

# **Board of Selectmen Minutes**

## **04/30/2012**

**MINUTES  
SELECTMEN'S MEETING  
GRIFFIN ROOM, TOWN HALL  
MONDAY, APRIL 30, 2012  
7:00 P.M.**

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

**OTHERS PRESENT:** Town Administrator James Merriam, Lincoln Hooper, Carole Ridley, Foster Banford, and others.

**MEETING CALLED TO ORDER** at 7:03 p.m. by Chairman Ballantine.

### **WEEKLY BRIEFING**

Mr. Hooper reported that the Red River Beach culvert project is substantially complete with only a few things left to be done including grading the road and paving. He commended his staff on an outstanding job. He further updated the Board on the progress of the Route 137 project.

### **CONSENT AGENDA**

- A. Approve Minutes – April 23, 2012 Executive Session
- B. Vote to approve request for fee waiver for permanent sign for the Harwich Town Band at Brooks Park

Ms. Cebula moved approval of the Consent Agenda. Mr. Hughes seconded the motion and the motion carried by a unanimous vote.

### **PUBLIC HEARINGS/PRESENTATIONS (7:15 P.M.)**

- A. Muddy Creek Restoration Project – Carole Ridley

Ms. Ridley provided the attached Power Point presentation to the Board on the Muddy Creek Restoration Project and took questions from the Board. Mr. Hughes moved to sign the following resolution:

## MUDDY CREEK RESTORATION BRIDGE PROJECT

WHEREAS, Muddy Creek is a tidal river shared by the Towns of Chatham and Harwich; and

WHEREAS, Muddy Creek is a resource of ecological significance within the Pleasant Bay Area of Environmental Concern, and contains extensive wetland resources including Estuarine/ Intertidal Salt Marsh, Estuarine/Intertidal Freshwater/Brackish Tidal Marsh, Palustrine Shrub Swamp and Palustrine Red Maple Swamp; and

WHEREAS, Muddy Creek provides habitat for a variety of marine, terrestrial and avian species, including shellfish, anadromous fish and state-listed rare species; and

WHEREAS, deteriorated water quality in Muddy Creek resulting from excessive nitrogen and bacterial pollution has been documented by the Massachusetts Estuaries Project, and regulatory thresholds for the removal of those pollutants have been established; and

WHEREAS, a restriction in tidal exchange between Muddy Creek and Pleasant Bay resulting from the location of undersized culverts beneath Route 28 exacerbates water quality conditions in Muddy Creek; and

WHEREAS, poor water quality in Muddy Creek is linked to persistent algal blooms, loss of coastal wetlands and threats to shellfish, anadromous fish and other species; and

WHEREAS, the Massachusetts Division of Ecological Restoration has designated the restoration of tidal exchange between Pleasant Bay and Muddy Creek as a Priority Wetlands Restoration Project in the Commonwealth; and

WHEREAS, the Pleasant Bay Alliance worked in concert with the Cape Cod Conservation District and Massachusetts Division of Ecological Restoration to complete the *Muddy Creek Wetlands Restoration Project* and related studies to evaluate improvements to the health of wetlands, shellfish, anadromous fish and water quality resulting from a restoration of tidal exchange between Muddy Creek and Pleasant Bay; and

WHEREAS, the *Muddy Creek Wetlands Restoration Project* documents substantial restoration benefits resulting from an increase in tidal exchange associated with a 24 foot inlet, and identifies a bridge design to provide the desired tidal exchange in the most cost effective manner and with the fewest construction-related impacts to natural resources;

and

WHEREAS, public comment provided at a public meeting held to review the *Muddy Creek Wetlands Restoration Project* findings on March 8, 2012 demonstrated strong community support for the Muddy Creek bridge restoration project; and

WHEREAS, the Pleasant Bay Alliance, in consideration of findings of the *Muddy Creek Wetlands Restoration Project* and ensuing public comment, voted to endorse the study findings and forward them to the Boards of Selectmen in Harwich and Chatham;

THEREFORE BE IT RESOLVED THAT:

The Board of Selectmen of the Town of Harwich hereby vote the following:

1. To accept the findings of the *Muddy Creek Wetlands Restoration Project*;
2. To direct town staff to assemble all financial and technical resources necessary to proceed with implementing the Muddy Creek Restoration Bridge Project, including all phases of design, permitting and construction;
3. To undertake the Muddy Creek Restoration Bridge Project jointly with the Town of Chatham, and to work cooperatively with all local, regional, state and federal review and permitting agencies;
4. To share all municipal costs associated with the Muddy Creek Restoration Bridge Project equitably with the Town of Chatham;
5. To secure all non-municipal grant funds available and appropriate to the phases of this project, to provide technical, professional and financial resources of the Town necessary to meet cost sharing requirements of non-municipal grants, and to accept all non-municipal grant funds awarded for this project.

Resolved as of the 30<sup>th</sup> day of April, 2012.

Town of Harwich  
Board of Selectmen

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

- Public Hearing – Disposal Area Fee Amendments

Mr. Hughes read the hearing notice into record. Mr. Hooper outlined his recommendation (see attached). No one from the public appeared before the Board. Mr. McManus moved to close the Public Hearing. Mr. Hughes seconded the motion and the motion carried by a unanimous vote. Mr. McManus moved to approve the recommendation to set the resident sticker rate at \$120. Mr. Hughes seconded the motion and the motion carried by a unanimous vote.

## **OLD BUSINESS**

### **A. Electronic Posting Update – *vote to send letter to committees and departments***

Ms. Merriam outlined the letter which he drafted with Mr. Banford on how best to address minutes and agendas. Ms. Cebula commented that she found the some of the language confusing with regard to hand delivering paper copies of the agenda or emailing a copy to the email address. Chairman Ballantine agreed and stressed that email should be the priority. Ms. Cebula agreed to provide new language. Mr. LaMantia suggested revisiting the policy on June 30 and the Board agreed. Ms. Cebula requested to keep track of how many are still hand carrying the postings as opposed to using email. Chairman Ballantine said they would move ahead and get a report back on June 30. No vote was taken.

### **B. Annual Town Meeting Motions – *Review***

The Board very briefly discussed some recent Finance Committee actions. No votes were taken by the Board.

- American Dream update – *discussion*

Mr. Merriam referred to Mr. Ryan's memo on this topic (see attached). He stated that the fourth parcel has a title issue and has not been part of the McShane development. Ms. Cebula stated that she has spoken to Valerie Foster and Pam Parmakian who reported that Haromar Heath has closed, Sisson Road is expected to close this Friday, Old Campground Road expects to close in mid May, and Depot Street is on permanent hold. She noted that \$95,000 was requested approximately one year ago which amounts to \$23,750 per property and her question is how much of that money should be held or returned to the Affordable Housing Fund. Mr. Hughes recommended asking Ms. Foster to come in with a report on what was spent on each property and any balances and the Board agreed. Mr. McManus noted that the request should be made through the Housing Authority. Chairman Ballantine stated that he would put it on the May 14<sup>th</sup> agenda.

## **NEW BUSINESS**

- Harbormaster position – *discussion*

Mr. Merriam stated that he does not envision Mr. Proft seeking the Harbormaster position. He stated that his thought is to split the Harbormaster position and Natural Resources Director position and advertise for a Harbormaster position at grade M4 and change the Environmental Science title to Natural Resources Director/Assistant Harbormaster with Heinz being responsible for the Natural Resources piece of the function. He stated that he sees both positions as department heads reporting to the Town Administrator and that he hopes to get a screening committee together to include a Selectman, Waterways Committee member, department head, and a citizen at large. Mr. Merriam added that he hopes to gather resumes over the next several weeks and get the position filled by early June.

Mr. LaMantia pointed out that in 2004 when the Harbor Management Plan was created it gave certain responsibilities to the Harbormaster and that same year we re-approved the Charter and the two documents are not consistent. He noted that we have been operating for the most part in terms of the Charter and he wants to make sure that continues. He stated that the Harbor Management Plan provides much more responsibility and authority than the Charter does and this is an opportunity to make changes as appropriate in the Harbor Management Plan. He suggested we hold off advertising until we make those changes.

Mr. Hughes questioned the financial ramifications of Mr. Merriam's proposal. Mr. Merriam stated that the retiring incumbent is paid at the top end of the scale so there should be an offset in savings by bringing someone in at the lower end of the scale. He added that the Environmental Science/Assistant Harbormaster job title is in a separate budget and is currently at the top end of the scale so if there were a proposal to do a re-grade there may be a modest cost differential between the maximum step of an M3 and a lower step of an M4.

Ms. Cebula stated that we are trying to reduce the number of direct reports to the Town Administrator and this proposal is contrary to that. Mr. Merriam responded that he does not see it as an excessive burden and it really isn't much of a change.

Mr. McManus questioned how many people this proposal requires and Mr. Merriam responded that it is 2 full time employees under all scenarios. Mr. McManus questioned if we have job descriptions and Mr. Merriam noted that he has draft ones. Mr. McManus expressed concern about having coverage at all times particularly in the case of the Harbormaster position. Mr. Merriam responded that we will be retaining the Assistant Harbormaster position and Mr. Proft is the Acting Harbormaster in the Harbormaster's absence. He stated that the proposal is that the Harbormaster will no longer carry out the

Natural Resources function. Mr. McManus stated that our Charter was adopted by the state legislature and as such has the force of state law and is contrary in its assignment of responsibilities so we must do what is necessary to the Harbor Management Plan to separate out the sections of Chapter 91, Section 10A as they refer to the Harbormaster's duties and responsibilities. Chairman Ballantine said he would put the job description on next week's agenda.

Mr. McManus took exception to the employment ad where it stated that the Harbormaster "will be involved in the management of the municipal marina." He stressed that the Harbormaster's role must be clearly stated in the ad. Chairman Ballantine requested to re-run the ad. Mr. LaMantia added that the ad should state that we would allow two years to obtain training certification.

## **TOWN ADMINISTRATOR'S REPORT**

Mr. Merriam delivered the following report to the Board:

### CPA funding

The house passed an amendment to the CPA which will allow funds to be applied for Recreation maintenance of existing fields. (see State House news service)

### Senior Health Inspector

With Pat Ballo's resignation, the position is vacant and Paula Champagne and I have posted the HEA position internally first to fill. With no payout for accrued benefits, the money is currently available. (see memo)

### Monomoy response re: 5 yr plan and septic/ CVfrom Supt. Cragin

Attached is a letter dated April 10<sup>th</sup> in which your request for a 5 year financial plan is addressed by Supt. Cragin with a new School Business Manager and Town Finance Team over the next year. I also read the last paragraph regarding septic design to the WGTF at their 4/25 meeting. I particularly raised the question re: future sewerage on Oak St. and heard that the Town currently has no plans to sewer the new High School. Allin Thompson offered to convey that message to the Building Committee. Paula Champagne indicated that BOH must approve the septic design when it is completed.

### E-permitting

Eduard Senteio has provided us with excerpts from the grant application (see attached) which addresses your concerns regarding linkage to OpenCape.

We can return to the Board whenever you want.~ However, we can not do a comparison yet as we do not have enough regional permitting information.~ That will become much clearer after receiving responses to the RFP, currently scheduled to be sent out in about

1.5 months.

David

Route 124 Design (see letter of support)

Route 124 requires reconstruction to address several design deficiencies between Route 6 and the Brewster Town line. These include localized roadway flooding due to high groundwater, numerous side streets and driveways that have limited sight distances, a narrow roadway with little to no usable shoulder and the total lack of pedestrian and bicycle accommodations. One of the project goals would be to connect, via a new sidewalk and usable shoulders, the existing Cape Cod Rail Trail (CCRT) with the Cape Cod Regional Technical High School, which serves as a regional shelter during emergencies. Another major goal of the project is to improve sight lines and visibility at the two major crossings of the CCRT to avoid potential conflicts between pedestrians and motorists.~~

~

The JTC voted on April 13, 2012, to recommend the~attached preliminary TIP to the MPO which includes \$3,569,280~for the reconstruction of Route 124 in~2015.~~Please be aware that the BOS voted their support for the~project on April 12, 2010, affirmed by the attached letter from you.~~Given my~prior experience with TIP projects, it is my~opinion that~the Town~should~secure approximately \$380k for~survey, design and engineering~services, or approximately 10.6% of project value,~as soon as possible.~ It is also my opinion that we should avoid utilizing Chapter 90 funds for this purpose as we~did on Route 137~and allocate this year's Chapter 90 money (\$694k) to~needed road maintenance projects.~ It should be noted that~without~Route 124 on the TIP, the Town would have to spend \$300k - \$400k on an overlay, limited drainage~work~and shoulder work without~being able to address multimodal~options and the~flooding problems due to high ground water.~ ~

~

An alternative that I have seen other communities use~is to fund the full survey (\$45k) and design~to the 25% level (\$130k)~in order to~distribute the~cash flows~over multiple years (= \$175k).~ However, I recommend against~doing this for two reasons:~~With the Town only needing approximately 10% of~the project value I think this project sells itself and~would pass a debt exclusion question at the ballot.~ Second, I would hate to jeopardize the project in mid stream if funds weren't available~for the second half of~it.~ Please note that we are on~a tight~timeframe here~as~MassDOT requires the project to be ready for advertising by the end of August 2015 or we run the risk of losing the Federal~funding (the Federal Fiscal Year begins October 1 each year).~~~I look forward to discussing this~project with you and leveraging the Town's~money~again on~our third~TIP project.~~

Link~~~~

***Mr. Hooper spoke in support of the project and encouraged the Board not to***

*wait. Mr. Hughes suggested that Mr. Hooper provide a simple plan identifying where the upgrades would be and Mr. Hooper said he could present that to the Board. Mr. McManus recommended a visual be made available for the public to view at Town Meeting next week. Mr. LaMantia suggested bonding for the project and Mr. Merriam responded that it would have to be on the August Town Meeting warrant to authorize borrowing. Chairman Ballantine stated to Mr. Merriam that we should look into Mr. LaMantia's suggestion.*

#### WQTF

Unfortunately, the meeting lacked a quorum to vote to approve \$8800 expenditure for an evaluation of connecting to the Chatham treatment plant. We also provided CDM with Rt 137 layout plans to determine sewer pipe impacts to the Reconstruction project. Moderator Ford has approved a short 10 minute update under Article 2 at the beginning of the ATM.

#### Jim Noonan Human Services grants

I asked Betsy Loomis and Donna Travano, both of whom know the various agencies to assist in developing the recommendations. We have completed our deliberations and submitted our recommendations to Tony Paglari and will then forward to Barnstable County for grant administration.

#### UMASS Dartmouth

I attended the Open House at Cape Tech on April 24<sup>th</sup> in which courses, including Public Policy courses will be held starting in either September or January for interested students.

#### Perambulation

At Chairman Ballantine's request, I've asked Brewster for potential dates to perambulate our borders.

hi,

my name is Conor Byrne, and my father talked to you about a month ago about cleaning up the bells neck area. my family and i actually just finished the first of many trash&walk-pickups in the bells neck area and conservation area. the trash that we~picked up is collected in a black contractor bag on the great Western end of bells neck on the corner of the intersection of the bike path and bells neck to collect at your convenience. i also~used a~back pack blower on the bike path yesterday~cleaning the bike path for two~hours; blowing the pine needles and leaves, sand and dirt,~(and trash) off the bike path.~i will probably have one more~trash&walk-pickups while we are down here~through Monday.

i look forward to working~with you in the future,

Conor Byrne~~

### Touch a truck

I have granted Link Hooper permission again this year to display a DPW truck at Drummer Boy Park Nauset Fund raiser for this coming Saturday. (See attached brochure)

### Filming at White House Field

I just wanted to let you know that Eric sent me an email confirming that the youth and recreation department has voted yes to allow the filming at White House Field. As a reminder, this is in regards to a documentary series I am hoping to produce about the Cape Cod League and its participants.~ This goes back to an exchange you and I had back in the middle of January regarding this project. I am wondering what my next step is to attain a written permit to that end. Any help would be great.

Keith Chirgwin

### **SELECTMEN'S REPORT**

Chairman Ballantine asked Mr. Merriam to look into the Open Meeting Law as it pertains to committee emails and the possibility of providing email addresses specifically for Town business.

Mr. Hughes requested a future agenda item for discussion on the Pledge of Allegiance.

### **ADJOURNMENT**

Mr. McManus moved to adjourn at 9:29 p.m. Ms. Cebula seconded the motion and the motion carried by a unanimous vote.

Respectfully submitted,

Ann Steidel  
Recording Secretary