

# **Board of Selectmen Minutes**

## **09/04/2012**

**MINUTES**  
**SELECTMEN'S MEETING**  
**GRIFFIN ROOM, TOWN HALL**  
**MONDAY, SEPTEMBER 4, 2012**  
**7:00 P.M.**

**SELECTMEN PRESENT:** Cebula, Ballantine, Hughes, McManus, La Mantia

**OTHERS PRESENT:** Town Administrator James Merriam, John Rendon, Ted Nelson, Gerry Loftus, Terry Russell, and others.

**MEETING CALLED TO ORDER** at 7:07 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.

### **WEEKLY BRIEFING**

Harbormaster John Rendon provided a status of the dredge operation in Allen Harbor.

### **PUBLIC COMMENT/ANNOUNCEMENTS**

Monomoy Regional School Committee member Terry Russell thanked the voters for their support at Town Meeting and asked for their continued support at the polls on September 6<sup>th</sup>.

Ted Nelson read the attached letter to the Board and asked for a formal reply to his letter of August 9<sup>th</sup>.

Mr. McManus announced the upcoming Cranberry Festival events.

### **CONSENT AGENDA**

- Minutes
- August 6, 2012 Regular Session

- August 20, 2012 Executive Session
- B. Vote to approve application by Multiple Sclerosis Foundation for road race on September 5, 2012
  - C. Vote to approve the appointment of Rich Larios as a member of the Community Center Assessment Committee representing the Capital Outlay Committee.
  - D. Vote to approve the recommendation of the Town Administrator and request by Nstar Electric to install underground conduit and cable to service 254 Pleasant Bay Road
  - E. Vote to hold Public Hearing for Harbor Management Plan amendments on October 1, 2012
  - F. Vote to permit CapeNet and its sub-contractors access to town property and buildings as necessary to install Open Cape fiber optic cable and equipment within town buildings
    - G. Vote to approve the Agreements for dredging services between Barnstable County and the Town of Harwich for Allen Harbor
    - H. Vote to authorize the Harwich Fire Department to issue a permit for a ceremonial bonfire at the end of family beach day on Saturday, September 8, 2012

Mr. Hughes moved approval of the Consent Agenda Items A through E and G. Mr. Ballantine seconded the motion. With regard to Item C, Mr. McManus noted that there was an issue concerning a Charter restriction on a Finance Committee member serving on another committee besides the Capital Outlay Committee. The Board cited other examples where this has occurred. Mr. McManus said we need to clean up the policy because in the other cases the committee member is appointed by the Finance Committee to an ad hoc committee. The Board agreed that Mr. LaMantia, as liaison to the By-Law Charter Review Committee, would bring this issue to them. The motion carried by a unanimous vote.

Mr. Hughes moved approval of Item F. Mr. McManus seconded the motion. Mr. LaMantia questioned what the fees are going to be for this project and Mr. Ballantine said he would bring the question forward. The motion carried by a unanimous vote.

Mr. Hughes moved approval of Item H. Mr. Ballantine seconded the motion and the motion carried by a 4-0-0 vote with Mr. McManus recusing himself on this item.

## **PUBLIC HEARINGS/PRESENTATIONS**

- Wastewater Implementation Committee Update  
Ted Nelson and Noreen Donahue, Co Chairs, submitted the attached report and took questions and comments from the Board.

## **OLD BUSINESS**

A. Vote to approve revisions to the Betterment Assessment for the Dredging of Allen Harbor – *vote to sign*

Mr. McManus moved to approve revisions to the Betterment Assessment for the Dredging of Allen Harbor. Mr. Hughes seconded the motion. Mr. Merriam outlined the revisions. The motion carried by a unanimous vote.

B. Proposed parking/signage plan for Round Cove – *discussion*

Mr. Rendon outlined the attached plan for parking and signage at Round Cove and took questions from the Board. It was noted that the Harbormaster's Office would be charged with enforcement. Mr. Ballantine asked Mr. Rendon to post the plan on the website. Mr. Hughes moved to approve the proposed parking and signage plan as presented by the Harbormaster for Round Cove. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

C. HECH request for funding from the Affordable Housing Fund in the amount of \$60,000 – *recommendations/affirm vote*

Chairwoman Cebula reported that we have received letters from the Harwich Housing Authority and Harwich Housing Committee that they are fine with this and this is really just to affirm the vote. Mr. Hughes moved to approve the HECH request for funding from the Affordable Housing Fund in the amount of \$60,000. Mr. Ballantine seconded the motion and the motion carried by a 4-0-1 voted with Mr. McManus abstaining from the vote.

- Monomoy Regional School Lease – *discussion*

Mr. Merriam stated that the Board has been provided a new lease with further edits from John Giorgio based on the Board's comments. Mr. Hughes stressed that operating cost savings and school choice needs to be addressed somewhere and asked that Town Counsel address it either in this document or whatever document is appropriate. Mr. Ryan stated that he has recommended to the School Business Manager that there be a Memorandum of Understanding to the regional agreement that they have to live on the income we can provide on an equity basis for all services delivered by Harwich. Chairwoman Cebula stressed the need for a five-year plan.

Mr. Hughes suggested we send a letter to the Regional School Committee and just put them on notice that we have an interest in defining with them, along with the Finance Committee and Chatham, what this baseline savings that has been projected is and get to that point and then we can have a discussion afterwards. Chairwoman Cebula requested

that Mr. Merriam put that letter together.

Mr. Hughes moved that we agree with this draft and send it on to them saying this is our latest version. 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:

### Beach nourishment permits

Attached is a quote from Coastal to apply for permits below MHW from Pleasant Rd to Beach Rd. (Please recall that the ConCom Order of Conditions is approved through 2014)

### Citizen complaint re: Depot shooting range and Chief's response

Hi Chief Mason,

My name is Anne Flash.~ I know you from Christ Church in Harwich Port, although I have not been there in a few years.~ I am the artist who teaches at Cape Cod Community College, and we have had many pleasant exchanges at the church in the past.~ I cc'd to you a letter I sent to Officer Jon Mitchell this afternoon, after calling the police station to find out how to file a formal complaint about the shooting range on Depot Street, and being put into his voicemail.~ I won't reiterate my points here, except to say that nothing I have ever come across in all the neighborhoods I've lived in over the last 56 years, from inner-city New York, Hoboken, N. J., the worst part of inner-city Hartford, CT, to many other city and country addresses, has been as disconcerting and unsettling as your police shooting range on Depot.~ (Not even the crack-house and heroin shooting-alley across the street from my apartment in Alphabet City, Manhattan.) Predictable annoyances are one thing, but the sound of repetitive gunfire, going off erratically on seemingly arbitrary days, including Saturday and Sunday, sometimes as early as 8:00 a.m., is quite another.~ I realized today that I could not let another day of this go by without attempting a dialogue with your police department. I read in your mission statement that working relationships with the many neighborhoods served by the Harwich Police is something you pride yourself in, as well as sincere commitments to each neighborhood that makes up "The Harwiches".~ I hope you will look at the points I made in my email to Officer Mitchell, and discuss the issues with him.~ It would be helpful if, as I go forward with my neighborhood petition effort, I could communicate where the department stands on the issue of a shooting range in such a widely populated area of neighborhoods, and further, what that range's policies are, if any, in terms of scheduled times for shooting, and whether you are willing to sit down with members of these neighborhoods and perhaps, if you must stay on Depot, work out more amenable parameters as far as scheduling goes. I

appreciate your special attention to this problematic issue that is affecting many residents, including many children.

Anne Flash  
25 Holmes Road  
Harwich, M02645

Nice to hear from you Ann and hope things are going well.

As far as the shooting range, it has been a Town shooting range for well over 60 years (sometime around 1940), long before any houses were built in the area, and has been in continuous use since then. ~It is primarily utilized by the Harwich Police Department to train its officers on the proper utilization of firearms, shoot/don't shoot scenarios, marksmanship, mandatory qualifications, in-service training, new officers, safety, etc. ~We have six mandatory qualifications per year; four during the day and two night shoots (usually held in the early evenings and end around 8:00 P.M. as over 70% of all officer involved shooting are in low or no light conditions). ~Most training periods are a week long with a make-up week if needed. ~Police firearms training is a matter of public safety, required for the wellbeing of the officers and citizens, and part of the mandated in-service annual training program. ~Firearms are a significant civil liability; therefore, properly trained officers are essential. ~Our training program for Harwich officers has been recognized by the courts as being proper each and every time it has been reviewed; this has been significant in reducing or eliminating any liability claims. ~Without proper firearms training, the Harwich Police Department would be uninsurable. ~The range is also open to the public that have passed firearms safety courses and registered with the Police Department; this has been a privilege of local citizens since the range started. ~It is better to have citizens shoot firearms in a known location rather than sand pits, cranberry bogs, or other areas of Town. ~We have looked at several alternatives including construction of an indoor range (approximately \$1.6 million dollars) all of which are cost prohibitive and have been repeatedly rejected. ~Use of other range facilities, if available, significantly increases overtime for both officers and instructors, travel expenses, and material costs. ~We have reduced the number of outside agency users and have limited citizen use to the weekends. ~We do not start our training days until 8:30 or 9:00 A.M. and have also restricted the public weekend hours. ~This range is essential to the safe and professional operation of our Police Department and is the most cost efficient method of providing this training especially considering the budgetary constraints the Department and Town are facing. ~If you would like to discuss this matter further, please feel free to contact me at your earliest convenience.

William A. Mason, Chief

For some additional information, we have investigated several of the reported firearms noise complaints recently and have found them to be coming from the Nickerson sand pit in Chatham which backs up to our range. ~Allowing firearm discharges in this area is not

illegal or a prohibited use and it is private property. We know when our range is in use and have received complaints when no one was using it but thought it was our range.~

*Mr. Hughes suggested that the Chief notify the abutters via email when they plan to conduct shooting and Chairwoman Cebula agreed that was a good idea.*

#### Eric Bibler Open Meeting complaints against CVEC and CLC

Attached is Attorney General ruling on complaints. The AG found that CVEC and CLC did not violate the OML in holding executive session and continuing to withhold executive session minutes from the public.

#### Brooks Library Maintenance issues

A meeting was held on 8/28 with representatives from Rise Engineering and Gaskill to determine whether the electrical room is adequately ventilated to keep the temperature below 77 degrees and not reduce the life of the batteries tied into the emergency lighting system. (Gaskill also was asked to address a rumor re: emitting gasses which was quickly dismissed. Rise proposed installing a ceiling fan to keep the air circulating, especially when the air conditioning is in the unoccupied mode. Joanne Brown also asked Rise to provide a data logger to track temperatures during hot spells, which will determine whether the proposed solution will work.

#### East Harwich grant dates and contracts

Thank you for the opportunity to provide this information to you.

Planning for East Harwich has benefited greatly from the Barnstable County RPP grants.~ Three separate grants were issued for Year 1, Year 2 and Year 3.~ In all cases, actual work took longer than one year.~ I will try to reproduce the timeline in this e-mail.

The contract for Year 1 was signed on January 18, 2006.~ Shortly thereafter, the Town of Harwich hired the Cecil Group to perform Year 1 services.~ The final invoice was paid in August 2007.~ The final report was completed in 2007 and is available on the Town of Harwich website.

I do not have the exact date of the Year 2 contract.~ The Town of Harwich divided Year 2 into three projects - Market Analysis, Traffic Analysis, and Zoning Framework.~ Invoices were paid from November 2007 through January 2010.~ Final reports were dated between January 2008 and December 2009 and all are available on our website.

I began work in Harwich in May 2009 and became involved in the East Harwich project very quickly.~ I was responsible for overseeing completion of the Year 2 Traffic Analysis and Zoning Framework including processing of final invoices.

The contract for Year 3 was signed on June 25, 2008 (prior to my arrival).~ After completion of all three Year 2 projects, I began working with the East Harwich Collaborative on the Year 3 scope of work in early 2010.~ The Town of Harwich hired Cape Cod Commission staff in spring 2010 and Land Use Attorney Joel Russell in June 2010.~ The group's work product, the East Harwich Village Center Handbook, was first presented to the Harwich Planning Board in June 2011.~ Since that time, there have been more than 20 public meetings on the East Harwich proposal.~ We are still far from reaching consensus.

All Year 3 work has been performed according to the Scope of Work outlined in the attached "REDPP Final Proposal Year 3".~ To date, we have completed the \$30,000 Cape Cod Commission contract and have spent approximately \$21,500 of the \$25,500 Joel Russell contract. ~In addition to approximately \$4,000 remaining in the latter contract, we have not yet entered into a contract for the remaining \$20,000.~ We believe that money will be best spent in accomplishing Task 3 from the REDPP Scope of Work. I also am providing a copy of my recent memo to the Harwich Board of Selectmen on this topic.

We have been working on the East Harwich project intensively and consistently.~ I apologize for any failure to provide summaries of our progress or to seek extensions to our contract.~ Since all funds had been paid to us, I was unaware that extensions were required.~ At this time, we will be glad to provide any further explanation or documentation to meet your requirements.

~~~~~  
David H. Spitz, Harwich Town Planner

#### Community Center project update

The Committee met on August 27<sup>th</sup> with the Strelakovsky architects to review revised plans and cost estimates for future expansion of the lower level and eventually, an addition on the back side of the building.

#### Suicide Prevention Project

Hello Community Leaders,

As the Regional Manager of the Cape and Islands Youth Suicide Prevention Project I am emailing to let you know that September is Suicide Prevention Month! I am writing to people in each town on the Cape and Islands that can help us to honor those who have died by suicide and to help us spread the word that suicide is preventable. I have made up a list of free activities that do not cost anything for each town and have asked the local governing body, libraries, schools, police and fire departments, recreation and health departments to help us out.~ Please let you community know about the free talk on

September 26<sup>th</sup> 2012 at your community center from 7-8.30pm.~ ~ ~~~~~

Here are some examples

~~~~~

- all libraries across the Cape received books by donation through the youth suicide prevention project.~ We are asking all libraries to display these books prominently for the month of September. (if not possible, the week of September 9<sup>th</sup>-15<sup>th</sup> is best because suicide prevention day is September 10<sup>th</sup>.)
- The board of selectman in each town have been sent a proclamation for suicide prevention month and have been asked to consider reading it at a public meeting in late August or early September if possible to declare in your town September as suicide prevention month. I can arrange for someone to be at the meeting if need be.~
- we provide free suicide prevention trainings for police, fire, first responders, schools, community groups, LGBT groups, COA's, librarians, youth groups, church groups etc.~ We can provide the training if you can give us a venue and a minimum of ten people. We have trained recreation staff of towns, clergy, town boards in prevention, intervention and what to do in the aftermath of a suicide in your town or school community.
- We have an many information talks for different communities(tribe, LGBT, schools and communities) on suicide and the myths surrounding suicide and offer this to each town again free of charge.~ This is about an hour and a half and is best done at an open meeting in the evening or at lunchtime for town staff.~ If you can help please with a venue let me know.~ WE have a talk called "Seasons of Suicide" that will run on September 26<sup>th</sup>, 2012 at the Harwich Community Center from 7-8.30pm.
- If you have connections with the local paper or radio would you consider talking to them or direct them to me to write an article on suicide prevention or put on a public service announcement the week of September 9<sup>th</sup>-15<sup>th</sup> 2012.
- We can send materials, brochures and leaflets free of charge.
- Suicide prevention is everyone's business and I ask for your help.~ The Cape and Islands has a 1.5 higher rate than anywhere else in the state for suicide and the rate for 15-24 year olds is double than that of the state~ on the Cape and Islands.~

Any and all help is greatly appreciated.~ I have attached a sample proclamation if you consider reading it aloud at a town meeting.~ Remember suicide does not discriminate.~ Suicide can happen to anyone in any family.~ Will you help us stomp out suicide on Cape Cod? Please contact me on the cell number below to arrange a training or to have materials sent to you.~ Thanks for reading this and showing you care.

Maura Weir, M.A.

Regional Project Manage

Youth Suicide Prevention Project

Community Health Center of Cape Cod

National Grid mark outs

Craig Wiegand advises me that we're experiencing difficulty with National Grid once again on mark outs. He will attempt to resolve rather than not processing applications.

Beach sticker update from Eric Beebe

Update on Summer Beach #'s through 69 beach days:

~

Daily Passes Sold

~

Red River	~~~~~	2062
Long Pond	~~~~~	433
Pleasant Rd.	~~~~~	268
Earle Rd.	~~~~~	260
<i>Total</i>	<i>~~~~~</i>	<i>3023</i> <i>(2523 total sold last summer/ increase so far of \$7500 revenue or a 20% increase)</i>

~

~Parking Violations Written:

~

Bank St.	~~~~~	189
Red River	~~~~~	100
Cahoons	~~~~~	35
Pleasant Rd.	~~~~~	14
Grey Neck	~~~~~	5
Earle Rd.	~~~~~	3
Long Pond	~~~~~	3
Brooks Rd.	~~~~~	2
Neel Rd.	~~~~~	1
<i>Total</i>	<i>~~~~~</i>	<i>352</i> <i>(295 total written last summer/ increase so far of \$2850 revenue or a 19% increase)</i>

~Eric

Whitehouse Field infield reconstruction

Link Hooper has agreed to serve as Project Manager. He will be assisted by Parks Forman Boo Berube whose duties include the supervision of maintenance of Whitehouse Field.

Special Town Meeting count

980 residents registered for the ST meeting, 972 voters participated to call for the vote under Article 1 and 936 voters participated in the Article 1 vote.

### Cape Solid Waste

The Solid Waste Advisory Committee met with John Giorgio on August 29, 2012 to review responses to the RFQ. John and Patty Daley will meet with Covanta and Interstate Waste Technologies/ We Care Organics and report back in 60 days. We anticipate tipping fees and transportation to roughly double the current cost starting in Jan. 2015.

### Beach 22

Mr. Cavanaugh,

Yes, Mr. Merriam is correct.~ There is no way to constrain the dredge material to such a small area... the volume at which it flows from the dredge pipe is too great to keep it confined to the 526 sq ft area.~ In addition, the County requires a front loader shoreside to assist in bringing the pipe up on the beach, and therefore it would have to transit across private property in order to get on location... not something that either abutter to Beach 22 would allow.

The best means to get sand nourishment to Beach 22 is by dump truck and transfer down the public easement.

John Rendon  
Harbormaster

From: Joseph Cavanaugh [<mailto:Joe@forbescavanaugh.com>]  
Sent: Tuesday, August 28, 2012 4:35 PM  
To: John Rendon  
Subject: Public Beach 22 Nourishment

John:

Jim Merriam informs me that according to the Town Surveyor, Paul Sweetser, there is 526 square feet of dry sand above the Mean High Water Mark on Lot 36 in front of the Fitzpatrick property.~ According to Mr. Merriam, this area is too small to nourish with the County Dredge.~ Is this true?~ From a practical perspective, I don't understand why the dredge pipe can't be pointed at the 526 square feet, and turned "on."~

Joseph F. Cavanaugh III, Esq.  
FORBES & CAVANAUGH

### **SELECTMEN'S REPORT**

Mr. Hughes stated that there is some frustration because Nstar is holding something up on the solar panel project at the landfill for which we were expecting some revenues for this year's budget. He asked that Nstar come before the Board to get this resolved. Mr. Merriam indicated that he would be giving the Board some correspondence on this and he

does see this moving forward slowly. He noted that Mark Zielinski, County Administrator, has advised him to anticipate half a year's earnings on the solar panels for FY13. Mr. Merriam further stated that his expectation is to be on line in the beginning of January of 2014. Mr. Hughes questioned if there is a way to get a decision maker here from Nstar and why are we being held up. Mr. Merriam stated that American Capital Energy is waiting for Nstar to give them the costs to do the interconnects. Mr. Hughes said he would be willing to go to Nstar if need be with the Chairwoman and Town Administrator. Chairwoman Cebula agreed that was a good idea. Mr. Merriam said he would work on it over the next week to see if he can get someone in.

## **ADJOURNMENT**

Mr. Ballantine moved to adjourn at 8:57 p.m. Mr. Hughes seconded the motion and the motion carried by a unanimous vote.

Respectfully submitted,

Ann Steidel  
Recording Secretary