

**BOARD OF SELECTMEN
REGULAR MEETING MINUTES
MONDAY
MARCH 05, 2018**

Members Present: Steven J. Ouellette, Chairman
Shana M. Shufelt, Vice Chair
Craig J. Dutra
R. Michael Sullivan
Brian T. Valcourt, Clerk

Also present: Timothy J. King, Town Administrator

Chairman Ouellette called the Board of Selectmen meeting to order at 6:10 P.M. in the Westport Town Hall, 2nd floor meeting room, 816 Main Road, Westport, MA.

*Note: Mr. Dutra arrived at 6:38PM.

Pledge of Allegiance

Chairman's Announcement – Under MGL Chapter 30A, section 20(f) – Meeting being recorded.

Acknowledgments & Recognitions

1. Mr. Ouellette stated we are happy with the results of the school vote last week; thanks to everyone for coming out, it was a great turnout.
2. Mr. Ouellette stated he was hoping that everyone was satisfied as much as they could be with the response during the recent Nor'easter; he wanted to thank the Highway, Police, Fire Departments, along with the Dispatchers, and the utility crews. Mr. Ouellette stated that Westport was on the ball and got things done a lot quicker than most other communities. Mr. Ouellette stated there is another storm predicted for Wednesday, hopefully it won't be as bad, mostly rain.
3. Mr. Ouellette stated unfortunately, there was another fatality (hit and run) with a pedestrian from Westport, which happened in Dartmouth.

Appointments and/or Resignations

1. **Motion** made by Ms. Shufelt to appoint Barbara Pontililo as an Associate Member on the Zoning Board of Appeals. Second by Mr. Sullivan. The Board voted 4 in favor, 1-absent (Dutra). *Ms. Pontililo was present.
2. **Motion** made by Ms. Shufelt to appoint Keara Enos as EMD/E-911 Full-time Dispatcher for the Westport Police Department. Second by Mr. Sullivan. The Board voted 4 in favor, 1-absent (Dutra).
3. **Motion** made by Mr. Valcourt to appoint Dale Weber to the Community Preservation Committee. Second by Ms. Shufelt. The Board voted 4 in favor, 1-absent (Dutra). *Ms. Weber was present.
4. **Motion** made by Ms. Shufelt to appoint Bruce Graves as Cemetery Foreman. Second by Mr. Valcourt. The Board voted 4 in favor, 1-absent (Dutra). *Mr. Graves was present and the Board spoke with him regarding operations at the Cemetery Department. Mr. Ouellette stated in a couple of months, the Board will have Mr. Graves back, in order to see how things are going.
5. **Motion** made by Ms. Shufelt to accept with regrets the resignation of Diane Pelland as Administrative Asst/Confidential Clerk to the Board of Selectmen, effective April 10, 2018. Second by Mr. Sullivan. The Board voted 4 in favor, 1-absent (Dutra).

Public Hearing - RE: The acceptance of the Road Layout for Wildberry Way

The public hearing was opened at 6:23 PM. Present: Kyle and Jessica St. Laurent. James Hartnett,

Town Planner stated this was a petition article and it was referred to the Planning Board for a non-binding recommendation; the Planning Board recommends accepting it. Mr. Sullivan stated this is a petition article, which is how it is going to go to Town Meeting; what the Board is trying to do is rearrange how we handle these, which is vetting through the Board of Selectmen before Town Meeting with the recommendations of the Highway, Planning and Conservation. Mr. Valcourt stated the only issue raised was by the Highway Surveyor. Mr. Valcourt read the Highway's issues of catch basins and water runoff. Mr. Valcourt stated he could not support this at Town Meeting in its present form. Mr. Hartnett stated the Planning Board released this road in 2011; at that time, Tibbetts Engineering reviewed and recommended release; once it is released, the Planning Board can't hold the performance guarantee funds until acceptance at Town Meeting, we can only hold it until completion to subdivision standards. Mr. Hartnett stated this is a private road and it is up to the owners to maintain it; as for the current condition of the road, it is standard wear and tear. Mr. Hartnett stated the developer is out of this because the road was built to subdivision standard back in 2011. Mr. Hartnett stated he did check back in the reports and Tibbetts did a full inspection of the road; it has been 6-7 years since completion but at the time of completion, the catch basins were functioning properly; his guess is that it is just settlement of the catch basins, which is why there is sand gathering around the two basins upfront. Mr. Hartnett stated the drainage easement is with a private site development to the west of Wildberry Way; they were limited because it was a private way, they could not install a drain across Wildberry Way, so they designed their storm drainage within their parking lot with an overflow that goes down to Wildberry Way, which does overflow in the winter; this is a separate issue from Wildberry Way. Mr. Hartnett stated it is a private road and if it is not accepted for a period of time, there will be settling and cracking leaving it up to the owners to maintain it or get it accepted right away. Mr. Whitin gave a background history of Wildberry Way. Mr. Whitin stated the business to the west (medical center) is not part of the subdivision but does have the right to use Wildberry Way; the medical center did go through site plan review but it is their overflow that is affecting Wildberry. Mr. Whitin stated that anyone could petition for road acceptance at any time but when a road gets done, the petitioners should not wait, they should petition right away for its acceptance. Discussion ensued. Ms. Shufelt stated it is fine to say, you are not supporting the article, however, the Moderator has specifically asked that the Board include an article from the Board of Selectmen on this topic, so that we can start showing the Town, the way he would like these road acceptances to go; the petition article will remain; we will just have to put our article before the petition article; this way, if it is accepted, then we pass over the petition article; if it is denied, then the petitioner can come forward. Ms. Shufelt stated we should be putting our article on the warrant and then we should vote on whether to recommend or not. Discussion again ensued. Mr. Sullivan stated we should be putting both questions on the warrant but we probably need to find a way to bridge that period of time from when the road is released from the Planning Board and is still private to when it is accepted. Mr. Whitin stated we can't have a developer state that the road will remain private forever or the fact that they are going to petition for its acceptance. Mr. Sullivan stated there should be a way to make them declare their intentions. Mr. Whitin stated that a lot of builders state that the road will be accepted; only Town Meeting decides that. Mr. Korzeniowski stated the problem is with the medical center; they should be held responsible, not the people living on Wildberry Way. Discussion ensued. Mr. Sullivan stated he would ask Mr. King and Mr. Hartnett to work with the neighborhood and the Medical Center. Ms. Shufelt stated she has gone through road acceptance with her own street; how does someone know when they are moving in that they have to have the road accepted, the developer knows it, but not everyone understands how it works; she has some sympathy for these people. Ms. Shufelt stated she is also concerned over the Highway Surveyor's concerns. Ms. St. Laurent stated we just moved into our house three years ago, neighbors of theirs were told by the developer that they were trying to make it public. **Motion** made by Mr. Sullivan to place both articles on the ATM warrant with the BOS sponsored article first and the petition article second; and as a separate issue, we should team up with the Planning Board to find a way to force the developers to declare so that the new homeowners know what they are up against;

also, to direct Mr. King and Mr. Hartnett to work with the owners of the medical center to find a way to somehow share the cost to fix the runoff across Wildberry Way. Second by Ms. Shufelt. Discussion: Mr. Valcourt asked Building Commissioner Ralph Souza what recourse is there for the runoff on this property. Mr. Souza stated the water runoff is a zoning violation; he can go and look at it, and then generate a letter to the medical center. Mr. Valcourt stated there is some sort of drainage easement but they are draining across a road; wouldn't it be up to the owner of property to put the proper drainage system in. Mr. Souza stated there can't be drainage across a road. Ms. Shufelt stated she would like to amend/add to the motion that the Board of Selectmen defer their recommendation on the article until April 19th. The Board of Selectmen voted unanimously in favor. Hearing is closed at 6:45 PM.

Water Resources Management Committee – RE:

(1) Discussion of Denite Regulations:

Present: Brian Valcourt, Maury May, Philip Weinberg, William Harkins and Sean Leach. Mr. Valcourt stated the WRMC has been wrestling with the De-Nitrification Regulations for some time now, spending a significant amount of time going over this, with some points that we are all in agreement on and others being a point of contention. Mr. Valcourt stated the major point of contention is whether or not to require all new construction to use the De-Nitrification System or just those with Planning Board approval and how large of a buffer zone will be imposed for upgrades or repairs. Mr. Valcourt stated as a group, we have not been able to come to a consensus on these issues. Mr. Valcourt stated we also have a problem as a committee with the way the seats on the committee are setup. Mr. Valcourt stated we are here for two reasons (1) to look over the De-Nitrification list and (2) reorganization of the WRMC. Mr. May, Chairman of the WRMC, stated Mr. Weinberg, has been the Chairman of the sub-committee for the De-Nitrification Regulations for over a year. Mr. Ouellette asked if they were looking for action on this tonight. Mr. May stated we brought a draft regulation to the BOS on December 27, 2017 and it was remanded back to the WRMC because a lot of people from the environmental community were opposed to it. Mr. May stated we had two meetings in January to try to hash out the problems but during the second meeting, Mr. Valcourt suggested that it be brought back to the BOS. A lengthy discussion ensued regarding the proposed bylaw and regulations and whether to bring this to Town Meeting. Ms. Shufelt asked where does the BOS come in because it sounds like a BOH issue. Mr. Valcourt stated the BOS are coming in on this issue mostly for the reorganization of the WRMC, so we can be a little more effective and to have more members that participate. Mr. Valcourt stated the only other thing the BOS can do is to urge the BOH to take this up as a regulation, other than writing a bylaw that will do down in flames at Town Meeting; this is a public health issue and a river health issue, which he feels needs to be addressed by the Board of Health in a more active way. Ms. Shufelt stated we are required by law to send a finalized warrant by March 10th; we don't even have a draft article to put on the warrant; as to whether it should be on a Town Meeting warrant or whether it should be a regulation is a valid discussion but it appears impossible for it to be on the upcoming Town Meeting warrant. Ms. Shufelt stated we may have a little more time here unless she missed something. Mr. Weinberg stated he didn't think she missed anything; personally he felt it would be helpful to the BOH if the BOS would send their opinion as to what the BOH should be doing even though it is not binding on the BOH. Mr. Weinberg stated whether an article could actually be put together in time for the warrant, which is the right thing to do, he thought Ms. Shufelt was right to be skeptical about it. Mr. May stated there is an existing article (#38) that the BOH has recommended that we can update; it is a matter of how we update that. Ms. Shufelt stated it was Article 18 – Sewage Disposal Systems that was being referred to. Discussion again ensued.

Motion made by Mr. Valcourt that the BOS ask the BOH to consider enacting strong regulations which require De-Nitrification Systems for all new construction, any repairs within the detection area; and to do it by regulation rather than bylaw because this is a public health matter. Second by Mr. Sullivan. Mr. Sullivan asked for an amendment which was to request an opinion from the BOH on this matter and that we encourage them strongly to consider the option of strong regulations. Discussion ensued.

Ms. Shufelt stated the Board of Health is responsible for regulations of this type, they are responsible for holding public hearings about what should be included in those regulations, if there is a change that has to be before other public bodies we will have the opportunity to weigh in. Ms. Shufelt stated she is a little confused about why you need the WRMC involved at all in this situation. Mr. May stated the WRMC is an advisory group to the BOS. Ms. Shufelt stated it seems the BOH would be looking for a recommendation from the WRMC. Ms. Shufelt stated the WRMC happens to include three members of the BOH and that is why we are going to be discussing the reorganization of the WRMC in order to get a different perspective. Discussion ensued. The Board voted unanimously in favor.

(2) Reorganization of the Water Resources Management Committee:

A lengthy discussion ensued on what has transpired so far with the WRMC. Mr. Leach suggested to the BOS, to allow the WRMC to draft a bylaw and suggest it to the BOH and then the BOH can come before the BOS; the State has not mandated this yet but it is coming; also, the BOS should consider reorganization of the WRMC first; the BOH has to carry the ball here and decide whether it is a bylaw or a regulation. Mr. David Cole stated that bylaws usually fail, BOH regulations are the way to go; and the WRMC was created six years ago, eliminating the Estuaries Committee, to help build consensus around the Town but that is not happening. Discussion continued regarding the makeup of the WRMC. Mr. Whitin suggested that the BOS decide what the WRMC needs to do and then select people to serve on this Committee. Mr. Sullivan stated he would ask that the Town Administrator work with the WRMC to come up with a reasonable recommendation. Ms. Betty Slade suggested getting input from other people to Mr. King; she also suggested that people serving on this committee should have expertise in that area rather than an association with a particular committee. Mr. Leach stated it is not a good idea to have the Planning Board, Board of Health or Board of Selectmen on the WRMC and it should be 5-7 members at-large. Mr. Valcourt stated he would be happy to meet with Mr. King, revisit this and come up with a consensus.

Action Items

1. **Motion** made by Mr. Sullivan to approve the wording, as provided by Town Counsel, for the April ballot question for Recreational Marijuana Prohibition and the language for ATM warrant articles for zoning and general bylaws required to adopt a ban on recreational (non-medical) marijuana establishments; this will be Question 1 on the April 10, 2018 ballot. Second by Ms. Shufelt. The Board voted unanimously in favor. **Motion** made by Mr. Sullivan to use the term “Non-medical” instead of “Recreational” throughout the warrant. Second by Ms. Shufelt. The Board voted unanimously in favor.
3. **Motion** made by Mr. Valcourt to approve the extension of Scallop Season to April 30, 2018 and to send a letter to the MA Division of Marine Fisheries regarding the extension. Second by Mr. Sullivan. The Board voted unanimously in favor. *John Borden, Shellfish Advisory was present.
6. **Motion** made by Mr. Valcourt to approve the request for \$40,000 in the FY'19 Budget for a complete revision of the Zoning Bylaws. Second by Mr. Dutra. The Board voted 4 in favor, 1-opposed (Shufelt). *Ralph Souza, ZEO and James Hartnett, Asst Town Administrator/Town Planner were present.
8. **Motion** made by Mr. Sullivan to assign the First Right of Refusal to the Westport Land Conservation Trust for Ch.61A- James W. Wood, Main Road – Map 77, Lot 12C. Second by Mr. Valcourt. The Board voted unanimously in favor. Present: Ryan Moran, Executive Director of the Land Trust and Stephen Sloan.

Discussion Items

1. Ballot question – Marijuana Prohibition
This matter was addressed under Action # 1

2. Ballot question – Non binding – Changing of Town Election Polling Hours
Motion made by Mr. Sullivan to place a non-binding ballot question: “Should the Town change the polling hours for local Town Elections to be 7AM to 8PM to be the same as Federal and State Elections instead of the current hours of 10AM to 8PM?” Second by Mr. Dutra. The Board voted 2 in favor, 3-opposed (Ouellette, Shufelt, Valcourt).
3. Ballot question – Non binding – Marijuana Retail Stores, if permitted, precinct preference
Motion made by Mr. Sullivan to include a non-binding ballot question: “If marijuana retail stores are permitted in Westport, should they be allowed to be located in your precinct?”. No second was received.

Question and Answer Period – None.

Boards/Committees/Commissions Vacancy List

Mr. Valcourt reviewed the vacancy list.

Board Members Suggestions for Future Agenda Discussion / Action – None.

Topics not reasonably anticipated forty-eight (48) hours in advance of the meeting – None.

8:15 PM Executive Session

Motion made by Ms. Shufelt to enter into Executive Session pursuant to the provisions of MGL c 30A section 21(a) (1) to discuss the discipline or dismissal of an employee; (4) to discuss the deployment of or strategy regarding security personnel or devices; and to approve Executive Session Minutes of February 20, 2018; and to consider voting the Release of 2017 Executive Session Minutes. Second by Mr. Valcourt. The Board voted unanimously in favor.

Roll Call Vote: Ms. Shufelt-aye. Mr. Valcourt-aye. Mr. Sullivan-aye. Mr. Dutra-aye. Mr. Ouellette-aye.

Mr. Ouellette announced the Board would return to Open Session to continue with the remaining agenda items.

10:08 PM – Return to Open Session

Action Items:

2. **Motion** made by Ms. Shufelt to approve the ATM warrant for May 1, 2018 with the following changes, (1) replace “Recreational” with “Non-medical”, (2) Article 32 Road Acceptance sponsored by the Board of Selectmen will become Article 31 and Article 31 – Petition for Wildberry Way will become Article 32. Second by Mr. Valcourt. The Board voted unanimously in favor.
4. **Motion** made by Ms. Shufelt to approve the FY'19 Capital Improvements, Enterprise Fund Budgets and the Community TV Budget as presented. Second by Mr. Valcourt. The Board voted unanimously in favor.
5. **Motion** made by Mr. Valcourt to approve License Agreements with Team Providence and the Westport Girl's Basketball League for use of the Westport Middle School Gym. Second by Mr. Sullivan. The Board voted unanimously in favor.
7. **Motion** made by Mr. Valcourt to accept the earmark grant of \$50,000 from DCR for improvements at the Head Town Landing. Second by Ms. Shufelt. The Board voted unanimously in favor.
9. **Motion** made by Mr. Sullivan to exercise the First Right of Refusal and vote to release from Ch.61A – Pamela Wilkinson, Mary-Lou Quigley, Frank Hadley, Sandra Kim McKenna, Lynne Lott, Roberta Robinson, Richard Damon and John Damon – Narrow Avenue – Map 64, Lot 4 (portion of this parcel, shown as Lot 2 on ANR Plan). Second by Ms. Shufelt. The Board voted unanimously in

favor.

Licenses

1. **Motion** made by Mr. Sullivan to approve the Seasonal Liquor Licenses and Common Victualler Licenses for Acoaxet Club, Inc. d/b/a the Pro Shop, 152 Howland Road and for Village Pizza, 760 Main Road. Second by Mr. Valcourt. The Board voted unanimously in favor.

Town Administrator Report

1. Uncompensated Leave Balances: Mr. King provided the Board with a report on Uncompensated Leave Balances (ATM Article 12) that includes explanations, liabilities and recommendations.
2. FY'19 Capital Projects – CIPC Prioritized Recommendations: Mr. King provided the Board with a memo that provided a listing of the recommended capital improvement projects; the list is in prioritized order as voted by the CIPC.
3. Health Insurance Rates for FY'19: Mr King stated that SHMG voted to increase health insurance rates for FY'19 by 5%. Mr. King stated he voted as opposed.
4. Equal Pay Guidelines: Mr. King stated the Attorney General's Office has issued guidance for the implementation of the statute that goes into effect July 1, 2018.
5. Mass 911 Newsletter: Mr. King provided the Board with a report from the MA State 911 Department most recent newsletter.
6. Veteran's Services Monthly Report: Mr. King provided the Board with a copy of the monthly report of the Veterans Services Agent.
7. Animal Control Monthly Report: Mr. King provided the Board with a copy of the monthly report of the ACO.
8. MADOT – Chapter 90 Funds: Mr. King provided the Board with a copy of a letter from MADOT showing the amount of Chapter 90 money that will be available for FY'19 (\$668,412).
9. Discussion of Administrative Asst/Confidential Clerk position: Mr. King requested permission to post Ms. Pelland's position. **Motion** made by Ms. Shufelt to post the Administrative Asst/Confidential Clerk position. Second by Mr. Sullivan. The Board voted unanimously in favor.

Minutes

1. **Motion** made by Mr. Sullivan to approve the Regular Meeting Minutes of February 20, 2018 as submitted. Second by Mr. Valcourt. The Board voted unanimously in favor.

Selectmen Liaison Committee Reports

1. Mr. Ouellette stated with the school vote passing, there will be a meeting on Wednesday, March 7, 2018 in Boston with the MA School Building Authority.
2. Mr. Valcourt stated he was very upset with the School Committee, for not appointing him as BOS representative to the Superintendent Search Committee. **Motion** made by Mr. Sullivan to ask the Superintendent Search Committee to reconsider an appointment of Brian Valcourt to the Superintendent Search Committee giving the BOS an opportunity to have a seat on the Committee and an opportunity to participate. Second by Mr. Valcourt. The Board voted unanimously in favor.

Other Business

1. Mr. Ouellette mentioned the ceremony which took place at St. Vincent dePaul's; he wanted to thank the Westport Land Conservation Trust.
2. Mr. Ouellette stated he attended the Diman tour.
3. Mr. Ouellette mentioned he attended the Legislative Breakfast and of course the problems with fatalities became a subject.
4. Mr. Sullivan mentioned that one of the articles on the ATM warrant is to change the Treasurer position from elected to appointed; we will need a ballot initiative.

5. Mr. Valcourt stated it was a historic moment this week, when the Town voted to build two new schools; he thanked everyone who came out and voted.

10:47 PM

Motion made by Mr. Dutra to adjourn the Board of Selectmen's Meeting. Second by Ms. Shufelt. The Board voted unanimously in favor.

Adjournment.

Respectfully submitted,
Diane Pelland
Administrative Asst/Confidential Clerk to the Board of Selectmen

APPROVED: Brian T. Valcourt, Clerk