

**BOARD OF SELECTMEN  
REGULAR MEETING MINUTES  
MONDAY  
MARCH 31, 2014**

**Members Present:** Antone C. Vieira Jr., Chairman  
Richard M. Spirlet, Vice Chairman  
Steven J. Ouellette  
Craig J. Dutra  
R. Michael Sullivan, Clerk

**Also present:** John F. Healey, Town Administrator  
Stephen J. Lombard, Business Manager

Chairman Vieira called the Board of Selectmen meeting to order at 5:30 P.M. in the Westport Town Hall, 816 Main Road, Westport, MA with the reciting of the Pledge of Allegiance by all present.

**Executive Session – 5:32 PM**

**Motion** made by Mr. Spirlet to enter into Executive Session pursuant to Massachusetts General Laws Chapter 30A, Section 21 to discuss a Fire Dept. Personnel matter. Second by Mr. Sullivan. The Board voted unanimously in favor.

**Roll Call Vote:** Mr. Spirlet-aye. Mr. Ouellette-aye. Mr. Dutra-aye. Mr. Sullivan-aye. Mr. Vieira-aye. Mr. Vieira announced that the Board would resume to Open Session.

**Open Session – 6:02 PM**

At this time, Mr. Vieira explained to everyone that an Executive Session was held to discuss a Fire Department personnel matter and two votes were taken, which Diane Pelland will read into the record.

**Motion** made by Mr. Spirlet to put an article on the STM Warrant to transfer \$300,000.00 from either Free Cash or Stabilization Fund for related medical expenses for a public safety personnel. Second by Mr. Dutra. The Board voted unanimously in favor.

**Motion** made by Mr. Spirlet to put an article on the STM Warrant specific for the authority to short-term borrow up to \$750,000.00 pursuant to MGL Chapter 41, Section 100. Second by Mr. Ouellette. The Board voted unanimously in favor.

Mr. Vieira explained we have an injured fireman and the Town of Westport is self-insured so what we are doing by theses motions is to address both short-term and long-term; we have already started to receive some bills. Mr. Healey and Mr. Lombard will have the wording sent to Town Counsel for review and will advise the Finance Committee of what we are doing; and both will be speaking with Treasurer George Foster; this needs to be taken care of asap and placed on the STM Warrant. Mr. Vieira also reminded everyone that Annual Town Meeting this year is on Saturday, May 3<sup>rd</sup>, it begins at 9:00 AM and within the Annual Town Meeting will be a Special Town Meeting to address these two motions along with other articles. The Fire Chief requested this Executive Session to address this matter.

**Discussion with Senator Rodrigues, DCR, Fire and Police – RE: Expenditure Plan for Horseneck Beach Trust Fund.**

Present: Senator Michael Rodrigues, State Rep. Paul Schmid, Police Chief Pelletier and Fire Chief Legendre. Senator Rodrigues stated that back in 2012, Chapter 307 – An Act establishing the Horseneck Beach Trust Fund was passed. Senator Rodrigues then read the act. (see attached). He noted that for Calendar Year 2013, \$45,819.00 was collected. There was a meeting with Mr. Healey,

Regional Director of DCR Karl Pastore, Chief Pelletier, Chief Legendre and himself to go over the expenditure plan for 2014. Both Chiefs gave their professional proposals for police and EMT details down at Horseneck Beach. DCR agreed that \$8,000. to \$10,000. would be for extra police details for traffic, this will be in communications with Chief Pelletier for when these details will be necessary. Chief Legendre was concerned that there is no EMT detail at the beach now and when a call comes in, there is difficulty getting out to someone on the beach and dunes, so it was agreed for \$10,000. to be allocated for a number of details on the beach, again there will be communications with the Chief on what days will be necessary. The Beach will also be purchasing a variable message board for announcements to patrons, such as jelly fish, shark sightings, pipin plovers, surf conditions, etc. and a new security camera system. The total expenditure will be \$39,600.00 for 2014 with the balance remaining in the fund for subsequent appropriations. The only outstanding issue we have is that police details are under the purview of the Environmental Police; they have first right of refusal, but in discussions with DCR, these details will be above and beyond and will be for traffic management. Mr. Vieira stated the meeting was supposed to be with the Board of Selectmen, so we are looking at this opportunity to weigh in and speak. Senator Rodrigues stated that opportunity was represented by Mr. Healey and he was sorry that DCR was not here tonight. Mr. Vieira noted that Senator Rodrigues and himself, being former FinCom Chairs have battled with the cost associated with Horseneck Beach in the Town's budget. Mr. Vieira noted that the Town is receiving more PILOT funds than any other municipality other than Edgartown due to the Senator's efforts but there is additional traffic in Town due to Horseneck Beach by visitors leaving Route 88 and using Town roads, sometimes ending up at the point or the harbor and this puts an additional burden on public safety and yes, there is a financial advantage with having these visitors here but there is a cost associated with this also. We are facing a decline in our budgets and we are having a problem with trying to maintain public safety, especially at the same level we were providing for the last few years. We anticipated this relief (\$1.00 per car) coming to us for our public safety, especially when the cars coming from the beach, leave the road and go through Town; it does not seem to be providing this relief. Senator Rodrigues stated he understood the impact of Horseneck Beach and any state-owned land on local communities, which is why the state does PILOT's; I do focus on the PILOT line item very carefully but tax exempt properties for Westport under the PILOT Program back in 2010 gave the Town, \$297,444. and this year it gave \$810,632. which more than mitigates the impact of Horseneck Beach on Westport. Horseneck Beach does have a negative side in regards to public safety but the positive side is the economic impact for local businesses to bring in a lot of dollars to such places as Lees Market, Bayside Restaurant, Partners, Handy Hill, etc. This is a \$1.00 fee not a tax (modeled after Salisbury and Nahant Beaches) which can't go into the General Fund, it has to be used specifically for what it is raised for and in this case, it can only be used for the long-term preservation, maintenance, nourishment and public safety of Horseneck Beach; maybe there was a misunderstanding of what the fund was to be used for. Senator Rodrigues stated that the details would benefit beach patrons but it will also free up details for the Chief. Mr. Vieira noted that the business model for Horseneck Beach did not include details for the Town of Westport because when a detail is called for, it is normally paid for by the party and the people doing details will not be able to work. Mr. Vieira asked if the budget for Horseneck Beach was public; Senator Rodrigues replied yes. Mr. Vieira asked that at some point a copy be made available to the Board and that may clear some things up. Senator Rodrigues stated that last year, gross receipts for Horseneck State Beach were \$496,000. with the PILOT being over \$800,000. and the beach budget paying for 50 lifeguards has caused the beach to not even break even. Mr. Vieira stated it would be helpful to see a 12-month profit and loss statement. Chief Pelletier stated this is the first time, we were allowed a seat at the table, had a cordial discussion and we are ahead of the game for once; there has never been a sit down with DCR before. Director Pastore wants to work with the Town; in the past, we were told that if there is an emergency, we have to respond to the call because it is Westport. Chief

Pelletier stated it is important to understand that these beach details are not taking away from our compliment on the road; if there is an emergency, all officers will respond. This gives us an open line of communication; it is our first step to joint management down there. We will be part of the decisions on a regular basis and it will only add to putting the pieces of a puzzle together. We will be using a \$10,000. budget and I will more than likely be using Reserve Officers for these details; we are looking at 3.2 people per week; if it is a rainy week, the money will just sit there. Chief Legendre stated the EMT's will be just for weekends (20 days) and it will be 2 people per weekend; again, we will only be using off-duty personnel because there is a big gap between on duty and off duty time; it will not affect on-duty personnel. Mr. Vieira asked Senator Rodrigues if this was typical of what other cities and towns were doing. Senator Rodrigues stated yes, this was modeled after Salisbury and Nahant, but remember, it is not a one size fits all. Chief Legendre stated he has spoken with the Fire Chief in Hull because they are doing the same type of thing there also. Mr. Spirlet stated he would like a 4-wheel drive rescue vehicle to be purchased by the Beach so that the Town's ambulance don't get used and stuck on the beach, especially with the sand, water and salt damaging vehicles; after the season, it can be stored here. Chief Legendre stated that was one of his concerns and part of the proposal; Hull stations a crew and in an emergency, the crew is just let go and the DCR is notified. Mr. Sullivan asked both Chiefs about how much money is spent by the Town in general due to Horseneck Beach. Chief Legendre stated it is hard to put a number to it; not sure of the number of calls to Horseneck Beach because it could involve an accident on Route 88. Mr. Vieira stated the Annual Report would show the number of calls. Mr. Ouellette asked if the Police Department would be able to view through the camera system also. Chief Pelletier stated they have not purchased the system yet, they were looking at a DVR System and they may share their IP address with us but they were mostly concerned about the money gate; there is already a camera system in place, this was just an addition to it; in the future Chief Pelletier stated he would like a better system down there but that has not been discussed yet. Mr. Ouellette stated he would like to see calming effects for side roads in the area such as signs or radar units, etc. due to bike riders vs. motor vehicles speeding in that area. Mr. Spirlet questioned if the \$1.00 was still in effect even with senior citizen discounts and free of charge patrons. Senator Rodrigues stated yes. Chief Legendre stated one benefit will be especially recognized by the EMT's for when the portuguese-man-o-wars come in; the department usually gets three calls a day. Mr. Vieira questioned if a parking lot area was specific to Westport residents. Senator Rodrigues stated he was not familiar with that; there is a lot of folklore. Mr. Vieira stated that he was only aware of being able to park there free if you are handicapped but he was not aware of any other benefit to Westport residents. Senator Rodrigues replied the \$810,000. PILOT is a benefit; at this time, we are focusing on the campgrounds for upgrades such as bathhouses and electric; which by the way, Gooseberry is part of it. Again, Mr. Vieira asked for information on the business plan and operating budget. Senator Rodrigues stated he would get any information on the budget for the Board. Mr. Vieira stated the legislation says a meeting with the Board of Selectmen, who did not designate anyone to represent them so with this meeting tonight, a vote is being called. **Motion** made by Mr. Spirlet to accept this year's plan with it being brought back in October to see how it is working and see if adjustments have to be made. Second by Mr. Sullivan. The Board voted unanimously in favor. The Board thanked the Senator and State Rep. for coming in.

**R. Michael Sullivan, Bart Henderson, Nancy Durfee – RE: Coastal Community Resilience Grant Program FY14.**

Present: Jim Whitin and Nancy Durfee. Mr. Sullivan stated that Ms. Durfee, who has a lot of experience in this area, found this grant (Town of Westport East Beach Coastal Community Resilience Grant) and is working on its submission. UMass Student Bart Henderson has been a tremendous help, working on this application for the Town at no charge. The grant packet was included in the BOS

packets for review; at this time, we are looking for a letter of support from the BOS. Mr. Dutra asked what the in-kind services would be. Ms. Durfee stated that Jim Hartnett is working with the Westport River Watershed Alliance on the in-kind service. Mr. Sullivan stated we did not have a lot of time to react, so one way to make this application was through the Planning Board; if successful, we will find it a home. Mr. Spirlet asked if anyone was getting paid for their service. Mr. Sullivan stated the scope is to study all the beaches and mitigate damage from storms; an RFP will be put out and then a recommendation will be made. Mr. Spirlet stated that his only concern was that this was not presented to the Water Resources Committee; they should have been part of this. Mr. Sullivan stated that Mr. Spirlet was right, this route would have been taken but we only had one week to put this together. Mr. Vieira noted that at this time, he was going on good faith, hoping that this will benefit the Town. **Motion** made by Mr. Dutra to approve of the letter of support. Second by Mr. Ouellette. The Board voted unanimously in favor.

**Discussion – RE: Town Administrator, Business Manager and Financial Director/Treasurer positions.**

Mr. Vieira noted that material was provided to the Board members of the bylaw, last advertisement and job description of the Town Administrator position. Mr. Ouellette asked what does Mr. Healey do that is not in the description; this should be included. Mr. Dutra stated we have a copy of the contract from the last Town Administrator but the bylaw has been a bone of contention between the Town Administrator and the BOS regarding the role of the Town Administrator. Mr. Vieira stated a game plan was needed; it is helpful to have someone with experience in small towns; we need to look at the Human Resource function in Town also. We have a Town Administrator and Business Manager function, which has been working so far; and we have had debates on how we empower the Town Administrator. At some point, we need to empower the position and we need to look at what we want for a day-to-day Administrator. We need a discussion of our interactions with the Town Administrator. Mr. Spirlet stated we have two positions, Town Administrator and Business Manager; he would like Mr. Healey and Mr. Lombard to go through the descriptions. Mr. Spirlet stated his personal feeling is the Board is elected and we are responsible for certain things; a lot of stuff needs to come back to the Board and a lot of control should stay at the Board level. Mr. Vieira stated that we recently passed a bylaw; we need policies and procedures to oversee certain technical areas; we need to decide if we need 1, 2 or 3 people. We need to review Article LVIII; we don't have a person who carries out the policies that interacts with us and the public; we need to empower a person; to give them the tools to do the job. Mr. Dutra stated we need to take a fresh look at the roles of the Town Administrator and the Board of Selectmen; it is worth looking at the way it was addressed and when we get clarity, we need to post the position; we should start with the DOR Report and look at the inter-relationship. We should start the process with the Town Administrator position and then send our criteria to the Search Committee. Mr. Vieira read last year's advertisement for the Town Administrator job search; and stated we had an advantage of having two seasoned people on board, does the Board want to put out the advertisement for 30 days to see what happens; my opinion is that one person can't do it all. Mr. Spirlet stated that for the next meeting, we should tweak the Town Administrator and Business Manager descriptions and then we can vote to advertise. Mr. Dutra stated we should place the ad, review and update the job description. The Board decided that a meeting will be posted for May 12<sup>th</sup> at 6:00 PM and they will hold an Executive Session at 6:00 PM to review the applications that come in. **Motion** made by Mr. Sullivan to move ahead and advertise the position (with no end date) in the Beacon, local newspapers and place on the website. Second by Mr. Spirlet. The Board voted unanimously in favor.

**Discussion – RE: Time Cards/Pay Grades/Personnel Records & FLSA Audit.**

Mr. Healey stated he has twice reported on this subject. The FLSA audit is attached to tonight's report; and he would ask that respect be given to the confidential aspects of it. Mr. Dutra stated that he would find it hard to make references in a discussion tonight that refer to confidential material; an Executive Session should be held to discuss this matter and then we can bring it back to Open Session to make policies. Mr. Vieira stated we can go into Executive Session next meeting and have Attorney Jenkins join the Board also; so between now and the next meeting, Mr. Healey and Mr. Lombard can go over this material. \*Next BOS Agenda for April 9<sup>th</sup> will include an Executive Session in addition to the Reorganization, Minutes and one Public Hearing (already advertised). Executive Session will be scheduled for 6:30 PM.

**Appointments**

1. **Motion** made by Mr. Dutra to appoint Milicent Throop to the Beach Committee. Second by Mr. Ouellette. The Board voted unanimously in favor. \*Contact will be made to Robert Carroll as to whether he wishes to continue to serve on this committee as courtesy for serving on this committee for many years.

**Action Items** – None.

**Minutes** – None.

**Question and Answer Period** – None.

**Town Administrator Report** – None.

**Correspondence – Action Required** – None.

**Board Members suggestion of items for future agenda discussion/action**

1. The Board of Selectmen will meet on April 9<sup>th</sup> after the elections and the first item of business will be the Reorganization of the Board and Approval of Minutes. Mr. Healey stated that the minutes of 3/24/14 will contain the exact language used regarding the SOI for the School Department. If the Board wants to change the language they can. Mr. Dutra stated that as the maker of the motion, he will be amending the motion to correct the wording of "efficiencies" to "deficiencies" and then we will need to expedite the minutes to the School Department. Mr. Vieira stated he has no intention of delaying the minutes; we will honor this and bring the minutes to the April 9<sup>th</sup> meeting.

**Other Business**

1. Mr. Spirlet reminded everyone that April 8<sup>th</sup> is Election Day with the polls open from 10:00 AM to 8:00 PM.
3. Mr. Ouellette wished everyone well in light of the recent flooding rains.
4. Mr. Vieira would like to see the Social Day Care breakdown for the next BOS meeting.

**Motion** made by Mr. Spirlet to adjourn the BOS Meeting at 7:40 PM. Second by Mr. Ouellette. The Board voted unanimously in favor.

**Adjournment.**

Respectfully submitted,

**APPROVED:** \_\_\_\_\_  
R. Michael Sullivan, Clerk

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

