

# **Board of Selectmen Minutes**

## **10/09/2012**

**MINUTES  
SELECTMEN'S MEETING  
GRIFFIN ROOM, TOWN HALL  
TUESDAY, OCTOBER 9, 2012  
7:00 P.M.**

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

**OTHERS PRESENT:** Town Administrator James Merriam, Chief Clarke, Craig Wiegand, Sheila House, Melissa Clayton, Joanne Rys, Peg Rose, Allin Thompson, and others.

**MEETING CALLED TO ORDER** at 7:08 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.

### **CONSENT AGENDA**

- A. Minutes –
  - 1. September 18, 2012 Regular Session
  - 2. September 24, 2012 Regular Session
  - 3. October 1, 2012 Executive Session
- B. Vote to hold Public Hearing on FY13 CDBG Grant on October 29, 2012
- C. Vote to sign Chapter 90 request for drainage for various roads

Mr. Hughes moved approval of the Consent Agenda. Mr. McManus seconded the motion. The motion carried by a unanimous vote with the exception of item A3 which Mr. Hughes recused himself from.

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

- A. Annual Meetings with the Board of Selectmen
  - 1. Youth Services Committee

Melissa Clayton delivered the annual report of the Youth Services Committee. Sheila House took questions from the Board.

## 2. Voter Information Committee

Joanne Rys delivered the annual report of the Voter Information Committee.

## 3. Citizen's Advisory for the CWMP

Allin Thompson asked to postpone this report until the first meeting in November as they have some issues to resolve. Chairwoman Cebula asked Mr. Thompson to contact the office to set up a new date.

- Presentation by Water Commissioners on proposed installation of cell tower site  
Allin Thompson reported that the Water Commissioners were approached by AT&T to install a cell tower site on Water Department land behind the Chatham Road Complex and that upon completion the department would have the opportunity to purchase this site. He said that AT&T has agreed to pay for the cost of a Special Town Meeting.

Dan Bilezikian, from SAI Communications, proposed that AT&T would build the tower at their cost and recover that cost by abated rent over a period of years equivalent to the cost. He stated that the Town wouldn't put out any money. Mr. Bilezikian stated that AT&T would construct the tower, it would immediately become the property of the Town and once that cost has been recovered AT&T would pay rent to the Town and meanwhile they would rent out to other carriers. He said the Town would be responsible for the maintenance of the tower which would be very minimal.

Chairwoman Cebula questioned if they have spoken to the neighbors and Mr. Thompson responded that they would definitely do that as well as run it by the Planning Board.

The Board discussed the fact that a lease would require a Town Meeting vote. Mr. LaMantia said we should check with Town Counsel as we are not transferring property. Mr. Wiegand said that a preliminary check has not revealed any restrictions on the parcel. Mr. McManus said we would also need Town Meeting vote because we are incurring debt and Chairwoman Cebula agreed. Mr. Thompson said we should get a Town Counsel ruling and added that they can get a formal proposal. Chairwoman Cebula asked Mr. Merriam to check with David Ryan on the accounting piece.

Mr. Bilezikian said AT&T will do whatever it takes to fast track this and ideally they

would like to have it done by the summer season. The Board discussed timing of the proposed Special Town Meeting noting that there is a minimal opportunity to have other articles on as well as getting a quorum if this is done before free cash is certified. Chairwoman Cebula asked Mr. Merriam to check with Town Counsel on whether we need a Town Meeting vote and also asked that Mr. Thompson provide a proposal to show to Town Counsel.

## **OLD BUSINESS**

### **A. Intermunicipal Agreement for Muddy Creek Restoration Bridge Project – *vote to sign***

Mr. Merriam stated that the proposed agreement is with Chatham to construct a culvert at Muddy Creek and it has been vetted by Town Counsel. He said the only outstanding issues would be how many members would be on the committee and who would be the appointing authority. He recommended that there be three members of each community appointed by the Board of Selectmen. Mr. LaMantia commented that he thought it was odd that we would agree to this without a dollar amount. Chairwoman Cebula suggested adding language that the planning portion is being funded at \$225,000 from each Town less any grants received. Mr. Hughes suggested we recognize that each Town is already authorized for design purposes at \$225,000 to initiate this activity. Chairwoman Cebula added that further debt should come back to the respective Town. Mr. McManus moved to approve the agreement with the addition of the recommended language in the new section 2D that recognizes the \$225,000 already committed from each Town for the planning. Mr. Hughes seconded the motion and the motion carried by a unanimous vote.

### **B. Surviving spouse health insurance contribution rate – *discussion/possible vote***

Chairwoman Cebula reported that Mr. Merriam asked Town Counsel if we can have a two-tier surviving spouse rate and the answer has clearly come back as no. Mr. McManus said that we need either Town Meeting vote or ballot vote and given that we have a positive Town Meeting vote he moved to continue it at 75%. The motion was not seconded. Mr. LaMantia said we should ask Town Counsel if there is another way of doing it. Mr. Merriam pointed out that Town Counsel has already opined that Town Meeting vote does suffice for the Board to increase the contribution rate above 50%. He added that funding it is not a legal question and he questioned what source of revenue he wants to use to pay the difference. Chairwoman Cebula asked Mr. LaMantia how he would like the question worded for Town Counsel. Mr. LaMantia stated that he would like Town Counsel to tell us a legal way, operating within the law, to be able to pay the current group at one percentage and another group at a different percentage. Chairwoman Cebula asked Mr. Merriam to pose the question to Town Counsel and bring it back to the Board.

### C. Facilities Management/Maintenance – *discussion*

Chairwoman Cebula noted that the person invited to be involved in this discussion on external facilities management could not attend tonight's meeting and this item will be rescheduled. She noted that the discussion will include in-house maintenance versus outsourcing and the pros and cons of each.

- Status report on Regional Dispatch – *Town Administrator*

Mr. Merriam outlined the attached memo dated October 1, 2012 from the Police and Fire Chiefs:

As per your request, this report is intended to describe the proposed changes to the Harwich Dispatching function, which should improve efficiencies and stabilize, if not reduce costs.

#### Current function

The County Sheriff Regional Dispatch Center, a State function located within a Federal Fire Station at Otis, serves as Harwich's Public Safety Answering Point (PSAP). That is, all 911 landline calls originating in Harwich are first answered by the County Sheriff's Dispatch (Call taking function.) From Otis, the Sheriff's Dispatch forwards the 911 landline calls to Harwich Public Safety, who dispatches the calls between Police and Fire. The County Sheriff also manages the Centralized Emergency Medical Dispatch CEMD function for the entire County, which connects ambulances to Cape Cod Hospital.

911 Cellular calls originating on Cape Cod are received at Framingham State Police (Call Taking function) and if requiring Harwich Police or Fire Services, are transferred to the Harwich Public Safety Building.

Harwich is the first Cape Community to build a joint public safety dispatch center, which receives not only transferred 911 calls from the County Sheriff and State Police, but non emergency / business calls. The Telecommunications function is managed by the Deputy Fire Chief, with input from a Police Lieutenant. The joint public safety dispatch is staffed at all times by two civilian dispatchers working 10 hour and 14 hour rotating shifts year round. The annual budget for eight full time employees plus a part time position and all related benefits exceeds \$600,000. With a quarter of the fiscal year past, the Tele-communicators' overtime account is 47 percent expended.

#### Proposed Long Term Changes

The Cape Police and Fire Chiefs Associations and the Barnstable County 911 Steering Committee have endorsed a position paper which calls for a single dispatch center for the

entire Cape with appropriate staffing levels based on call volumes, efficiencies and the latest next Gen technology, including tech support for locating vehicles which optimizes response times. The single center would require oversight by a Governance Board consisting primarily of Local Government Officials. The Police and Fire Chiefs believe that dispatch is a local function which Local Government should be responsive to. This local control of dispatching deviates from the relationship of eight Cape Fire Departments, who currently contract directly with the Barnstable County Sheriff to perform the dispatching (not just call-taking) function. (The County Sheriff's Dispatch does not currently perform any police dispatching which represents approximately 83 percent of all calls for service). Given that this single center is estimated to require at least three years to achieve, there is time and an opportunity to transition between the current status quo and the single center.

#### Proposed Interim Changes

With the high cost of Harwich's dispatch function, including the cost of Tele-communicator/ Dispatcher vacancies and overtime budget shortfalls, Harwich has approached the Barnstable County Sheriff for a quote to take over Fire Dispatch at Otis. The Sheriff has received and provided similar quotes from Chatham and Eastham for fire dispatching only. The Sheriff is close to, if not already at, capacity at the Otis facility.

The quote is \$18.50 per incident plus an annual user fee of \$20,000 or \$94,000 annually based on 4,000 estimated calls. There is also a one time cost of \$44,536 set up fee if the equipment is re-located to Otis. Harwich only Police dispatching could continue at the Public Safety Dispatch run by Chief Mason with a full time civilian hired to respond to non-emergency calls for service.

An alternative regional interim solution proposed is for the Harwich Public Safety Building to host Fire Dispatch for Harwich, Chatham and Eastham via a contract with the County Sheriff. The key will be defining the relationship between the communities, the County Sheriff and /or possibly Barnstable County itself. That agreement would define the organizational structure, administration and budgeting, including whether the Dispatchers would remain Local Government employees, Barnstable County employees or County Sheriff/State employees. (The Inter-municipal agreement ought not to mirror the current contract between the Sheriff and the eight Cape Fire dispatch communities). Potential model agreements include the Essex County Sheriff model, the South Shore model or the Nashoba Valley / Fort Devens model. The interim regional Police dispatch solution would be centered at and managed by the Chatham Police Department. Chatham PD would host Harwich, Eastham and Wellfleet.

The regional Police Dispatch proposal would not include a contractual relationship with the County Sheriff. The proposed interim solutions involving Chatham, Eastham and Wellfleet are preliminary in nature and would require development of a cost / benefit

analysis.

Fire Chief Norman Clarke  
Police Chief William Mason

Chief Clarke stated that they have come to the conclusion that we need to send the fire dispatch to Otis as the technology and infrastructure are there. He reported that the unions have been very cooperative. He recommended that we move forward on this quickly and that the Selectmen inform the Sheriff that we want to transfer our fire dispatch to the county as soon as possible and allow both he and Mr. Merriam to enter into discussions as to how that is going to be managed. He stressed that this is very time sensitive.

Mr. Ballantine moved that we follow Chief Clarke's recommendation and authorize the Town Administrator and Fire Chief to contact the Sheriff to move the fire dispatch to the Sheriff's Regional Dispatch. Mr. Hughes seconded the motion and the motion carried by a unanimous vote.

## **NEW BUSINESS**

- Private Road Betterments Policy revision – *first reading*

Mr. Merriam stated that we have a new betterment proposal for Skinequit Road in which 4 of the parcels are owned by the Harwich Conservation Trust, an exempt organization, and 2 lots have frontage on Skinequit Road but access via Depot Road. He stated that the petitioners have come to us and are willing to work with us to not include those 6 parcels and he would like the Board to concur with this amendment before we work with the petitioners.

Mr. McManus stated that Skinequit Road has some unique situations which we probably don't see on any other road in Town and he doesn't agree that we should alter our policy to respond to a very unique situation. He stated that if the abutters are willing to excuse the 6 lots they need to come to an agreement in apportioning the betterments. He commented that he doesn't want to set a policy to exclude all tax exempt parcels and noted that in some cases there are tax exempt parcels that more of a burden on the infrastructure so it may not make sense to exclude them all.

Mr. LaMantia suggested adding the words "approved by the Board of Selectmen" after "tax exempt status." Chairwoman Cebula suggested stopping the last sentence of the second paragraph at "zoning requirements" and then adding a new sentence that states "Tax exempt status to be declared by Board of Selectmen." The following changes were also agreed upon: removing "etc." from the second paragraph, removing "taxable" from

the first paragraph, end the second paragraph after “vacant parcels,” and the third paragraph should say “The only exemption to the above policy is if a vacant lot is clearly not buildable due to zoning requirements or has a conservation restriction.” Mr. McManus noted that this does not require a public hearing but must be before the Board twice before it can be voted.

## **TOWN ADMINISTRATOR’S REPORT**

Mr. Merriam delivered the following report to the Board:

### Allen Harbor update and 2)County dredge of mooring field

We continue to receive Burnham requests for more information and Coastal responds and provides Burnham with Notice to Proceed. Coastal insists that they’ve provided final coordinates/ template, with Burnham claiming that they’re not final.

### Assistant Town Administrator position

The Screening Committee has decided that there is no one applicant that matches the job skills required for the position after interviewing 13 candidates in the first round and two in the second round. Therefore, I will re-advertise for new applicants.

*Mr. McManus said he doesn’t believe the salary range is high enough to get the person we expect and we are not going to get any better results a year later with the same salary. He recommended taking a break for a week or two to do some salary comparisons and then adjust the salary accordingly. Chairwoman Cebula said they would have to adjust the job description and not just the salary because that is unfair to the rest of the employees in the same situation. Mr. Ballantine said we need to re-look at the job description and advertisement but also thought salary could be an issue. Mr. Merriam agreed to provide a salary survey to the Board.*

### Route 137 detours from Lt. Gagnon

Here is the updated information on the Route 137 reconstruction project, phase 2 which is now scheduled to begin on Tuesday, October 9.~ Please note that a major change is that for safety purposes, school busses will need to follow the detour and only travel south on Route 137.~ Please distribute and publish as possible

## **Route 137 Traffic and Detour Information**

Beginning October 6, 2012 (weather permitting), Route 137 between the area of Route 6 to Route 39 will be closed to northbound traffic from the hours of 7:00 A.M. until 5:30 P.M., Monday through Friday for no longer than three to five weeks. During this time local businesses will be open and accessible. This road closure will allow for the

expedited widening and roadway replacement in this area. During the time of the road closure, police personnel and signage will be present to direct citizens around the closed area via detours. During this road closure, access will be allowed to residents and businesses in the affected area by Route 137 Southbound only (the direction of Route 6 towards Chatham). The major detour will take motorists traveling from the Chatham and South Harwich Area along Route 39 to north on Pleasant Bay Road back to Route 137 near Route 6.

**RESIDENTS OR THOSE NEEDING TO REACH BUSINESSES WHO LIVE/ ARE LOCATED ALONG OR IMMEDIATELY OFF ROUTE 137 IN THE CONSTRUCTION ZONE ARE ENCOURAGED TO SPEAK WITH POLICE OFFICERS AT BARRICADES FOR EASIEST ACCESS TO YOUR HOME/ BUSINESS.**

**DURING THIS ROAD CONSTRUCTION, FOR SAFETY PURPOSES, SCHOOL BUSES WILL HAVE TO FOLLOW THE DETOUR ROUTE AS WELL AND ONLY TRAVEL ROUTE 137 SOUTHBOUND THROUGH THE CONSTRUCTION ZONE TO PICK UP AND DROP OFF STUDENTS.**

To aid in the public notification the Harwich Oracle, Cape Cod Chronicle, and Cape Cod Times, will be provided with information about the road construction. In addition, Channel 18, the Harwich Police Face book page, Harwich Highway Department Web Site, Electronic sign boards, radio stations and various other media will be used to keep the public up to date as to any available information.

MOU with Chatham re: closed loop pressure wash water cycle system

I have asked Harbormaster Rendon and Town Counsel to review prior to signing. Jill Goldsmith has requested expediting before we lose State grant.

HJT response by Bob Doane to Utility payments for Old Rec Building

I have consulted with the Executive Board and have the following comments and answer regarding the utilities:

It is important to note that by not repairing/replacing the windows within a year of the start of the lease, the town has breached its overall commitment to HJT, but we have still honored our commitment in a number of important ways, and we appreciate that the town has done the same.~ The fact that the town has not passed on the responsibility of the utilities is appropriate given the windows have not been completed.

The HJT is willing to pay the utilities once the storm windows are installed.~ For



budgeting purposes, we request that the town give us a monthly itemized utility costs since the inception of the lease.

The HJT wants assurances that the storm windows may be opened during the summer since the building does not have air conditioning and relies on working windows for cross ventilation.

The HJT needs a firm commitment and schedule on the actual rehab/replacement of the windows, including air sealing/insulation around the casings, such that the “startup” contract terms are finally satisfied and we can schedule our interior renovations.

The delay in addressing the windows has raised concerns of the HJT Board of Directors.~ The clock has been ticking on the lease, which already represents a challenge in fundraising in that the term of the lease is considered short for capital donations by foundations and benefactors.

We invite a Board of Selectmen representative or Jim Merriam to attend our next Board of Directors meeting and give an update from the town.

Sincerely,  
Robert Doane

#### CCMHG audit

CCMHG is performing a dependent coverage audit system-wide.

#### East Harwich grant

Dave Ryan submitted his accounting of the East Harwich grant on October 2<sup>nd</sup> as requested.

#### MOA

The Harwich Permanent Firefighters have signed an MOA with The Town which addresses Unit B Emergency Telecommunication Dispatchers (see attached).

#### South Meetinghouse

Attached is an update from Judy Ford regarding the progress underway at the South Meetinghouse.

#### Chamber of Commerce news

Jeremy Gringas reports that Restaurant Week was successful with business up 25% over last year's event. A few restaurants i.e.; Port and 400 East are extending through October.

The Local Chamber is sponsoring a Youth Leadership program at Monomoy and Tech, using Chamber members (see flier from Harlingen, Texas). Jeremy also mentioned that Family Diner (50's Restaurant) is renovating the former Friendly's property and should open soon.

#### Hoarding Conference

November 16<sup>th</sup> Community Center 9am-2pm. See flier

#### Finance Committee appointment

Moderator Ford has appointed Jack Brown to the Finance Committee with a term expiring June 30, 2014.

#### OpenCape

Foster Banford and I attended the open house for the new Collation Center in Barnstable Village. They recognized Dan Gallagher who is retiring and provided an update of the fiber project.

#### New Veterans Tax Work off program

This is a similar program to senior work off program. Please read attached program description and determine if you wish to add to the next Town Meeting warrant.

#### DPW Loader Engine replacement (will seek RFT request)

Per your request, I am sending you this email summarizing our discussion yesterday between you, Charlie Tuominen, DPW Master Mechanic, and myself regarding the Disposal Area's 2005 Volvo Front End Loader.~ Approximately 3 weeks ago Disposal Area personnel noticed that our newest L90 Volvo front end loader with 12,000 hrs on it was consuming engine oil.~ Upon further investigation Charlie determined that there was oil in the coolant system.~ Although there is no test to determine the cause of this cross contamination, it is usually the oil cooler that is at fault.~ Charlie replaced the oil cooler and gaskets only to determine that the problem had not been fixed.~ The next~likely cause would be~a head gasket~or~a cracked head.~ Charlie~removed the head and gasket and sent the head out to be x-rayed, which showed no cracks.~ Upon reassembling~the~engine he was skeptical~that the problem was addressed as he saw no~visible signs~of failure on the head or gasket.~ The~loader~was not fixed and is now redlined while we determine the next step.~ Please be advised that Charlie was consulting an excellent~Volvo mechanic during this entire process who now recommends a~factory remanufactured engine replacement.~ This is Charlie's recommendation as well.~ ~

~

The two options that we are faced with are to purchase~the remanned~engine or to disassemble~our engine and send the block out~to be~x-rayed.~ The~problem~with the second option is that we could spend all this time, money and down time and still not

have found the problem.~ Further, if we rebuild the engine ourselves, which Charlie and his mechanics are more than capable of; we will have~absolutely no warranty on the engine.~ The remanufactured engine comes with a full one year warranty and costs approximately \$19,000 (see attached quote).~ If we attempt to rebuild the engine ourselves the parts alone will cost an estimated~\$8,000~with the uncertainty~that~the engine is fixed.~ The Town~has had excellent history with Volvo equipment and engines and even~has a 1994 Loader with almost 28,000 hrs on the original engine.~~

~

Under normal circumstances I would not be requesting your, Dave's or Fincom's consideration for an emergency fund transfer so early in the fiscal year.~ However,~the DPW has had a~tough beginning to FY 13 with regards to vehicle maintenance and Charlie has spent approximately 50% of~the repair budget with only~25%~of the~fiscal year gone.~ Although line item 5489 indicates that we have \$117,332 left in the vehicle maintenance budget, please recall that \$66k of the \$210k~belongs to the Fire~& Police departments.~ With a~DPW budget of \$144k, we have spent \$72,072 to date (see attached~Transaction history for 5489).~

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Thank you for your consideration in this matter.~ I await your decision.

~

Lincoln Hooper, Director

#### Request to replace 60 Voting booths

John Eldredge recommends that we replace 60 voting machines ASAP. Can we use the town repairs #011912-524300 FY budget 13,868~current balance, for FY 2013? Total cost with freight is \$ 8,625.94

Fin Com doesn't meet again until just before the Election.  
David R.

Ann's research on BOS Discrimination policy. (Ann also recommended to Linda that we have a first reading on it as well as the proposed Scent Free Policy)

After much detective work, this is what I came up with on the Public Notice of Non Discrimination that Paul says the Board adopted.~ The public hearing was for the ADA Policy.~ He interjected in the hearing that there actually 2 documents one of which he called a "public notice" (see below).~ I wouldn't say the Board adopted this as a policy.~ It wasn't advertised in the newspaper as such and the public didn't get to see it in advance.~It was just sort of slipped in.~ How do you want me to handle this.~ I think the Board should treat it as a new policy.

- Public Hearing - ADA Grievance Policy – *continued from April 12 meeting*

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Mr. Wilkins read the hearing notice into record. Chairman McManus noted that this

hearing is a continuation from April 12 and as such is still open. Ms. Canavan, Chairman of the Disability Rights Committee, noted that the Committee reviewed this at length through the research of Mr. Erickson and have found that it was very adaptive to anyone that has disabilities to be able to utilize without any difficulty and recommended that the Board accept it.~ Mr. Erickson noted that the Committee had submitted an alternative document and the Board responded that they do have it and Mr. Ballantine commented that it was a big improvement. Mr. Erickson further noted that there are two documents which include a grievance procedure and a public notice. He noted that the public notice was not offered by the Planning Department but it is part of the law. Mr. Erickson noted that it should be posted on the website as well as various appropriate places in Town as well as in a newspaper of general circulation. Ms. Carey agreed to post it at the Community Center. Chairman McManus noted that it would be appropriate to post at Town Hall, the Library, Public Safety Facility, Public Works barn, and at our schools. Mr. Spitz noted that Mr. Erickson's version was a lot better and he supports it. With no further comment from the public, Chairman McManus closed the public hearing. Mr. Ballantine moved to accept the Americans with Disabilities Act Grievance Policy including the posting document. Mr. Cole seconded the motion and the motion carried by a unanimous vote.

*Ann Steidel*

*Board of Selectmen/*

#### Brettwood Road

Attached is a letter from Charles Barnes, noting the poor road condition, potential liability and seeking a paving schedule. This complaint has been forwarded to Lincoln Hooper.

### **SELECTMEN'S REPORT**

Chairwoman Cebula requested that the group that was doing the facilities review come before the Board and report where they are. She also noted that we are moving forward on creating email addresses for the Board of Selectmen and Committees.

### **ADJOURNMENT**

Mr. Ballantine moved to adjourn at 9:43 p.m. Mr. Hughes seconded the motion and the motion carried by a unanimous vote.

Respectfully submitted,

Ann Steidel

Recording Secretary