

**BOARD OF SELECTMEN
SPECIAL MEETING MINUTES
MONDAY
APRIL 28, 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 Lombard, Business Manager
Attorney David Jenkins, Town Counsel

Chairman Vieira called the Board of Selectmen meeting to order at 6:00 P.M. in the Westport Town Hall, 816 Main Road, Westport, MA with the reciting of the Pledge of Allegiance by all present.

At this time, Mr. Vieira called for a Moment of Silence for Westport High School student, Erica Hall and former School employee Luella Kirby.

Landing Commission – RE: Repairs to Town Landing at the Head.

Present: Carl Tripp and Newton “Tony” Millham. Mr. Spirlet stated that for the last 2-3 years, he has been voicing his discord with the east side of the Landing at the Head, where the kayaks are launched. If this was not a Town owned property, there may already have been placed a cease and desist from the Conservation Commission; CPC money has been awarded but nothing is getting done. We can't let this get this far out of whack. Mr. Spirlet asked when this area was going to get fixed; the ramp is falling apart, there is no grass, it is a mess. Mr. Tripp stated the Commission talked to a couple of firms but the costs were out of hand. We are going to do the grading, take care of replacing the grass and fill in the holes and put back rocks. We are going to get samples of material called “concrete grass” and give that a try; supposedly, this type of material works well. For aesthetics, we are putting the wall back and putting in this matting, which is maintainable and safe. The material has been used in NH and TX with good results but the only problem is the supplier is located in Worcester, so we are going to try a couple of samples. Mr. Tripp noted that this area was never ramps to start with. Mr. Spirlet stated this area is used mostly by the kayak shop but his fear is that someone is going to slip, fall and get hurt; he does not want a cease and desist because so many people use it; if the Town is assuming the total liability, we should indemnify the Town. Mr. Tripp stated we own the land, with deeded access; the Town does have the liability. Mr. Dutra mentioned that a Certificate of Insurance for the liability from the kayak shop for their customers should be obtained. Mr. Vieira stated we need to protect the Town; we rent out to various businesses such as the pre-school and we are requesting that a Certificate of Insurance includes the Town as an additional insured, it does cost money but it protects us in the process. Mr. Tripp stated he would talk to them. Mr. Vieira asked if there was anything in the contract for sharing the upgrades down there with the Town. Mr. Tripp stated we are now going to pay more attention to this area; Mr. Tripp then asked the Board, that as they go along, does the Commission have some use of the Town's services such as mowing the lawn, etc. Mr. Vieira stated of course, it is Town property but on the other hand, anything you can do to get some consideration for the Town during your negotiations would be appreciated. Mr. Tripp mentioned they may require legal counsel also. Discussion continued regarding bidding and procurement, MOU's, the Roselli report and insurance. The Board thanked Mr. Tripp and Mr. Millham for coming in.

Christopher Gonsalves, Hwy. Dept. - RE: Report on potential use for the Winter Rapid Recovery Road Program (\$101,553.)

Present: Christopher Gonsalves and Susan Maynard. Mr. Healey stated that good news was received in that the Town has been given \$101,553.00 under the WRRRP (Winter Rapid Recovery Road Program) for recovery of road conditions caused by the winter weather. Mr. Gonsalves stated due to the emergency situation on Riverview Drive, this will be a priority under this program. Mr. Dutra asked if Riverview is done with this program, does it affect our other project. Mr. Healey stated no, this is for potholes only and line striping. Mr. Vieira stated he checked with Mr. Mello and this does not come under Chapter 90; this is a lose it or use it program. Mr. Dutra asked if this will lessen our amount of the bid under Chapter 90. Mr. Vieira stated having \$101,000.+ will help us expand our work such as line striping; Mr. Gonsalves and Ms. Maynard have to submit a list for approval. Ms. Maynard stated they have until June 30th to submit and the work must be completed by the end of September. Ms. Maynard stated she has spoken with Liz Lapointe, MA DOT and the Town must submit their intent, the State then approves it and then the Town can commence work; we are also allowed to submit more than once before the deadline. Mr. Vieira stated they will try to address all priorities. Mr. Ouellette mentioned that Route 6 was flooded again. Mr. Gonsalves stated he did call the State; but he will be talking to the Conservation Commission about debris near Johnson Street. Mr. Vieira also mentioned Benoit Street and Estrela Lane still having some issues. Mr. Gonsalves stated that an engineer has been down there and ran a camera but it showed that all was clear. Mr. Vieira also stated that the Briggs Landing project is still causing a problem with Tickle Road with stormwater; maybe when the construction is done it will be better but we need to pay attention to that area during construction. The Board thanked Mr. Gonsalves and Ms. Maynard for coming in.

Discussion – RE: Finance Committee recommended FY 2015 Operating Budget. & Discussion – RE: Legal Fees – Breakdown from last year and Year-to-Date by Departments.

Mr. Lombard recognized the FinCom recommendations of \$17,000.00 to be deleted from the Police Dept. Budget and \$10,000.00 from the Legal Budget and that \$30,000.00 goes to the Reserve Fund. Mr. Lombard stated he is going to the FinCom tomorrow night to recommend that the figures go back into the budgets and that they hold on these until the Fall for when we have a better idea of where revenues fall in; the Town always has a Fall Meeting and at that time we can balance out; if we are to have our added growth certified early, that would be a raise and appropriate, which would fall under the policy of not using one-time revenues. Mr. Vieira stated in all fairness to the FinCom, they tried to balance the budget but it was unfair to not speak to the Chief regarding his budget; also, in looking at the Legal Budget, which is at \$100,000.00, he asked that Mr. Lombard share the Legal Budget breakdown by department with the FinCom because it may not be a good idea to cut this budget. Mr. Lombard stated the FinCom Budget is very close to the BOS Budget; he could not speak to the FinCom's actions but he suggests using the Overlay Surplus to create a Reserve Fund. Mr. Lombard stated he already reduced the Police Budget by \$200,000. and it would not be a wise move to cut Legal any further. Mr. Vieira stated hopefully, we don't have to tap into the Reserve Fund, but in the fall, if we need to, we can transfer then. Mr. Lombard stated we are so conservative in our estimates, our added growth figure usually comes in higher; he is suggesting that we wait for Certified Free Cash. Discussion continued.

Motion made by Mr. Spirlet to follow Mr. Lombard's recommendation to the Budget. Second by Mr. Sullivan. The Board voted unanimously in favor.

Mr. Ouellette asked for a status of the Data Processing; if there was any money left from last year. Mr. Lombard stated that Keith Novo is not done with his project list; the account does have a balance but

Mr. Lombard will be contacting him on how he plans to spend the rest. Mr. Vieira asked about Microsoft. Mr. Lombard stated an article has been placed on the warrant to get Microsoft; Mr. Healey stated the \$30,000.00 article is to hire someone during the day to assist with any problems. Mr. Lombard stated Mr. Novo estimated about 100 computers at \$600. per computer. Mr. Vieira stated that critical departments were looked at; \$30,000.00 is not ideal amount but we need to start somewhere. Mr. Vieira stated we got Libre from the School Department but it is Apple-based and the Town is not Apple-based. Mr. Lombard stated he was not sure the School was going to continue with Libre because they are running into issues. **Motion** made by Mr. Ouellette to ask the Finance Committee for the \$30,000.00 for the Microsoft software to be bought or leased and to recommend it come out of Cable. Second by Mr. Spirlet. The Board voted unanimously in favor.

Discussion – RE: Personnel Policies approved at last meeting.

Mr. Vieira stated the Personnel Policies were approved at the last meeting but there was some concern so if any Board member is concerned, please speak now. Mr. Dutra stated he has no problem with it. Mr. Healey stated he will be talking to the Chairmen of Committees and Department Heads regarding these policies in detail. Mr. Dutra stated this must be monitored very carefully due to the different departments dealing with this. Mr. Vieira stated there is a procedure in place to be able to work from home; we have a lot of hardworking employees and these policies spell out what is expected of them for fairness and in addressing the legal aspect of this. The policies are available for anyone wishing to review them.

Discussion – RE: Fire Department Budget recommendation letter to the Finance Committee/Grant application.

Mr. Vieira stated there have been a number of emails regarding this. Mr. Vieira stated that Mr. Healey and Mr. Lombard have recommended a source of funds for the Fire Chief and they will be going in this direction and he stated he was fine with this; at our last meeting, we suggested a plan for the Fire Chief and Mr. Lombard notified the Fire Chief. Mr. Vieira stated he never intended to make a big deal out of this but to simply address this issue. Mr. Dutra stated to clarify we are on record as not opposing, the recommendation to the Finance Committee is to use revenues from the third party billings to offset the cost of two firefighters so we are not laying off two firefighters and in doing so, we are in full compliance with the SAFER Grant. Mr. Vieira stated that full compliance would be in applying for the grant; if you read the local papers, the dollar amounts are in the millions; we went for an override for the \$94,000.00. Mr. Vieira stated he is comfortable going forward under the recommendations of Mr. Healey and Mr. Lombard; the Chief was not intentionally not willing to go after the grant but the process with the Finance Committee is to identify the source. Mr. Vieira stated he is most concerned with the two people who are in the middle of this, wondering if they have a job; what I was attempting to do is that other departments have personnel funded by grants and not tax revenue; they should be encouraged to seek out other funding sources; what I am against is minimum staffing, which was negotiated some time ago by this Board, I am not against the Fire Dept. Mr. Sullivan stated that the grant was supposed to be used once; Mr. Vieira stated this is a \$320 million grant and there are a lot of options. Mr. Dutra stated that a lot of cities and towns took advantage of this source of funds; we took advantage of this for a couple of years. Mr. Vieira stated this was a stop gap to fill public safety layoffs, recruitment and training. Mr. Sullivan stated this is just another thing on the list that is not being done fairly and it should be brought to our legislators. Mr. Vieira stated that in the future, there should be a meeting with Department Heads regarding sources of funding other than tax revenues. Mr. Spirlet stated it does not cost anything to apply for the SAFER Grant; we can try for the override but we can also try for the grant.

Action Items

1. Mr. Healey stated the Borrego Contracts for Net Meeting (Carver and Freetown), which were approved by the Board are ready to be signed tonight. Mr. Vieira stated hopefully, this will stabilize our bill and save us some money. Mr. Sullivan stated he did not understand this totally yet, even though Mr. Connors has explained. Mr. Connors was present and did a quick summary for the Board.
2. **Motion** made by Mr. Sullivan to accept with regrets the resignation of Bruce Belling from the Council on Aging Board and to send a letter of appreciation. Second by Mr. Ouellette. The Board voted unanimously in favor. Mr. Sullivan will be drafting up this letter.
3. This item was held on.
4. **Motion** made by Mr. Ouellette to approve a Common Victualler License for The Kitchen @ Compton Clambakes & Catering. Second by Mr. Spirlet. The Board voted unanimously in favor.
5. **Motion** made by Mr. Sullivan to approve a request to hang banners at the playgrounds for Lyme Disease Awareness Month” by Barbara Smith. Second by Mr. Spirlet. The Board voted unanimously in favor.

Minutes

1. **Motion** made by Mr. Sullivan to approve the Regular Meeting Minutes of April 9, 2014. Second by Mr. Vieira. The Board voted unanimously in favor.

Town Administrator Report

Mr. Healey reviewed his report with the Board and summarized that East Beach Road can't be done first; Beach Avenue is the Primary Bid we have awarded and, short of re-bidding the project and facing a possible law suit from the contractor who was awarded the bid, must move forward first; and then the base will be reworked on the East Beach Road section and paved, then we move on to complete the work on Riverview; the pre-construction conference with JH Lynch was also conducted this morning. Mr. Healey stated he is looking for the Board's signatures tonight. A lengthy discussion ensued among the Board members, Town Administrator, Planning Board member Jim Whitin, Tim Gillespie, Attorney Jenkins, Christopher Gonsalves, Sean Mullaney and Steve Lombard.

Motion made by Mr. Spirlet to move forward with the contracts as stated and to get the three roads done: Beach Avenue, East Beach Road and Riverview Drive. Second by Mr. Vieira. The Board voted 2 in favor, 3-opposed (Dutra, Ouellette, Sullivan). **Motion is defeated.**

Mr. Sullivan suggested going back to the low bidder and explaining that we are not going with this; then present a new scope to them. Mr. Sullivan stated he would like this to be looked at again; see if we can change it, if not, throw it out and rebid with East Beach Road as the primary; if that don't work, then we go out to bid again. Attorney Jenkins stated this is a substantial change, it needs to be rebid; your problem will not be with Lynch, but with the other bidders; they will challenge. Mr. Healey stated there will be challenges, they have already checked. Christopher Gonsalves, Hwy. Dept. asked if this will be the case each time he comes forward with a road to be paved; in his opinion, tarring is the best way for roads, it is the easiest way to maintain. Sean Mullaney stated there is no problem with losing access; Town Counsel is correct in stating that a contract is only good if it is signed. There has been no execution of the contract. All proposals are better than laying down asphalt. The people are willing to pay for everything; a plan will come together. Mr. Mullaney stated he liked Mr. Sullivan's idea. Mr. Vieira stated the Town Bylaw says that accepted roads in Town should be paved. Jim Whitin stated that for acceptance of a Town road, paving is required but the BOS can decide to pave, not pave, abandon, etc. Mr. Healey stated that if the Board takes the action he is thinking about, there will be challenges.

Motion made by Mr. Sullivan to bid out with the base bid being East Beach Road and Riverview Drive with an add alternate of Beach Avenue. Second by Mr. Ouellette.

Mr. Healey asked for clarification of the motion, that the base bid would be East Beach Road (a Chapter 90 project) and Riverview Drive (a Rapid Road Recovery Program project) with an alternate of Beach Avenue (same plan as set up now). Mr. Sullivan stated yes.

Motion made by Mr. Sullivan to amend his motion by adding: to contact the engineer to go out to bid as soon as possible. Second to the amendment by Mr. Ouellette. Final vote by the Board: 4 in favor, 1-opposed (Spirlet). Mr. Lombard asked that Town Counsel write the letter to the company.

Executive Session – 8:55 PM

Motion made by Mr. Sullivan to enter into Executive Session pursuant to Massachusetts General Laws Chapter 30A, Section 21 to discuss strategy in regards to negotiations and to approve Executive Session Minutes of April 9, 2014. Second by Mr. Ouellette. The Board voted unanimously in favor.

Roll Call Vote: Mr. Sullivan-aye. Mr. Ouellette-aye. Mr. Spirlet-aye. Mr. Dutra-aye. Mr. Vieira-aye.

Mr. Vieira announced the Board would return to Open Session following the Executive Session in order to adjourn.

Open Session – 9:30 PM

Motion made by Mr. Ouellette to adjourn the Board of Selectmen meeting at 9:30 PM. Second by Mr. Dutra. The Board voted unanimously in favor.

Adjournment.

Respectfully submitted,

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

APPROVED: _____
R. Michael Sullivan, Clerk