

Board of Selectmen Minutes

04/29/2013

**MINUTES
SELECTMEN'S MEETING
GRIFFIN ROOM, TOWN HALL
MONDAY, APRIL 29, 2013
7:00 P.M.**

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

OTHERS PRESENT: Town Administrator James Merriam, John Rendon, Ginny Hewitt, Eric Beebe, Matt Hart, Ian Philbrick, Richard Waystack, Matt Hart, Bobbie McDonnell, and others.

MEETING CALLED TO ORDER at 7:10 p.m. by Chairwoman Linda Cebula.

Chairwoman Cebula reported that the Board just came out of Executive Session where they discussed real estate and collective bargaining issues.

WEEKLY BRIEFING

Mr. Waystack requested that the Board reclassify the Middle School Repurpose Committee as a Selectmen's Task Force. He noted that no one has stepped forward to Chair the committee and they have 2 liaisons from the Finance Committee who are not able to serve as active participants but are willing to Chair if we can reclassify it to a Task Force. Mr. Hughes moved that what is now called the Harwich Middle School Repurposing Committee be re-designated as the Harwich Middle School Repurposing Task Force. Mr. Ballantine seconded the motion. The Board discussed the legality of such a change and Mr. McManus read the section of the Charter that indicates that Finance Committee members cannot serve on anything other than the Capital Outlay Committee. Mr. McManus suggested disbanding the Committee and having the Town Administrator appoint the Committee. The Board agreed that Mr. Merriam should get a legal opinion. Mr. Hughes withdrew his motion and Mr. Ballantine withdrew his second.

CONSENT AGENDA

- Approve Minutes:
- April 1, 2013 Regular Meeting

- April 22, 2013 Executive Session
- Vote to approve Golf Revolving Fund expenditures
- Vote to approve Bikeways Committee request to paint ¼ mile markings on the bike trail
- Vote to approve 2013 Junk Dealer Licenses for Flying Horse Antiques & Harwich Antiques Center
- Vote to approve request by Nstar for permission to install underground cable for new service to 105 Julien Road

Mr. Hughes moved approval of the Consent Agenda with the exception of Item A1. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

Mr. Ballantine moved approval of the April 1, 2013 minutes for the regular meeting. Mr. McManus seconded the motion and the motion carried by a 4-0-1 vote with Mr. Hughes abstaining from the vote.

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

- Public Hearing – Application for a Seasonal, Common Victualler, All Alcohol Beverages License for Country Club Elite, d/b/a Philbrick's

Mr. Ballantine read the hearing notice into record. Ian Philbrick introduced himself as the manager of Country Club Elite and provided abutter notice documentation to the Board. Chairwoman Cebula called for public comment and no one appeared before the Board. Mr. McManus questioned the number of seats allowed by the Board of Health. Mr. Philbrick explained that he has worked out a plan with the Board of Health and he will be using all paper products so that he won't have to turn any customers away up to 96 people. Mr. Ballantine moved to close the public hearing. Mr. Hughes seconded the motion and the motion carried by a unanimous vote. Mr. LaMantia moved to grant the licenses requested with the contingency that the Board of Health be in agreement with the 96 seat situation and that paper products will be used in that situation. Mr. Hughes seconded the motion and the motion carried by a unanimous vote.

- Public Hearing – Proposed Harbor Management Plan Regulations

Mr. Ballantine read the hearing notice into record. Mr. Rendon provided a Power Point presentation on the proposed changes (see attached) and took questions from the Board.

Roger Tessier, a boat owner at Wychmere Harbor, said he has had a slip in Harwich for the last 28 years and described the government limitations and requirements for commercial fishing and boat chartering.

Paul Higgerty, a slipholder in Saquatucket Harbor and recreational boater, said he gave up his slip while waiting for a C permit. He described the impact of the proposed regulations

in his case which he commented “would blow him out of the water” as he would go from #6 on the C list to around #65 on the recreational list.

Matt Hart noted that the Waterways Committee voted in favor of this proposal.

Tom Trainor, boat owner since 1975, said he made a living on the water since 1980 and has an A permit. He noted that the 30 passenger charter limit was waived at a Selectmen’s meeting. He stated that he is concerned as he is doing less commercial fishing and can’t make a living out there. He stressed that this proposal is going to put him out of business and out on the street.

Chris Crystal, an A permit holder asked questions of Mr. Rendon.

The Board discussed the concept of grandfathering.

Earl LeGeyt, an A permit holder who fishes out of Wychmere, stated he has an A permit and fishes out of Wychmere Harbor and does charters. He and Mr. Tessier said they were in support of grandfathering and suggested going back five years.

Robert Brothers, the newest A permit holder in Harwich, said it is important for him to have a safety net and have the ability to do chartering in the future.

The Board heard comments from Cam Smith who indicated he was in favor of many aspects of the proposal. Mr. Rendon took questions from Mr. Smith.

Seamus Muldoon, an A permit holder who runs a charter service and is a commercial fisherman said he believes both classes of permits should be merged.

Mr. McManus said he is not sure if the slips going with the permit should continue and this issue should be discussed. He said it has impacts on people on both the C list and recreational list. He added that there is also an issue of how you put this into affect and he suggested phasing in the fee for the existing A permit holders.

Chairwoman Cebula suggested that Mr. Rendon consider the input tonight and tweak the proposal.

Mr. Ballantine agreed with the idea of grandfathering. Mr. Hughes suggested selling blocks of charters or charging them by the charter.

Mr. LaMantia said he liked the plan but didn't want to hurt the A or C permit holders.

Mr. McManus moved to close the public hearing.

Mr. Smith said he is against the idea of merging the A and C permits as it will diminish the commercial fleet we have now.

Mr. Rendon cautioned that there is going to be an impact no matter what we do. He said there is not a perfect solution and we need to address it head on and make some tough decisions. He stressed that he is trying to develop an enforceable and equitable system of regulations.

Mr. Ballantine seconded the motion to close the hearing and the motion carried by a unanimous vote.

OLD BUSINESS

- Request to support efforts to have Nstar abandon spray pesticides and adopt a no-spray, pesticide-free policy for controlling vegetation in

its Rights-of-Ways on Cape Cod –
discussion and possible vote

Bobbie McDonnell outlined her request dated April 22, 2013 (see attached). The Board asked Mr. Merriam to contact the Cape Cod Commission to get the Harwich map of well sites. Mr. McManus moved to authorize the Chair to send a letter to the Massachusetts Department of Agricultural Resources reaffirming our non-binding resolution of several years ago including whatever mapping we have developed indicating sensitive pesticide free areas in Town. Mr. Hughes seconded the motion and the motion carried by a 4-1-0 vote with Mr. Ballantine in opposition.

NEW BUSINESS

A. Approval of Land Management Agreement as recommended by Waterways Committee" and requested by State Access Board as part of grant requirement –
discussion and possible vote

Mr. Rendon reported that this Land Management Agreement applies to Saquatucket Harbor. He said he went to the State Fish and Game Department to inquire about entering into a Public Access Grant for Allen Harbor at which time our representative from the State indicated that we still have a pending issue regarding our grant agreement on Saquatucket Harbor and that is we have fees that were raised for the boat ramp. He said there was discussion between the Town and the State that the State hadn't approved that rate change and they had requested some information to support that rate change as they needed us to justify what we are doing with our ramp fees, specifically are we putting them back

into the facility for upkeep purposes. Mr. Rendon said he did a spreadsheet of what we were taking in and where that money was going and he justified the point that we should be charging more for what it is costing to run that facility. He said our representative from the State was satisfied with that but said we still need to update our Land Management Agreement, specifically the updated Agreement contains a clause about allowing commercial haulers to come in and use the ramp and our existing Land Management Agreement did not have that clause in it. He said the commercial haulers put in boats and take out boats and have to pay a fee to do that and this is the only significant change in the Land Management Agreement.

Mr. McManus moved that we approve of the Land Management Agreement as presented and authorize us to sign it and send it to the Commissioner for concurrence. Mr. Hughes seconded the motion and the motion carried by a unanimous vote.

- Warrant Article Review –
Outstanding Articles for Selectmen's votes:

Article 8 – Fund Union Agreements

Article 9 – Fund Non-Union Compensation Plan

Article 10 – Fund Contract Employee Compensation Plan

Article 18 – Long Pond Restroom

Article 19 – Allen Harbor Bulkhead/Parking Lot

Article 31 – Library Maintenance

Article 32 – Library Phase II

Article 40 – Solid Waste Contracts

Article 11 STM – Beach Road

Article 12 STM – Accessory Apartments

Mr. Ballantine moved to reconsider Articles 8, 9 and 10. Mr. Hughes seconded the motion and the motion carried by a unanimous vote.

Mr. Ballantine moved to indefinitely postpone Articles 8, 9 and 10. Mr. Hughes seconded the motion and the motion carried by a 4-1-0 vote with Mr. McManus in opposition.

Mr. McManus moved to reconsider our previous position on Article 18. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

Mr. McManus moved to take a position of accept and adopt with an estimated cost of \$85,000 on Article 18 out of free cash. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

Mr. Hughes moved on Article 19 Allen Harbor Bulkhead/Parking Lot, we accept and adopt at \$250,000 free cash. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

Mr. Hughes moved on Article 31 Library Maintenance, \$25,000 from free cash. Mr. Ballantine seconded the motion and the motion carried by a unanimous vote.

Mr. Hughes moved on Article 32 Library Phase II, indefinite postponement. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

Mr. McManus moved we take a position of

accept and adopt on Article 40 (Solid Waste Contracts). Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

The Board took no action on STM Article 11 Beach Road.

Mr. Ballantine moved accept and adopt on Article 12 of STM (Accessory Apartments).

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

TOWN ADMINISTRATOR'S REPORT

Mr. Merriam delivered the following report to the Board:

Subject: Re: Muddy Creek and Hurricane Sandy

Hi Carole:

Funny you should ask, as I just inquired about this earlier this morning. ~Short answer is that there is no new news on this funding. ~As far as I know the Muddy Creek is still on the project list. As I understand it, decisions are still being made in Washington. ~I certainly will let you know when something breaks loose.
Eric~Derleth- US Fish and Wildlife Service

Allen Harbor update

We had originally estimated removing 420c.y. from Bud Woefel's footprint, but only removed 282c.y. and he wants more material removed. We'll seek quotes for removal of the balance and inquire about timing after the June 1st lifting of the TYE. We requested Burnham to remove his

equipment by end of this week for resetting the mooring field. We're working on State grant for the bulkheads and pervious parking of parking lot under Article 19. John Rendon was inquiring whether our off season lease with the Marina will adversely impact the grant. Grant may not include the concrete slab for boat wash as eligible item.

Dean Knight letter and response

ConCom Chair Dean Knight wrote to me with his concerns regarding a decision of ConCom and a Selectman's inquiry. Also attached is my response.

Public Records Request

Abutter Susan Sedor wrote to inquire about the Planning Board's decision in 2007 regarding seating capacity.

ADJOURNMENT

The meeting adjourned at 10:28 p.m.

Respectfully submitted,

Ann Steidel
Recording Secretary