS award on August 28<sup>th</sup> before the STM.

Mr. Merriam,

Thank you again for taking the time out of your busy day to meet with me and discuss Whitehouse Field.~ As the General Manager of the Harwich Mariners of the Cape Cod Baseball League, I can't express enough how much the Town of Harwich's support is to the success of our organization.~ The Mariners Family will continue to provide great family friendly entertainment for our community and guests in the summer and thanks to your help and the towns hopefully on a new infield come next spring that not only the Mariners will enjoy but our new regional school system and other community baseball organizations.

As I mentioned in our meeting, if there is anything I can ever do to help the Town of Harwich in the way of recreation, parks, or working to secure funding through grants please let me know.~ I have worked in the sports industry for 14 years now, 4 of which ~were in Parks and Recreation in the City of Rocky Mount, North Carolina.~ As a member of this community with small children I have a true vested interest in recreation and I understand its importance to a communities well being.

Ben Layton

Eastern College Athletic Conference

Director of Sport Administration

#### Hinckley Pond report

Here is a copy of the Hinckleys Pond Evaluation Report. Community meeting is scheduled for August 20<sup>th</sup> at 7pm in Community Center.

#### Monomoy School District lease

Please find attached a new draft of the lease agreement between the School District and the two towns. The edits are highlighted.

#### Education required that bikers do not have right of way unless they walk their bicycles across the road

I was on Lothrop yesterday heading for Main Street. I slowed and then stopped at the bike crossing as at least 16 bikes RODE past, not walking as required. The same day



before I was the 2nd car in line westbound on Rte. 39 and 3 younger bikers came across the road full-speed in front of a car which barely was able to stop - none of the bikers stopped and walked their bikes.

Jack Brown

#### E-permitting

Dave Spitz, Foster Banford and I met with Ed Senteio to discuss Harwich's MOA timing to participate. Foster will work on releasing Town's database from Geo-Tems- will schedule BOS vote on MOA after Labor Day, which will allow for conversions after Yarmouth, Chatham and Nantucket. Annual fee in the \$20-\$25k range for 15 Site licenses with Accela, the selected vendor.

#### EEE detection in Brewster- Nickerson State Park

Just to let you know the latest on the EEE situation --so far so good on retesting in Brewster.( see below)

I was actually with the Brewster Health Agent on Friday at our monthly coalition meeting when the call came in and she promptly left to help activate her emergency management team.

Within a couple of hours they had met, -local team, Nickerson staff, Mosquito Control staff- and drafted an action plan, PR releases and instituted a reverse 911 notification to all of Brewster. I discussed the situation with the Brewster Health Director on Saturday and complimented her on the plan activation.

Its working! Cape & Islands Health Agents Coalition recent drills with flu clinics and interaction with the emergency management directors are helping with prompt, effective responses to public health situations and providing much needed access to staff and pooling of talent and ~resources .

Paula

Hi Jim

We received test results yesterday from a recent round of mosquito collection that were negative for EEE. We have another sample at the State lab that we hope to have a response back either Thursday afternoon or Friday morning. Aerial spraying is not being considered at this time with only one positive result. While there is not clear guidance on this matter we would probably have to receive at least three positive results before aerial spraying was considered as an option. In fact if we were going in this direction we would use truck mounted equipment to attack the adult mosquito population. By the way the Cape Cod Mosquito Control District does not own fogging equipment. We have made arrangements with one of the south shore control district to use some of their manpower

and equipment should it become necessary. They are available and standing by, should we have to move in that direction. Best wishes and I hope you are having a good summer, Charlie

Recreation beach numbers from Eric Beebe

Just wanted to give everyone an update on the summer beach numbers because we are officially halfway through (37 days done out of 75):

Summer 2012 Daily Parking Passes Sold (As of August 2, 2012)

Red River Beach-	1153
Long Pond Beach-	245
Earle Road Beach-	157
Pleasant Rd. Beach-	150

*Total-* 1705 @ \$15 per (on pace to sell around 400-500 more passes than last year)

Summer 2012 Parking Violations Written (As of August 2, 2012)

- Violations primarily written by 30 hour per week Recreation Department Parking Enforcement Officer

Bank Street-	108
Red River-	66
Cahoons-	28
Pleasant Rd.-	13
Earle Rd.-	3
Long Pond-	3
Brooks Road-	2
Grey Neck-	2
Neel Road-	1

*Total-* 226 @ \$50 per (on pace to write around 75-100 more than last year)

Waterways

Dave Ryan, Pete Watson and I met with Matt Hart and John Rendon to review current and proposed revenues and expenditures for Harbors operating and capital expenditures. This effort is to assist John in preparing a long term capital plan and options for financing. We particularly focused on how best to finance channel dredging, which is an annual cost without reliance on Free Cash.

BOS policy request for Municipal Lien Certificate waivers for REOS Committee search re: potential town purchases

According to my records the fee for an MLC has only been waived for Attorney Ford on cases he has been compensated by the Town for working on. The policy requires that the Town Selectmen waive the fee according to the conversation. I would ask the Selectmen for a blanket approval of such waiving of fees.

Mary

Red River Beach spill

Link Hooper reported that the Town's loader leaked oil onto the west end of beach on Friday August 3<sup>rd</sup>. It has been reported to DEP and cleaned up.

Trampoline Center complaint

Board of Health required bathroom facility, portable installed 7/23.

**ADJOURNMENT**

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

Respectfully submitted,

Ann Steidel

Recording Secretary