

Board of Selectmen Minutes

02/25/2013

**MINUTES
SELECTMEN'S MEETING
GRIFFIN ROOM, TOWN HALL
MONDAY, FEBRUARY 25, 2013
7:00 P.M.**

SELECTMEN PRESENT: Ballantine, Cebula, LaMantia, McManus

OTHERS PRESENT: Town Administrator James Merriam, Representative Sarah Peake, Ted Augustine, Paul Erickson, Diane Turco, and others.

MEETING CALLED TO ORDER at 7:00 p.m. by Chairwoman Linda Cebula.

WEEKLY BRIEFING

Representative Peake provided a legislative update to the Board. She reported that she has been appointed by the Speaker as House Chair of the Joint Committee on Municipalities and Regional Government. She noted that two of our Home Rule Charter changes having to do with the change to the Monomoy Regional School District have been signed by the Governor. She stated that she was asked by the Town to contact DEP with regard to the dredging application which she did and the application was approved. She reported that Bill H1872, An Act Authorizing Health Insurance for Elected Officials, never came out of Committee and she has refiled it. She stated that she refiled Bill H775, regarding mooring fee requirements, in an effort to put the language back the way it was before the law was changed to state that a community cannot change differential rates for residents and non-residents. She noted that it would be a revenue benefit for the Town. She added that she filed a Bill H2692 with Representative Turner which gives the Board the ability to put an article on the warrant to close the loophole in the room occupancy tax so that it applies to all overnight accommodations. Representative Peake commented that the Board should not take the local aid and Chapter 70 money "to the bank." She took questions and comments from the Board.

CONSENT AGENDA

- Minutes - February 11, 2013 Regular Meeting
- Vote to approve request by Nstar Electric for permission to install underground

- cable on Lothrop Avenue to provide new feed to Holy Trinity Church
- Vote to approve request by Verizon New England and Nstar Electric for permission to install intermediate pole for transformer on Queen Anne Road
- Vote to accept resignation of Robin Wilkins from the Community Preservation Committee and Middle School Repurpose Committee effective immediately
- Vote to authorize Chair to sign dredge agreements with Barnstable County in the amounts of \$74,800 and \$88,000
- Approve extra work order for dredge project

Mr. Ballantine moved approval of the Consent Agenda. Mr. McManus seconded the motion and the motion carried by a unanimous vote.

Mr. McManus moved to authorize the Chair to sign a letter to Nstar pointing out the fact that we respond in a timely fashion to their requests and that we would hope they would take seriously our requests on our road project and respond. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

OLD BUSINESS

- Scent-Free Policy for the Disability Rights Committee – *third reading & vote to affirm committee policy*

Mr. Erickson, representing the Disability Rights Committee, noted that the Committee discussed the policy at which time they decided to eliminate sections B, C and D which centered on protocol. Mr. Ballantine moved to accept the Harwich Disability Rights Scent Free Policy. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

NEW BUSINESS

- Warrant Article review:
- Article 12 – Fund New Fire Engine
- Article 13 – Fund Ambulance Computers
- Article 27 – Fund Police Computer Replacement
- Article 28 – Fund Garage Door Replacement at Public Safety Facility

Chief Clarke and Chief Mason discussed their respective articles. No action was taken.

- Review One-liners – *possible votes*

Mr. McManus noted that due to information provided by Representative Peake on the State budget, the Board should wait on this and the Board agreed.

- Non-Binding Public Opinion Advisory Question for Ballot – *discussion/possible vote*

Ms. Turco stated that this is a basic public safety question and it has already passed in Dennis and Brewster. Mr. Ballantine said he disagreed with some of the statements in the resolution as it implies that everyone has the same radioactive risk and that there is not a plan. He said that his memory of the facts are different than what is implied in the resolution. Ms. Turco said those comments are verbatim from Director Schwartz. Mr. McManus said he is in favor of this, noting that the power plant is aged and can be prone to certain safety system failures and also it has exceeded its capacity as a repository for contaminated rods. Mr. LaMantia said that the verbage is meant to scare people. Mr. McManus moved to put this in the file to be placed on the ballot as an advisory non-binding. Ms. Cebula seconded the motion for discussion. No further discussion ensued. The motion failed on a 2-2-0 vote with Mr. Ballantine and Mr. LaMantia in opposition. Mr. LaMantia said he might reconsider if it were rewritten to take into consideration Mr. McManus' comments.

TOWN ADMINISTRATOR'S REPORT

Mr. Merriam delivered the following report to the Board:

Allen Harbor update

Attached is a letter from the Division of Marine Fisheries authorizing flounder sled sampling through February 28th.

E-mail confirmation of additional work

This confirms your instructions, on behalf of the Town, to us per your discussion with Ted Augustine, Nick Mucci and our phone conversation of February 19th: You are directing us to dredge an additional amount of payable yardage at West side of Cut 8 and West side of cut 5, adjacent to the current dredge template. This may result in additional payable yardage, pending post dredge survey, above what was originally budgeted for by the Town. The Town has nonetheless agreed to pay for this additional amount, which will amount to ~\$70,800 extra @ 600 cy per measured scow load, (2) scow loads. Because of the urgency of this request from the Town (coming as it does at the conclusion of the project as the permitting window comes to a close), this authorization is being handled via email.

~Please indicate via reply email whether or not I have understood your instructions. ~If this is correct, we can proceed with this work.~

Craig Burnham, President
Burnham Associates, Inc.

Demolition Delay legal opinion

You requested an opinion regarding the proposed “Agreement to Construct Historic Replica of 271 Main Street, Harwich, MA” (the “Agreement”), a copy of which is attached above.

In my opinion, the Agreement is generally proper as to form, provided that two changes are made as follows:

First, I recommend that paragraph four be revised to delete the phrase “submits an application for a Building Permit to construct” and that the phrase “submits applications to demolish the existing structure show on the attached plan and designated with an arrow and for a building permit to construct.”

Second, I recommend that care be taken in the plans to very specifically designate which structure is the structure that is to be demolished and replicated as that is not the case with the above plans.

Third, I recommend that the findings of fact set forth below be made regarding the property, if they have not been made already.

- The subject property located at XXX (the “Property”).

- The Property is/is not in the Historic District.
- The Property has a structure (the “Structure”) located on it that is/is not open to view from a public street, public way, public park or public body of ~water, as required for the Commission to exercise its jurisdiction under G. L. c.40C, §5.
- The Structure is/is not the subject of a Notice of Intent to Demolish under GBL §131-8.
- The Structure is/is not historically significant.
- The work proposed for the Structure would/would not destroy or substantially diminish the Structure’s historic value under GBL §131-11. ~
- A demolition of XXXX (i.e., insert a time period of up to one year) would/would not be appropriate under GBL §131-11.
- The owner offered an alternative to the Commission to the demolition of the Structure by offering to demolish the Structure, but to replace it with a historic replica as shown in a plan titled XXX and dated XXXX (the “Plan”).
- The alternative to the demolition of the Structure so as to demolish it but replace it with a historic replica as set forth in the Plan was found to be acceptable/unacceptable under GBL §131-12 because:

[Insert reasons and any conditions here, including, if the Agreement and Plan are accepted, the following:

A separate written agreement has been reached (the “Agreement”) and is attached hereto as an Exhibit together with a copy of

the Plan.~ No work in connection with the Structure shall be done except in accordance with the Agreement and the Plan.]

Ilana M. Quirk, Esq.
Kopelman and Paige, P.C.

DLTA application filed-regional permitting
The County was unsuccessful in getting the Year 2 CIC grant for implementation of regional permitting.~ As a result, Ed Senteio is now looking for other funding sources to get Year 2 done, including implementation for Provincetown and Harwich.~ As you can see below, he is suggesting use of DLTA funding from the Cape Cod Commission.~ I agree.~ We can provide up to \$20,000 from Foster's FY13 technology budget for matching funds.~ That money is budgeted for licenses, but we will not need to buy our 1st licenses until FY14.

Ed Senteio is preparing a draft DLTA funding application (it was actually due yesterday but we are being given a few extra days to get it in).~ I would like to review the application with you on Tuesday.

Additional Community Center revenue
In the May 16, 2000 Annual Town Election, under Ballot Question 1, voters approved \$585,672 in additional taxes to fund various positions, including \$120,026 for the Community Center Director and 2.5 custodians. Thus, in calculating the Community Center revenues and expenses, \$120,026 in taxes approved as a permanent override times 2.5% per year(\$161,388 for FY 13) must be included.

FinCom updates

To catch up those who could not make the meeting, the following decisions were taken:

- We have changed our regular monthly meeting from the third Wednesday to the third Thursday of the month, 6 pm in the small hearing room in town building, beginning with the March meeting.
- Some members requested the following petitioners to attend a meeting with us (which I will schedule sometime in March):~ Skinequit Road (Joe Seidel); and Rescind health insurance benefit elimination (John Bangart)
- Fincom Liaisons to various committees and departments should contact them prior to any fincom meeting with them to help them prepare a brief summary of what they plan to discuss with us (as John Rendon did at our Saturday meeting)
- It was noted that the Water Department article for painting the Lothrop water tower was in the COC seven year plan for 2017, not 2014.~ This problem needs to be fixed.

Please call me or email should you have any questions.

Skip

Cape Cod Commission

With the resignation of Bob Bradley as representative to the CCC, there is a vacancy to fill. It is very important to fill this position now that the CWMP has been filed with the CCC, which starts the review.

Solar project update

The stat's System Assurance vendor has just posed some questions to us about the

projects.~ We are in the process of responding.~ After the questions are addressed,~we will need to pay the system assurance reservation fee (\$43K for all projects).~ Once we complete the process, next step is ACE confirms it has all permits in place and financing. Will update as we go along.

Maggie

Monomoy Regional School Budget

Attached is a Preliminary FY 14 Budget with a Harwich total operating budget, transportation, capital and debt assessment of \$20,758,046, or \$537,256 higher than the TA January 7th submittal.

Cape Tech Budget

School Business Manager Erin Orcutt has provided us with the FY 14 budget, revenues and assessments. Harwich's assessment is \$1,421,910, a 22.5% increase with an increase of enrollments from 74 to 85. Overall assessments increased by 3.24% and overall operating and capital budget increased by 2.79%.

ADJOURNMENT

Mr. LaMantia moved to adjourn at 8:40 p.m.

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

Respectfully submitted,

Ann Steidel

Recording Secretary