

**MINUTES  
SELECTMEN'S MEETING  
GRIFFIN ROOM, TOWN HALL  
MONDAY, NOVEMBER 2, 2015  
6:30 P.M.**

**APPROVED**

**SELECTMEN PRESENT:** Brown, Cebula, Hughes, LaMantia, MacAskill

**OTHERS PRESENT:** Town Administrator Christopher Clark, Assistant Town Administrator Charleen Greenhalgh, David Scannell, Bruce Nightingale, Jay Kavanaugh, Richard Waystack, John Stewart, Bob MacCready, Gary Carreiro, Scott Ridley, Barry Worth, and others.

**MEETING CALLED TO ORDER** at 6:30 p.m. by Chairman Hughes.

**WEEKLY BRIEFING**

Mr. Remillard reported on the upcoming Veterans Day activities. Mr. Cheverie spoke on the No on Nine Campaign and Chairman Hughes said he would put it on a future agenda. Mr. McManus announced that there will be a concert on November 9<sup>th</sup> at the high school with proceeds going to the Cranberry Harvest Festival scholarship fund.

**CONSENT AGENDA**

- A. Approve Application for Change of Officers/Directors on Liquor License for Allen Harbor Yacht Club, Inc.
- B. Vote not to extend the lease of Philbrick's restaurant at Cranberry Valley Clubhouse and vote to issue a new RFP
- C. Accept the resignation of Mary Jane Watson as a member of the Board of Health
- D. Approve the proposed Selectmen's Holiday meeting schedule
- E. Approve holiday hours as recommended by Town Administrator

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

**PUBLIC HEARINGS/PRESENTATIONS** *(Not earlier than 6:30 P.M.)*

- A. Public Hearing – Classification Hearing – Board of Assessors

Ms. Brown read the hearing notice into record. Mr. Waystack reported that the Board of Assessors voted to recommend to the Board of Selectmen that they select a factor of "1" taxing all property at the same rate, that they do not grant an open space exemption, that they do not grant a residential exemption, and that they do not grant a small commercial exemption. Mr. Scannell reported that they have finished the revaluation with the State. He noted that the Town-wide increase in value was about \$114,000,000 and of that, about \$52,000,000 was from new growth so the value of property in the Town went up about 2.5% and we expect the tax rate to go up about 2.5% as well. Chairman Hughes closed the public hearing. Ms. Cebula moved that we 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, and that we do not grant a small commercial exemption. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

B. Annual Meetings:

1. Board of Assessors – Richard Waystack, Chair

Mr. Waystack delivered the annual report of the Board of Assessors. He stated that they will be asking the Board to increase the senior tax exemption from \$500 to \$1,000 and also to support them in asking the state to increase this as well. Chairman Hughes asked them to draft the language for the Town Administrator to look at and he will agenda this item. Mr. Scannell provided an update on the Senior Tax Work-Off Program.

2. Harwich Housing Authority – Bob MacCready, Chair

Mr. Stewart delivered the annual report of the Harwich Housing Authority. The Board and Mr. MacCready took questions and comments from Brooke Williams.

3. Community Preservation Committee – Bob MacCready, Chair

Mr. MacCready delivered the annual report of the Harwich Housing Authority. The Board and Mr. MacCready took questions and comments from Brooke Williams.

4. Zoning Board of Appeals – Gary Carreiro, Chair

Mr. Carreiro delivered the annual report of the Zoning Board of Appeals.

**OLD BUSINESS**

A. Cape Light Compact Inter-governmental Agreement – Barry Worth and Scott Ridley  
*discussion and possible vote*

Mr. Clark reviewed the opinion from Attorney Rick Holland opinion (attached). He noted that the opinion suggests deleting the sentence “The Compact Administrator shall also have such other powers and duties as customarily belong to a manager of a municipal light plant or a major regional inter-governmental association, or as may be designated from time to time by the Governing Body” for reasons outlined in the opinion. Mr. Worth responded that he doesn’t see this as a problem and will bring it back to the Governing Board. Ms. Cebula requested that the word “Chairman” be changed to “Chair” in the document. Mr. MacAskill asked who voted the original document and Mr. Worth responded that it was first the Board of Selectmen and then Town Meeting. Mr. MacAskill further asked who voted the 5 amendments prior to this and Mr. Worth responded that as appointee he has the authority to do that and it doesn’t require Town Meeting or Board of Selectmen approval. Mr. MacAskill inquired as to why we would want to drop the line on the bottom of page 1 referring to the Compact negotiating the best rates for supply and distribution of electricity as the Compact was formed to provide better rates. Mr. Ridley responded that this wasn’t the sole purpose for the formation of the Compact and it actually had more to do with energy efficiency. He noted that it was seen as a way to carry out the energy efficiency plan of the County from the 1990’s. He stated that the evolution of the power supply

over time is that it is necessary to get the best terms and not always the best rates. He explained that if the terms of the contract are not the best then there is more risk involved. He stated that part of what you are looking for are certain kinds of guarantees in a contract and those types of guarantees aren't offered in all contracts. He noted that this is a buyer beware market and the Compact has a list of questions for consumers to ask when they are getting offers from suppliers. Mr. MacAskill brought up that the Compact Administrator's job description states that they are a manager of a municipal light plant and there are several things in that job description that give her ultimate power for which she doesn't have to go back to the Governing Board. He commented that this is giving someone an awful lot of power. He stressed that this is a legal document, it was voted on by the Board of Selectmen in 1999 and was voted at Town Meeting. He pointed out that Mr. Worth can bring back whatever the Board of Selectmen wants but if they want to change the document they are going to change it. Mr. Worth stated that there are 23 members, it is a weighted vote, and they just need a majority of the weighted vote. Mr. MacAskill said he would e-mail Mr. Worth his follow up questions. Mr. Clark summarized the legal opinion of 2013 noting that the authority goes to the voting representative and that has occurred over time, that's the way the agreement has evolved and that's the way it works currently. He noted that it is subject to the limitation that if such amendment material affected the liability or financial responsibility of a municipality under the agreement, the amendment should be submitted to the Board of Selectmen for a vote. Chairman Hughes recommended that for future actions we should notify the Compact that we would like the Compact and its members to consider, when significant changes are proposed to this document or a related document, that it be brought back to whoever the appointing authority is to vote on it and authorize the representative to act on their behalf. Ms. Cebula asked that the Interview and Appointments Subcommittee see if this is an issue with other agreements such as with the RTA. Ms. Cebula moved to write a letter to the Compact outlining some of our issues and request for changes and adjustments in the approval process. Mr. MacAskill seconded the motion and the motion carried by a unanimous vote. Mr. MacAskill asked Mr. Worth to bring back the Board's concerns about the Compact Administrator's job description being so broad without the Governing Board weighing in. Mr. Clark noted that the meeting of the Governing Board is scheduled for November 18.

## **TOWN ADMINISTRATOR'S REPORT**

### **A. Department Budget Instructions**

Mr. Clark reported that we have sent out the budget instructions together with the Selectmen's budget message and are in the process of having Munis material updated so we can start to enter in.

### **B. Status of West Harwich/Route 28 Corridor Concepts**

Mr. Clark reported that we have done a walking tour of the area from Division Street to the Herring River in which about 30 people participated. He noted that last Tuesday there was a workshop in which the VHB people brought in aerial photos of the street and went through the different concepts. He said they will bringing a report to the Board in January or February.

### **C. Finalization of the reorganization plan for the 2<sup>nd</sup> Floor departments including the move of the Engineering Department to the Albro House**

Mr. Clark reported that the workflow chart for the second floor has been completed with the key component being cross training. He stated that we are coming to the end of the Community Development changes on the second floor. He referenced his memo to the Board from June 2015 in which he indicates that the Town Engineer has expressed an interest in moving into the first floor of the Albro House. He stated with the three tenants on the second floor, this addition will make it a professional building. He noted that Mr. Libby has provided some figures for what this will cost, he will be meeting with him this week and will get final estimates for what it would cost to move the Town Engineer and Surveyor over. He stated that it would free up room on the second floor for possibly a meeting room. Chairman Hughes pointed out that this would have to wait for funding from Town Meeting. Mr. MacAskill stated that at the time this memo was discussed by the Board, the consensus was to try and figure something else out. He stated that he didn't think that the issue of the Town Engineer moving to the Albro House came up until his space was reduced by the reallocation of space. He noted that Chairman Hughes stated at the June 8, 2015 Board of Selectmen meeting that we needed to do a comprehensive plan of what is going to happen at the Albro House. He stated that based on all he has read from when this has been taken up in the past, we really need to look at what we want to do with the building before we start spending \$50,000 and moving department heads into another building even if that means we need to re-look at the move. He pointed out that the Selectmen gave up their office and another department could go in there. Mr. Clark responded that the space was too small for Engineering. Mr. MacAskill commented that we could consider going back to the way we were but reiterated that before we do anything we need to decide the long term use of the Albro House.

Ms. Cebula pointed out that we have the wording for a non-binding ballot question for the Middle School building and questioned why we would spend the money to move two people to the Albro House if the Town would prefer us to move Town Hall to the Middle School, sell these buildings and do something different. She stressed that we could be spending money on a very short term thing.

Mr. MacAskill noted that they haven't considered if they want to sell the Albro House. Ms. Cebula stated that we need an overall plan. Chairman Hughes said that until we figure out what we are going to do with the Middle School we might as well put this on hold. Mr. LaMantia said that Mr. Clark should assess the municipal needs. Ms. Brown noted that Gosnold is already renting a room at the Albro House, there is a great need for sober houses on the Cape, and maybe we want to sell the place to Gosnold.

Mr. MacAskill said he is not a fan of moving a department head into another building and going through the expense and Mr. Clark should look to see if there are alternatives in this building. He said that if the Board is even considering selling the building we should reconsider tearing any parts of it down because we are devaluing the property that we are considering selling. Ms. Cebula said we should tear down the "doghouse" as it would enhance the value. Ms. Cebula asked Mr. Clark if the garage and foundation are taken away can someone rebuild that or would we lose the ability to put a garage back because of setbacks etc. Mr. Clark responded that he needs direction from the Board as Mr. Hooper is ready to go.

Ms. Cebula questioned also if departments could move into Selectmen's room such as Engineering and can we look at that in the next week. Mr. Clark responded that it has already

been done. Chairman Hughes stated that the Engineering Department might think this is a very near term solution and recommended that he still ask them. Mr. MacAskill said he should ask them as a group on the second floor. Mr. LaMantia suggested we look at moving the storage files and hiring someone to make the current files electronic. Mr. Clark responded that he is having a meeting on that subject this week with Ms. Carey. Mr. MacAskill indicated that it was his understanding that prior to the reorganization that everyone was happy and Mr. Clark responded no, it was a dysfunctional second floor.

Mr. MacAskill moved to reconsider our vote to tear down the garage at the Albro House until we figure out the direction we are going with the building. Ms. Brown seconded the motion and the motion failed on a 2-3-0 vote with Chairman Hughes, Ms. Cebula and Mr. LaMantia in opposition.

Mr. Clark reported that we got a legal opinion on appointing an alternate to the Board of Health and it would have to go to Town Meeting as a by-law change. He said he would ask Town Counsel to put together that language.

## **ADJOURNMENT**

Chairman Hughes adjourned the meeting at 8:54 p.m.

Respectfully submitted,

Ann Steidel  
Recording Secretary

## Ann Steidel

---

**From:** Richard T. Holland <RHolland@k-plaw.com>  
**Sent:** Friday, October 30, 2015 3:46 PM  
**To:** Christopher Clark  
**Cc:** Ann Steidel; Richard T. Holland; John Giorgio  
**Subject:** FW: Amendment to Intergovernmental Agreement with Cape Light Compact  
**Attachments:** 07 Cape Light Compact IGA Revision.pdf

Hi Chris,

John Giorgio forwarded me Ann's e-mail below, regarding the Cape Light Compact "amended and restated agreement." I reviewed the agreement with the understanding that you seek our comments on the proposed revisions reflected by track changes in the document (as opposed to the entire agreement). It appears that the changes are minimal, and that the primary, substantive change is a new provision regarding the "Compact Administrator" (see Article VII(K)). My only concern is the last sentence, which states: "The Compact Administrator shall also have such other powers and duties as customarily belong to a manager of a municipal light plant or a major regional inter-governmental association, or as may be designated from time to time by the Governing Body." I would suggest deleting this last sentence. I think it is potentially ambiguous. In addition, the powers and duties given to a manager of a municipal light plant by law are very broad, and I am concerned such provision may be inconsistent with some provisions of the Cape Light Compact agreement that subject the authority of the Compact Administrator to the authority of the Governing Board. I also think, given the other provisions of this section, such last sentence is not necessary.

I understand you also may have been interested in our comments on the provision of the agreement allowing the Governing Body, which is made up of municipal representatives, to amend the agreement without having to obtain a separate vote from the Harwich Board of Selectmen. I also understand that we have opined in that past, generally, that Harwich, in entering into this agreement, was authorized to empower its representative to agree, on behalf of the Town, to amendments to the agreement, subject to the limitation (in our opinion) that if such amendment materially affected the liability or financial responsibility of the municipality under the agreement, the amendment should be submitted to the Board of Selectmen for a vote. Of course, someone has to make a determination on a case-by-case basis as to whether any particular proposed amendment rises to such a level. If the Board of Selectmen is concerned about this authority in the original agreement, we think two things can be done here: Either the Town may propose a separate amendment to the agreement in order to change the provision allowing the Governing Body to amend the agreement without the need for a vote of the Board of Selectmen, or the Board of Selectmen may simply direct its representative not to agree to any amendments without first getting a vote of the Board, notwithstanding the language of the agreement. Of course, if the representative went ahead and signed an amendment contrary to any such direction of the Board, such amendment may be binding on the Town per the current

version of the agreement, provided it does not materially affect the liability or financial responsibility of the Town, in which event we think it could reasonably be argued that such amendment could not be made by the representative alone for the reasons aforementioned.

We can discuss this in more detail when you are available, so let me know if you wish to do so.

Rick

Kopelman and Paige, P.C.  
101 Arch Street, 12th Floor  
Boston, MA 02110  
(617) 556-0007  
(617) 654-1735 (Fax)  
[rholland@k-plaw.com](mailto:rholland@k-plaw.com)

This message and the documents attached to it, if any, are intended only for the use of the addressee, may contain information that is PRIVILEGED and CONFIDENTIAL, and may also contain ATTORNEY WORK PRODUCT. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please delete all electronic copies of this message and its attachments, if any, and destroy any hard copies you may have created and notify me immediately.

---

**From:** John Giorgio  
**Sent:** Tuesday, October 20, 2015 5:32 PM  
**To:** Richard T. Holland  
**Cc:** Beverly Perry  
**Subject:** Fwd: Amendment to Intergovernmental Agreement with Cape Light Compact

**From:** Ann Steidel <[asteidel@town.harwich.ma.us](mailto:asteidel@town.harwich.ma.us)>  
**Date:** October 20, 2015 at 3:59:11 PM EDT  
**To:** John Giorgio <[JGiorgio@k-plaw.com](mailto:JGiorgio@k-plaw.com)>  
**Cc:** Christopher Clark <[cclark@town.harwich.ma.us](mailto:cclark@town.harwich.ma.us)>, Charleen Greenhalgh <[cgreenhalgh@town.harwich.ma.us](mailto:cgreenhalgh@town.harwich.ma.us)>  
**Subject:** Amendment to Intergovernmental Agreement with Cape Light Compact

John,

Chris Clark asked me to forward the attached proposed amended Cape Light Compact Intergovernmental Agreement for your input on what the impact of this is to Harwich. We hope to place this item on the Board's agenda for November 2<sup>nd</sup>.

*Ann Steidel*  
*Administrative Secretary*  
*Board of Selectmen/Town Administrator's Office*  
*Town of Harwich*

## Related Documents - November 2, 2015 BOS Meeting

- 01 Agenda.pdf
- 02 Allen Harbor Yacht Club License.pdf
- 03 Philbrick's Restaurant Agreement.pdf
- 04 Board of Health Resignation.pdf
- 05 BOS Holiday Meeting Schedule.pdf
- 06 Employee Holiday Hours.pdf
- 07 Public Hearing - Classification Hearing.pdf
- 08 Annual Meeting - Assessors.pdf
- 09 Annual Meeting - Housing Authority.pdf
- 10 Annual Meeting - CPC.pdf
- 11 Annual Meeting - ZBA.pdf
- 12 - 6th Amended IGA (BCK 9-22-15 markup) (1).pdf
- 13 - Brief Summary of IGA Updates 10 26 15.pdf
- 14 - Proposed Amendments to IGA (1).pdf
- 15 - 6th Amended IGA Clean Version.pdf
- 16 TA Report - Budget Instructions.pdf
- 17 Finalization of Re-org.pdf
- 18 Relocation of Eng Dept.pdf
- 19 Albro House - Sean Libby.pdf
- 20 Albro House - Feb 2014 report.pdf