

**MINUTES
SELECTMEN'S MEETING
GRIFFIN ROOM, TOWN HALL
MONDAY, JUNE 6, 2016
6:30 P.M.**

APPROVED

SELECTMEN PRESENT: Brown, Hughes, Kavanagh, LaMantia, MacAskill

OTHERS PRESENT: Town Administrator Christopher Clark, Chief Guillemette, Amy Usowski, Leo Cakounes, Carole Ridley, Mr. Fitzpatrick, and others.

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

PUBLIC COMMENT/ANNOUNCEMENTS

Mr. Clark reported that due to an error, the Cumberland Farms hearing to amend their gas tank permit did not make it on the agenda. He asked if the Board would be willing to hold the hearing on June 20, 2016 and the Board agreed to do so.

Eileen Brady, President of the Harwich Historical Society, introduced their new Executive Director Janet Cassidy who announced upcoming events.

Chief Guillemette announced that this Thursday at Bentley University the Municipal Police Training Committee is recognizing a number of public officials for their CPR and First Responder capabilities including Fire Chief Norm Clarke, Deputy Police Chief Tom Gagnon, and Officer Derek Dutra for saving a woman's life on the bike trail last year when she suffered a cardiac arrest. He congratulated them and thanked them for their service.

CONSENT AGENDA

Chairman MacAskill noted that the date in Item D should be June 25, 2016 rather than June 28, 2016.

- A. Approve Minutes
 - 1. May 23, 2016 – Regular Session
 - 2. May 23, 2016 – Executive Session
 - 3. May 31, 2016 – Executive Session
- B. Accept donations amounting to \$6,158 received from the “Rockin’ for the Reef” event to be deposited in the Reef Account
- C. Approve application for Change of Manager on liquor license for Allen Harbor Yacht Club
- D. Approve application for a “Special Permit” for relief from the town Noise By-Law (Section G) for an event to be held on June 28, 2016 by the Cakounes Family
- E. Approve and sign Muddy Creek Change Orders
- F. Confirm the appointment of Katie Varley as Executive Assistant to the Police Chief effective on July 1, 2016

- G. Confirm the appointment of Josh Majka as Laborer for the Water Department effective on June 13, 2016
- H. Approve the applications for the Chamber of Commerce parade on September 18th and Road Race on June 25th.

Ms. Kavanagh moved approval of the Consent Agenda. Mr. Hughes seconded the motion and the motion carried by a unanimous vote. Chief Guillemette introduced Ms. Varley to the Board.

NEW BUSINESS

- A. Authorize the Town Administrator and the Conservation Commission to prepare and submit applications for a state LAND grant of up to \$400,000 to acquire the Marini property – *discussion and possible vote*

At Mr. Clark's recommendation, Mr. Hughes moved to authorize the Town Administrator and the Conservation Commission to prepare and submit applications for a state LAND grant of up to \$400,000 to acquire the Marini property. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

- B. Beach Road Easement Issues – *discussion and possible vote*

Mr. Clark explained that in March of 1972, Annual Town Meeting approved for the Town to take an easement in Beach Road and he noted that the people that have a right to the property are the Fitzpatricks. He stated that some litigation ensued and the Settlement Agreement was reached on May 6, 2013. He highlighted components of the agreement including signage, trimming vegetation, beach nourishment, erosion control and sending a letter to Fitzpatricks that we do not intend to extend the groin. He noted that eminent domain was taken only to acquire the easement.

Ms. Usowski stated that Mr. Fitzpatrick applied this spring through her office to remove the invasive plants on the side of the easement and replant native and she thought removal of invasive plants from the buffer zone to the coastal dune was a positive thing but at the time she was not privy to the settlement agreement. She explained that the work has been done and the plan shows a split rail fence at the toe of a dune which she considers a protective resource. She reported that over the years, the Fitzpatricks have had numerous renditions of fencing down there to protect the toe of the dune and she saw this as no different. She stated that from a Conservation standpoint, she thought this was a good thing to keep people off the dune which is a protected resource. She noted that she received a number of emails that were above her purview about whether this meets the conditions of the agreement so she brought it to the Board of Selectmen. She noted that she did this under Administrative Review Permit which does not require abutter notification. She took questions from the Board. Mr. Clark took questions as well with regard to the Kopelman and Paige legal opinion.

The Board took comments from the public as follows:

Nathan Scherr asked Ms. Usowski to explain how a split rail fence protects a dune.

Gerard Elias commented about the toe of the dune, which he said appears to have been extended. He said the split rail fence abuts the boardwalk and asked the Board to take another look at it as it appears to be a land grab. He said he doesn't believe that what is in the submitted drawings is what has been erected.

Mark McGowan agreed that it is a land grab and said we should have full easement 184 feet going down to those parcels and that Mr. Fitzpatrick is continuing to put in obstacles and he needs to be stopped.

Kevin O'Shea said he fails to see how the split rail fence does anything to protect those dunes and it is substantially different than the drawings.

Ruth Stevenson said the split rail fence will not prevent erosion and it is unrealistic to say that it is to keep people out. She said it is not a natural dune and may have contaminants in it and it was created by Mr. Fitzpatrick. She also had concerns about injuries from the snow fencing.

Audrey Ely said this cuts into the beach, it's a huge triangle and it screams land grab. She commented that it contradicts the spirit of the agreement.

Ms. Usowski offered to bring the Board down to the site and said she would get them copies of all the letters and what she permitted. Mr. Hughes noted that the fence is a combination of split rail and snow fence.

Trudy DeLory provided a chronology of photos starting 40 years ago to show the drastic change. She asked the Board to reconsider the fence and the importance of that easement.

Ms. Kavanagh questioned if it would be an improvement to have beach grass as a natural fence rather than the fence. Ms. Usowski noted that without the fence there has been damage to the natural vegetation. Mr. Hughes questioned the Town's right to remove sand as it closes in and encroaches on the boardwalk on the 40 foot easement. Ms. Usowski responded that since the area has been allowed to naturalize over 30 years it starts to become protected by the state as well as the Harwich Local Wetlands bylaw. She stated that once vegetation takes hold on the land form it would have to go to Conservation for any alteration to the land form.

Mr. Clark stated that he doesn't think a lot of people were aware of this 2013 Settlement Agreement and they should be given fair opportunity to look at that. He stated that Ms. Usowski should look at what was submitted and what was constructed to see that it is in compliance and to accumulate the letters for the Board and then if the Board would like to hold a public hearing they can and if it comes back as being pursuant to the agreement then the Board needs to decide if they want to provide information to the community to that affect. Mr. LaMantia suggested asking Kopelman & Paige what power we actually have based on this. Mr. Clark said he would like to get a better legal history and see if there is anything we missed and Mr. LaMantia said we should explain what is going on now and see what options we have.

Mr. Sadowski, of Recreation and Youth Commission expressed concerns about the height of the fence and said he would like to take this back to his Board and have their Director look at it. He said to keep people out you would need a higher fence and it is dangerous if someone trips on it.

Chairman MacAskill said they are going to review all the documents. He encouraged the public to read the legal opinion and said they will revisit this.

The Board took comments from Mr. Fitzpatrick regarding the fence. He stated that the land grab comments were offensive as they own it and the Town has a right of passage over it.

C. Submission of Watershed Compliance Reports – David Young – *discussion and possible vote*

Mr. Young noted that the Board has the drafts prepared for the Herring River, Allen Harbor, Wychmere Harbor and Saquatucket Harbor watersheds and it is required by EPA in the 208 update, as prepared by the Cape Cod Commission, to submit an update for each watershed by the Wastewater Treatment Plant Management Authority which designated to be the Board of Selectmen. He noted that they are due this month. He further noted that he also drafted a letter authorizing the Town Administrator to submit to the Cape Cod Commission on the Board's behalf. Mr. Clark was concerned that the Pleasant Bay area was not part of the overall submission and questioned if that was the only one that was excluded. Mr. Young said it was discussed and Mr. Profit indicated that the Pleasant Bay Alliance was doing that on the Board's behalf. Mr. Hughes said the numbers that are in here are consistent with the CWMP with regard to those four watersheds. Mr. Clark stated that it is important that this be a Town submission of all the different areas and certainly an acknowledgement that we do have this agreement and we are working with the Alliance, but he thinks it needs to be a Selectmen's submission as the Wastewater Treatment Authority. Mr. Hughes disagreed and said we need to agree with these numbers first and then discuss with Ms. Ridley. Mr. Hughes moved to approve the Watershed reports for Allen Harbor, Wychmere Harbor, Saquatucket Harbor and the Herring River as prepared and submitted to us by CDM Smith and authorize Mr. Clark to file on their behalf. Mr. LaMantia seconded the motion and the motion carried by a unanimous vote.

D. Draft letter from Pleasant Bay Alliance to Cape Cod Commission regarding Watershed Plan and update on Watershed Report – Carol Ridley – *discussion and possible vote*

After a lengthy discussion with Ms. Ridley and Mr. Young regarding the composition and submittal of the watershed report as it pertains to Pleasant Bay, Mr. Hughes moved that we direct David Young at CDM Smith to revise his watershed report that he has done so far to include the Harwich portion of the Pleasant Bay watershed, make sure the numbers are consistent with what we have in our CWMP and bring it back to the Board for our approval for submission to the Cape Cod Commission. Ms. Brown seconded the motion and the motion carried by a unanimous vote.

E. Amend the Personnel By-Law Plan for FY 2017 in keeping with union increases – *discussion and possible vote*

At Mr. Clark's recommendation, Mr. Hughes moved that we approve the non-union compensation plan as presented by the Town Administrator. Ms. Brown seconded the motion and the motion carried by a unanimous vote.

TOWN ADMINISTRATOR'S REPORT

Mr. Clark reported that some improvements had been made to the Route 39 and Pleasant Bay Road intersection and the Police Department has indicated that the number of accidents has been significantly reduced. He said they will be taking out some shrubs to improve site distance and once the road safety audit is final it will be presented to the Board.

He stated that we need to address that we don't have hot water at Middle School and he is going to see if we have money available for that. He stated that Mr. Libby noted to him that there are 2 portable trailers in the back of the school and they are well beyond their useful life. He said we will see if there is any value and if not we should have them removed as they are an impediment in the operation of the building. Chairman MacAskill said he will put on the agenda and Mr. Hughes said we should discuss use of the building as well.

SELECTMEN'S REPORT

- A. Selectmen Liaisons for 2016-2017 – *discussion*
- B. Committee interview process - *discussion*
- C. Selectmen Goals and Objectives – *discussion*

Chairman MacAskill asked the Board to review and provide input for Items A and C. With regard to Item B, Mr. LaMantia said he met with Ms. Brown and discussed the process. He stated there is concern about how long some people have been on committees and there was discussion about how to encourage residents to join committees.

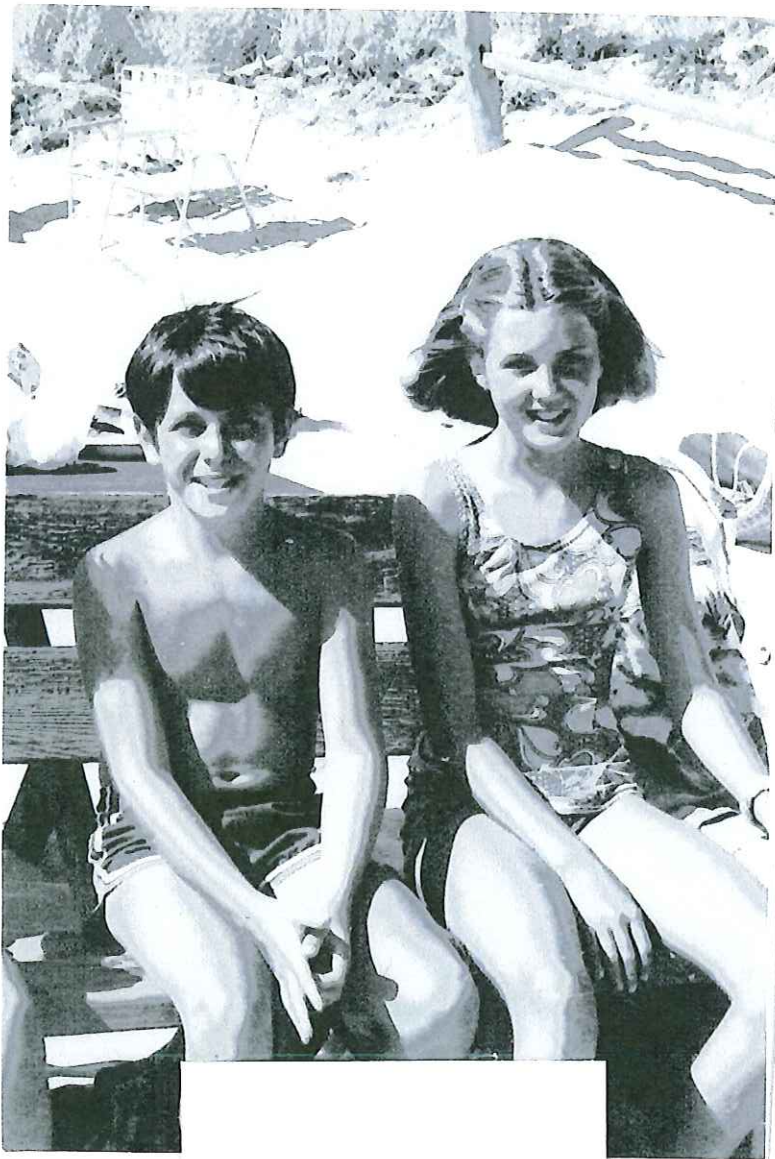
ADJOURNMENT

Mr. Hughes asked that the Board be provided with an explanation of the new Request for Information regulations sometime this summer.

Chairman MacAskill adjourned the meeting at 8:48 p.m.

Respectfully submitted,

Ann Steidel
Recording Secretary



approx year:
1976

Town maintained
concrete bench;
removed in 1980

Land encroachment
at Public Beach #22
West Harwich, MA
(End of Beach Road)



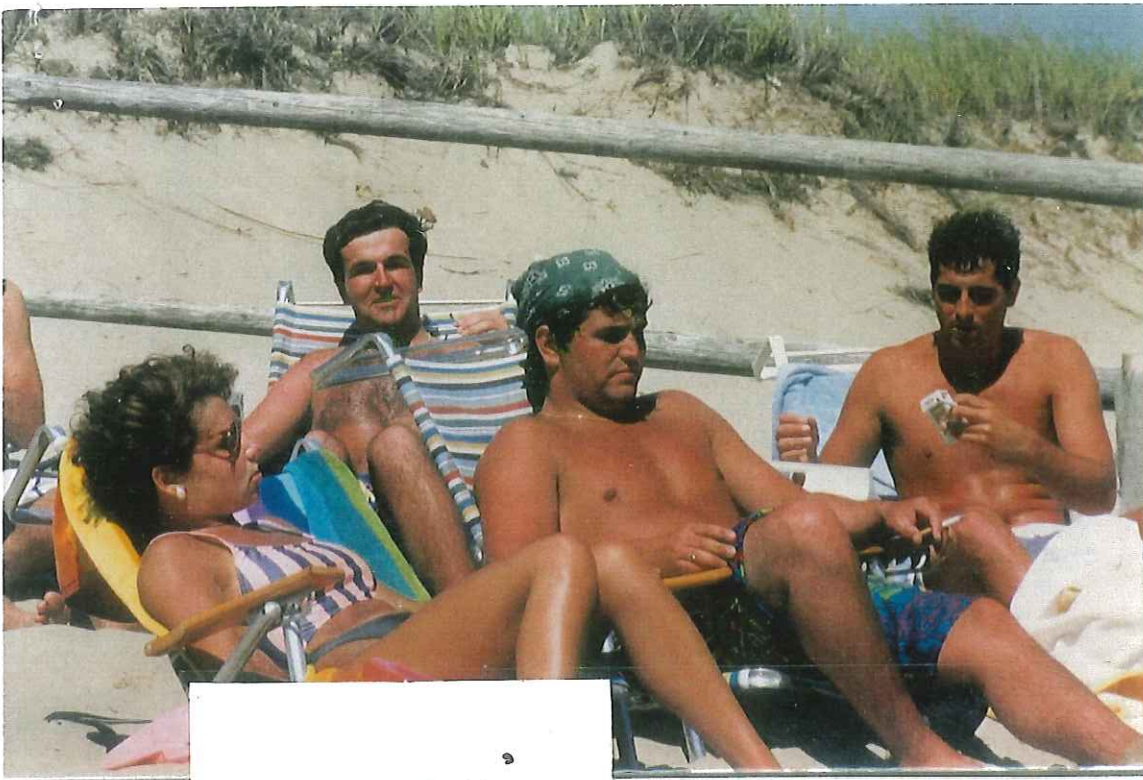
May
2016



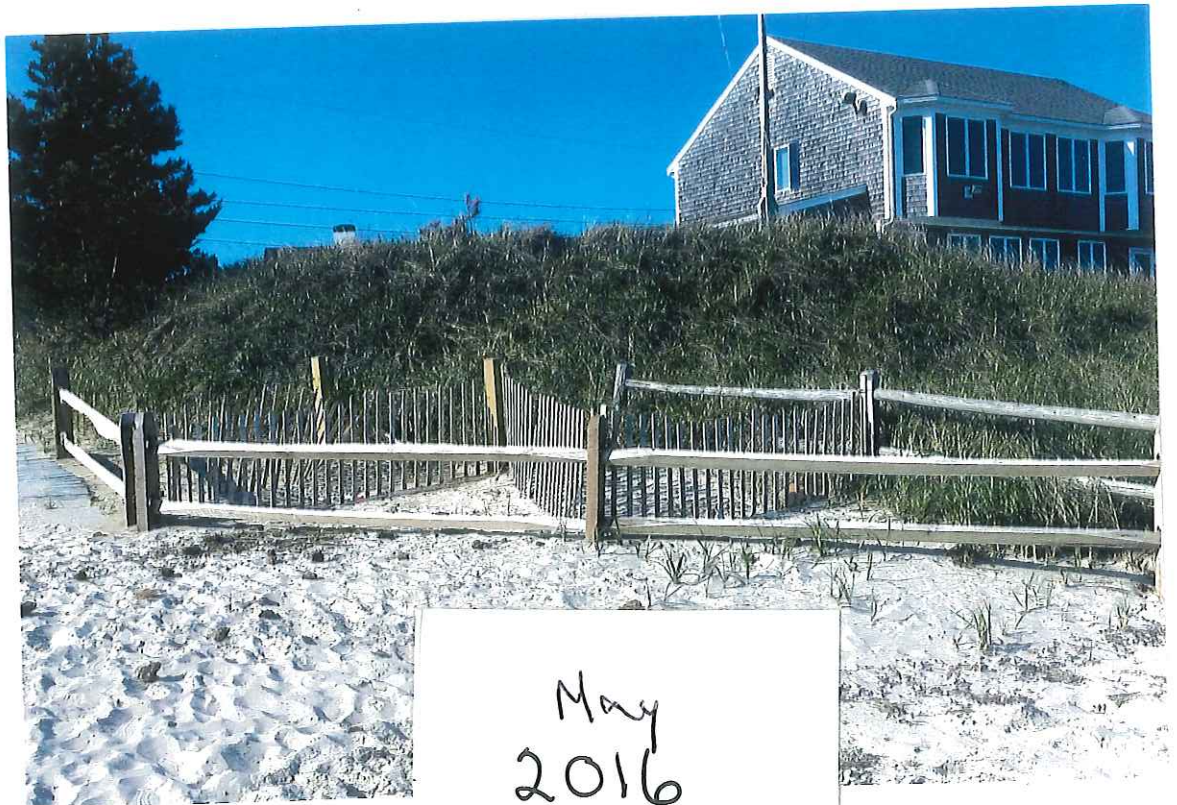
approx year:
1980



May
2016



approx year:
1991



May
2016

Related Documents - 6/6/16 BOS Meeting

- 01 Agenda.pdf
- 02 May 23 Minutes.pdf
- 03 Reef Donations.pdf
- 04 Allen Harbor Yacht Club License.pdf
- 05 Special Permit Request.pdf
- 06 Muddy Creek Change Orders.pdf
- 07 Police Dept Appointment.pdf
- 08 Water Dept Appointment.pdf
- 09 Chamber of Commerce Road Race.pdf
- 10 Chamber of Commerce Parade.pdf
- 11 LAND Grant Application.pdf
- 12 Beach Road Settlement Agreement.pdf
- 13 Beach Road - K&P.pdf
- 14 Submission of Watershed Compliance Rpts.pdf
- 15 Watershed Rpt - Allen, Wychmere, Saquatucket.pdf
- 16 Watershed Rpt - Herring River.pdf
- 17 Pleasant Bay Alliance.pdf
- 18 Pleasant Bay Watershed Rpt.pdf
- 19 Personnel By-Law.pdf
- 20 BOS FY 17 Liaisons.pdf
- 21 Committee Interview Process.pdf
- 22 BOS Goals and Objectives (FY 16).pdf