

# **Board of Selectmen Minutes**

## **11/13/2012**

**MINUTES**  
**SELECTMEN'S MEETING**  
**GRIFFIN ROOM, TOWN HALL**  
**MONDAY, NOVEMBER 13, 2012**  
**7:00 P.M.**

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

**OTHERS PRESENT:** Town Administrator James Merriam, Chief Clarke, Paul Erickson, Wayne Kucha, Wil Remillard, Dr. Kocot, and others.

**MEETING CALLED TO ORDER** at 7:12 p.m. by Chairwoman Linda Cebula.

Chairwoman Cebula reported that the Board had just come out of Executive Session where they were doing some strategy in preparation for negotiations with non union personnel and collective bargaining.

### **WEEKLY BRIEFING**

Chief Clarke introduced Firefighters/Paramedics Eric Diamond and Jason Boyne who were deployed as part of a FEMA task force for Hurricane Sandy relief efforts. The Board thanked them on behalf of the Town for their participation in this effort and everything they have done. They took questions from the Board about the operation.

### **PUBLIC COMMENT/ANNOUNCEMENTS**

Wayne Kucha expressed safety concerns over hunting in the Bells Neck Conservation Area. He stated that the current usage for hiking and various recreational activities does not co-exist with hunting and added that there is a lack of signage. Mr. Ballantine noted that this matter was referred to the Conservation Agent and Chairwoman Cebula asked Mr. Merriam to follow up with the Conservation Agent and report back to the Board.

### **CONSENT AGENDA**

- Approve Minutes – November 5, 2012 Executive Session
- Approve list of 2013 Annual General License Applications Renewals and new

2012 Auto Repairman License

- Approve application for 35<sup>th</sup> Annual Irish Pub Road Race
- Vote to approve the contract for design of the Crowell Barn to Ellison Timberframes in the amount of \$8,500
- Approve amendment of Private Road Betterment Policy
- Vote to refer Skinequit Road Betterment to the Planning Board for Public Hearing
- Reaffirm vote from classification hearing of November 5, 2012 to select a factor of “1”

Mr. Ballantine moved to approve the Consent Agenda Items A through F. Mr. McManus seconded the motion. Mr. McManus said he would like to add to the contract for Item D the following language under “Article 1 – Scope of Work”:

“The consultant shall provide a list and documentation of the condition of all materials salvaged in usable condition from the disassembled barn that is to be used in the rebuilding. Documentation can be by description or photograph.” and “In the final drawings the consultant will identify the location of all timbers and lumber that will come from salvaged materials and that which will be built from newly acquired materials.”

Mr. Gingras asked to extend the deadline to February 15 and said he had no objections to adding these items to the contract. The motion carried by a unanimous vote.

With regard to Item G, Mr. Ballantine moved to:

- Select a factor of “1” (taxing all property at the same rate)
- That we do not grant an open space exemption
- That we do not grant a residential exemption
- That we do not grant a small commercial exemption

Mr. McManus seconded the motion and the motion carried by a unanimous vote.

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

A. Annual Meetings with the Board of Selectmen

1. Cemetery Commission

Mr. Remillard delivered the annual report of the Cemetery Commission.

2. Board of Health

Dr. Kocot delivered the annual report of the Board of Health.

### 3. Zoning Board of Appeals

No one from the Zoning Board of Appeals appeared before the Board.

- Disability Rights Committee

Mr. Erickson delivered the annual report of the Disability Rights Committee.

### **OLD BUSINESS**

#### A. Joint statement from Chatham/Harwich relative to Waste Treatment – *discussion & possible vote*

Mr. Ballantine moved to approve the joint statement from the Boards of Selectmen from Harwich and Chatham relative to the wastewater treatment that's in our agenda. Mr. Merriam said the intent is to negotiate an inter-municipal agreement by the end of the fiscal year. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

- Recommendation for award of contract for design and engineering for the Route 124 TIP project to Vanasse Hangen Brustlin, Inc. in the amount of \$313,613 – *discussion and possible vote to authorize Chair to sign*

Mr. McManus moved to approve the contract with no changes. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

- Harwich Fire Dispatch Contract – *discussion/possible vote to sign*

Mr. Ballantine moved to accept the Conditions and Operating Policy for the operations of the Fire Dispatch Center for the Town of Harwich by the Barnstable County Sheriff's Office as stated in our meeting agenda. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

- Re-grade Assistant Town Administrator position – *discussion/possible vote*

Mr. Merriam recommended regrading the Assistant Town Administrator position to a Grade M5 on the Classification Plan. Mr. McManus stated that a Grade M6 would be more in line with what our neighboring towns are paying and Mr. LaMantia agreed. Mr. Merriam responded that internal comparison doesn't justify a Grade M6. Mr. Ballantine suggested that business experience should be indicated in the advertisement. Mr. Ballantine moved to accept the Town Administrator's recommendation that we regrade this to an M5 position. Mr. LaMantia seconded the motion. Mr. McManus stressed that we are selling ourselves short for the individual we would like to get. Chairwoman

Cebula responded that she didn't think M6 was the same level of responsibility and Mr. Ballantine agreed. Mr. McManus said that M6 is in line with the survey and Mr. Merriam stated that we need a balance between internal and external comparisons. The motion carried by a 3-1-0 vote with Mr. McManus in opposition. Chairwoman Cebula directed Mr. Merriam to have the advertisement ready in the next week.

## **NEW BUSINESS**

### **A. Notice of Non-Discrimination Policy – *first reading***

Mr. Erickson outlined the draft policy. Mr. Ballantine said he may have some comments to give to Mr. Merriam on this policy. Chairwoman Cebula asked the Board to provide Mr. Merriam with comments so this could be brought back next week. No action was taken.

### **B. Scent-Free Policy – *first reading***

Mr. Erickson outlined the draft policy. The Board discussed the policy with Mr. Erickson focusing on the issues of policing, out of town meeting attendees, committees with regulatory deadlines, etc. Mr. LaMantia said we should go forward with this for the Disability Rights Committee and make it available to other committees but he sees too many complications with it. Mr. Ballantine suggested adding "this is a scent free meeting" to the agenda and Chairwoman Cebula stated that she would be more comfortable with "please refrain from wearing scented products." Mr. McManus suggested changing the language "Chair will table" to "Chair may table." Chairwoman Cebula stressed that we need to think it through carefully so that in our quest to accommodate one group we don't leave out a different group. Ms. Burke stated that the person wearing the scent has a choice to wear the scent but the person with the disability does not have a choice. She noted there are easy mitigation efforts and the law says you have to have access to everyone. Chairwoman Cebula reiterated that we don't want to disenfranchise anyone. Mr. Erickson said he has three other documents on this issue that he will forward to the office for their review. Chairwoman Cebula stated that the second reading will likely be next week.

### **C. Consider nominations for 2013 Harwich Hall of Fame – *discussion & possible vote***

Chairwoman Cebula reported that the nominees are Chester Snow, Earle F. Bassett, and Anthony Elmer Crowell. Mr. Ballantine moved to accept recommendations for the three nominations to the Town of Harwich Hall of Fame. Mr. LaMantia seconded the motion and motion carried by a unanimous vote.

- Clarification of appointment procedures – *discussion & possible vote*
- Mr. Merriam reviewed his memo on clarification of appointment procedures (see attached). Mr. LaMantia said that the procedure for appointment to a regular Charter committee should be included. Chairwoman Cebula stressed that resignations should not be on the Board's agenda until they are stamped in by the Town Clerk and this should be clarified in the document.

## **TOWN ADMINISTRATOR'S REPORT**

Mr. Merriam delivered the following report to the Board:

Re: NOTIFICATION OF CERTIFICATION - Harwich

Dear Board Members:

The Commissioner of Revenue has determined that the locally assessed values of real and personal property in your municipality represent full and fair cash valuation as of January 1, 2012 for fiscal year 2013 and that these proposed property assessments satisfy the minimum requirements for certification.

The Commissioner further certifies that:

- all real property has been classified according to its use as of January 1, 2012 as required by Chapter 59, § 2A(b).
- a majority of the assessors have been qualified to classify property by their
- attendance at a classification workshop conducted by the Department of Revenue.

The community must now hold a public hearing on the issue of selecting a residential factor, which will determine the percentages of the tax burden to be borne by each class of property for fiscal year 2013. Prior to the hearing, we urge you to promote public understanding and discussion of the options available to the town in regard to allocating the tax burden among major property classes. The Selectmen or the City Council with the approval of the Mayor may elect a factor greater than the minimum residential factor, or a factor of "1" which will result in a uniform allocation of the tax burden among all classes of property. In addition, they have the option of granting an open space discount, residential exemption and small commercial exemption.

It appears that you are progressing satisfactorily in complying with your responsibilities under the classification law. It is important that you complete the final steps expeditiously so that tax billing will not be delayed.

If you have further questions or require assistance in completing the final steps for a classified tax system please contact the Bureau at (617) 626-2300.

Marilyn H. Browne, Chief  
Bureau of Local Assessment

### State Revenues

The Boston Globe wrote that A&F Secretary Jay Gonzales reported that State Revenues are running \$250m behind projections through October.

### Assistant Town Administrator

In this packet, you have copies of the ATA Job Descriptions for the Towns of Yarmouth, Barnstable, Sandwich, Dennis and Mashpee. Richard Grunderson also forwarded Abington and Wayland's job descriptions too. Wayland ATA also serves as HR Director. Each has some supervisory responsibilities, like Harwich's revised JD.

1) In Dennis, the ATA supervises the Finance Depts and clerical staff, performs many HR functions.

2) Yarmouth's ATA supervises the 49 FT staff of the Dept. of Community Services, including Golf, IT, Libraries, NR, Rec, Senior Services and Town Clerk and serves as liaison to Personnel Bd.

3) Barnstable's ATM supervises 72 FT/PT representing 3 Depts.

4) Mashpee's ATA supervises Finance Dept., clerical staff and all employees in absence of TA.

5) Sandwich's ATA supervises COA Director, Golf Director, Harbormaster, PH Nurse, Director of Planning, Natural Resources, Building Inspector, Rec Director, IT, and general oversight of Health, Library Dir. Town Clerk and Facilities Dir.

### Water Dept. Cell Tower legal opinion

Attached is a legal opinion from Town Counsel advising to seek Town Meeting authorization to lease the land, then seek an RFP from vendors to lease the land for purposes of constructing a cell tower.

### Red River flood controls

Thanks for mentioning that. I was at the site on Tuesday, pretty much after the storm was over, and saw that the water levels in the Middle Marsh were still very high, but likely not as high as you saw them during the storm. I know the gate was closed fairly early (Friday morning) due to the possible arrival of the storm over the weekend, so the water had several days time to build up in the Middle Marsh, which was certainly not ideal. Maybe we should consider keeping the gate open 6 or so inches next time, to allow some small flow into the Upper Marsh and also help relieve the water build-up in the Middle Marsh (and incorporate that into the O&M plan). We will also check the water levels from the loggers and review the surrounding property elevations. Thanks again for the input. This should help us refine the plan.

Martha Reinhart

Disability Rights Committee request- bookmarks

She (Carla) has access to the agendas and packets ok and can "read" through them OK.~ The problem is being able to jump from the Bookmarks on the left frame of the PDF file directly to the area in the packet where the supporting material is located.~ She has access to all of the material but has page through everything or manually search. I should meet with her again and see if any additional key combinations in Adobe Acrobat would help her find items in the packets.

Foster

CCC Information Sharing Agreement (see document in office)

Attached, please find the draft data sharing agreement that was discussed at the SmarterGovernment Steering Committee meeting on Monday.~ Each town has a signature page that can be printed separately – please mail back 3 originals to me. I am happy to answer any questions you may have.~ We would like to have the agreement finalized in December so I would appreciate any comments or suggested edits as soon as possible and signatures by November 30, if possible. Thanks very much for your time.

Kristy

Chatham Shared funding for Muddy Creek grant writing with Carole Ridley

I discussed budget status with Jill Goldsmith and Jim Merriam (via conference call) and we agreed to fund an additional 100 hours of your time for the additional grants, RFP evaluations, etc.

In accordance with the IMA that has been signed for the project this additional 100 hours will be split 50/50 between Chatham & Harwich so you'll need to provide an invoice to each town reflecting this.

My records show a balance in the original PO (original 100 hours) of \$2,832.00. This would leave a balance in the November 7<sup>th</sup> invoice of \$1,600 which should be split between Chatham & Harwich. Therefore, new invoice totals would be Chatham - \$3,632.00 and Harwich - \$800.00.~ All future invoices would be split.

Please let me know ahead of time when we approach the 2<sup>nd</sup> 100 hours so we can avoid exceeding the agreed to amount of time. Any questions give me a call.

Robert A. Duncanson, Ph.D.

Harbormaster Office

Jim,

I came in a little early this morning to try to get some paper work done only to find my desk full of water.~ Water is pouring in the through the roof... all of my professional books and files that I had on the bookshelf above my desk are soaked... ruined.~ My computer monitor and keyboard were sitting in a puddle of water.~ The new 800 MHz radio charger that the Fire Chief gave me is full of water... likely ruined.~ My planner and files that I had on my desk are soaked.~ It's very frustrating Jim.

My staff and I have slowly been trying to make some minor improvements to the back office, just to make it a bit more livable and professional looking; we pulled the 3 layers of old, moldy carpet that was on the floor, we replace one of the old single pane windows to try to make it a little warmer, we've had an electrician come in to upgrade the old and improperly wired electrical outlets in the office, we've been trying to get the phone lines on the inside of the building replaced so we can actually use the phones without the loud buzz that currently exists.~ We intended to install hardwood on the floor, put some panelling on the walls, and sheet rock the ceiling... I have to put all that on hold now that I have all this water flowing in from the ceiling.

This really is an unsatisfactory condition here... it's very frustrating.~ Something needs to be done sooner than later to improve the working conditions here.~ Thanks for listeniing, and I would appreciate your support in making the repair/renovation/complete rebuild of this building a priority.

v/r, John

#### Allen Harbor update

As of 11/7, Burnham Associates had only dredged 2500c.y. We've scheduled a meeting for 11/9 to discuss production schedules prior to the 1/15 Time of Year restriction. Bob Cafarelli has prepared this report describing our options with the remaining 8,000.c.y in the southwest mooring field. Options include the County Dredge/ settling basins at Pleasant Rd and Earle Rd/ deposit at Transfer Station or:  
Change order with Burnham Associates

#### ALLEN HARBOR DREDGE 8000 CUBIC YARD SURPLUS MATERIAL

It was calculated that there is an excess of 8000 cubic yards to be dredged beyond the 44,000 cubic yard contract amount to be handled by Burnham for the completion of the Allen Harbor dredge limit to 7' depth. This is located in the mooring area of the south west section of the basin.

It is proposed to hire the County Dredge operation to remove the 8000 cubic yards in the mooring area during the winter months. Two settling basins are proposed to be created, one in the Pleasant Road Beach parking area, and one in the Earle Road Beach parking area. A sand berm would be created in each lot from pumping sand in the Herring River and Allen Harbor Channels. This is a clean sand material. The berm would be 12 feet high on the sound side, and less northward as the parking lots rises. Once the berm is created, the 8000 cubic yards of material from the Harbor mooring field will be pumped into the basins. This material is said to be the consistency of molasses. The material will be pumped into the southern section of the basins with an outlet at the upper northern section of the basin to discharge excess clear water. The dredging operation should last about two weeks, during which time odors may be detected. The material will be allowed to settle for two months, during which time the solids will settle, and the clear water on the top will be decanted through a weir box with batter boards. Liquids will infiltrate through any portion of the settling basin that is located off of the paved area. After two months of settling, the sand berm will be mixed with the dredged material for better consistency, and the mixed material will be trucked to the designated solid waste site per the Town's BUD permit.

DEP has recently permitted the disposal of this material at the Town's site. The Town's Conservation Commission has approved this operation during their November 7 meeting.

#### COSTS:

The County cost for the estimated 8000 cubic yards to create the berm is \$7 per cubic yard. This equates to \$56,000.

The cost for the 8000 cubic yards of dredged material is \$11 per cubic yard due to the need for a booster pump. This equates to \$88,000.

The total is \$144,000.

This does not include the cost for sand mixing, removal, and trucking to the Town site which will be done by the Highway Department.

The Burnham contract specifies \$59 per cubic yard dredged. If Burham were to handle the 8000 cubic yard excess the cost would be \$472,000. The out of pocket Town savings for this is \$298,000, again not including the Town Highway costs to remove and truck the material from the parking lot sites to the Town yard.

#### Regional Dispatch

- interim solution –contract with Sheriff for Fire Dispatch at Otis (Sheriff Cummings will pro-rate FY 13 cost starting on date service is provided. We also expect approximately \$44k in equipment costs, which can be paid in FY 14.)
- long term Cape single center- I drafted an IMA and presented to Steering

Committee on 11/6. This iteration contracted with the Sheriff to run the dispatch. It was not well received, but outcome was for Sheriff to serve with 15 Town Governance Board, who hires an Executive Director to manage the single dispatch. I will redraft and present on 11/20.

3) Attached is a sample Letter of attestation that each community will be asked to sign to submit a 911 Grant seeking funds for the single center.

Response to permit processing goal from Geoff Larsen

Jim,

As you requested, in order to provide background information with data supporting the streamlining and shortening time of regulatory reviews by 15% from the last fiscal year, I offer the following review of building permit applications:

~

- Background: In response to a call from the Dept. of Public Safety on 6.8.10 following a complaint to the state regarding a department review that was allegedly over the permitted 30 days, and in violation of 780 CMR 105.3.1, the relevant dept. heads met and determined to dedicate the necessary resources to have all relevant departments to adhere to the building department 30 day review in a strict manner. This decision formalized the methodology of regulatory review of building permits which until FY'11 was routed the same way prior to my appointment in 2005, but not strictly under the 30 day state building code requirement. This dedication of resources at the beginning of FY'11 was initiated and developing prior to the assigning of the TA's BOS goals for FY'12. For the building department this emphasis on plan review has been a factor in improving an ISO score from a 9 to a 5 while with relatively limited resources for inspections another ISO score has not improved as much, only from 9 up to an 8. While the permitting floor has adapted and met many challenges the careful management of the PT Inspector has been refined to help facilitate an apparent shortening of review time from FY'11 to FY'12 as desired by the BOS.

~

- Data: A cursory and random review of 18 building permit applications, their date of submission and the date the permits were issued, one from each month through the first 9 months of the fiscal year, appear to indicate that the review process that predates the BOS assigned TA FY'12 goals was refined to a degree that the 15% BOS/TA goal can arguably be called substantially met.

Conclusion: ~~~~ BOS goal: Shorten time of regulatory reviews by 15%.~

Referenced data above indicates a regulatory review time of Building Permits between FY11 and FY12 streamlined upwards to 40%.~

TA goal appears to be substantially met.

~

Geoffrey S. Larsen, CBO  
Building Commissioner

Office of Disability Change of Law

(see attached memo- ID card to purchase alcohol)

Cape Managers Monthly meeting

We heard a presentation from Falmouth's CWMP member, Win Munro, who is advocating for Eco-toilets as an alternative to sewer construction. Falmouth has an Eco-toilet center to visit at Alchemy Farm. (see attached for details. Win is seeking support from other Cape towns. )

**SELECTMEN'S REPORT**

Chairwoman Cebula brought up the issue of whether the Board wants all contracts in their packets or do they want to handle contracts another way. Mr. Ballantine and Mr. LaMantia indicated that they would like the contracts in the packets. Mr. McManus stated that occasionally the contracts are very large and it would be better in those cases just to put them on the Board's table. Chairwoman Cebula said she didn't want to treat the large contracts differently and noted that there is also an issue of making them available to the public. Chairwoman Cebula further stated that suggestions for changes should get to the person proposing the contract in advance of the meeting to give them a chance to react. Mr. Ballantine stated that the best way to handle that is to have two readings for contracts. Mr. LaMantia suggested a possible two readings. Chairwoman Cebula questioned if all contracts should go to Town Counsel and Mr. Ballantine responded that the decision could be made at the first reading of the contract. The Board did not take a vote.

**ADJOURNMENT**

Mr. Ballantine moved to adjourn at 10:15 p.m. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Respectfully submitted,

Ann Steidel  
Recording Secretary