

**BOARD OF SELECTMEN
REGULAR MEETING MINUTES
MONDAY
NOVEMBER 30, 2015**

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

Also Present: Timothy J. King, Town Administrator

Chairman Dutra 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.

Pledge of Allegiance

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

Public and Board Member Comment – None.

Acknowledgments & Recognitions – None.

Town Administrator Report

Hunting on Private Property Bylaw: Mr. King stated at the last Annual Town Meeting it was voted to require hunters to gain approval from a private property owner to hunt on their property; the Attorney General has rejected this bylaw stating the Commonwealth has sole jurisdiction to regulate such activities. Mr. Dutra stated that in the letter from the Attorney General, they make specific cites as to why they did not approve and yet, Attorney Jenkins stated this was something that we were within our powers to do. Mr. Dutra stated he would ask Town Counsel why did they give us that advise, given the preponderance of case law. Mr. Vieira stated he would go further and ask Town Counsel to attend our next BOS Meeting because he had a number of questions regarding the billing. Mr. Sullivan stated it is time to do a review of our outstanding litigation with Kopelman & Paige.

Energy Aggregation: Mr. King stated Good Energy is in the process of marketing the Consolidated Edison electricity rate for residents and small businesses; customers will have the opportunity to opt-out if they prefer to keep their present provider; notices will be sent out and information cards are available at various municipal buildings/offices.

FY 2017 Municipal Budget – Transfer Station: Mr. King stated he is in the process of reviewing the budgets submitted by various Town departments; several years ago, Town Meeting voted to have the operation of the Transfer Station accounted for as an Enterprise Fund; this has not been implemented yet. Mr. King asked if the Board wanted to implement it for FY 2017. Mr. Dutra stated he voted for it all along but the Board of Health has resisted all along and a majority of this Board went along with them. Mr. Sullivan asked Mr. King what his recommendation was. Mr. King stated Town Meeting voted it, so there is an obligation but that is his opinion. Discussion ensued. **Motion** made by Mr. Sullivan to request that the Board of Health work with the Town Accountant to facilitate the Enterprise Fund for FY'17. Second by Mr. Ouellette. The Board voted 4 in favor, 1-opposed (Spirlet).

Westport Fire Station #2 – Water Quality Problems: Mr. Dutra noted a letter from Deputy Chief Manley regarding the water quality problems occurring at Station #2 on Briggs Road. Mr. King stated he will be following up with Chief Legendre to come up with a plan to neutralize the water. Mr. Ouellette stated that Mr. Butler is saying a new well; he noted to Mr. King that is the area where the Town used to store salt for the roads. Mr. Spirlet stated this came up at the Capital Improvements

meeting, at which time he suggested putting in a water softener system for the individuals that are there; it was also mentioned that they were running into a problem with the pH fouling up their engines but we are not going to run pipes all the way from Route 6, that would be expensive; if worse comes to worse, for the amount of times they go out for the fires, they can fill up at a hydrant somewhere on Route 6; this is not something that is done everyday. Mr. Harkins asked if he could get a copy of the letter/report so the WRMC could take a look at it and discuss it. Mr. Vieira asked if there was an urgency to this. Mr. King stated that is why this is being introduced to the Capital Improvements Planning Committee. Mr. Vieira noted that Deputy Chief Manley recommended building a new well on the opposite side of the land. Mr. Sullivan stated this is a pH problem, and most people have this, they just install a neutralizing system, this could be an option to be looked at, it is not a big deal. Mr. Dutra stated we will need a recommendation from the Town Administrator, taking into consideration the input from the WRMC and the Capital Projects Committee.

Landfill Solar Project: Mr. King stated that Power Management, the Town's consultant, who has taken the time to go out and identify potential sites, were present tonight and would like to give the Board a brief presentation; also, they have advised that now is the time to go out and seek competitive proposals for electricity and gas because prices are very low. Mr. King stated he authorized them to do that and they would like to discuss this also tonight. Present for Power Management were Dr. Kevin Kelly, Vice President – Michael Hedges, Director of Business Development and Sabin Rossi, Energy Rep. The Board listened to the presentation and suggested that due to concerns and questions, they would like to invite Power Management back in two weeks (12/14/15), allowing the Board time to review the material presented tonight. The Board also requested a recommendation from the Energy Committee. Dr. Kelly asked if the Board could vote tonight for the gas (24 months) and electricity (12 months) in anticipation of a recommendation from the Energy Committee, at least this way the rates would be locked in. Mr. Sullivan stated the Energy Committee will be meeting this coming Monday; they have not met with Power Management and as Mr. Dutra stated Power Management is before us, before going to the Energy Committee; and we only have Mr. Connor's recommendation. **Motion** made by Mr. Sullivan to accept the recommendation of Tony Connors, Energy Committee (gas for 24 months and electricity for 12 months) subject to the ratification by the Energy Committee. Second by Mr. Spirlet. Discussion ensued. Mr. Vieira asked for a friendly amendment of 12 months on both (gas & electric). Amendment is accepted by Mr. Sullivan and Mr. Spirlet. The Board voted four in favor, 1-opposed (Ouellette). Mr. Ouellette stated he was against, he would have gone 24 months on gas.

At this time, Mr. Hedges stated we are proposing and working with the Town to lease land at the Landfill to generate revenue for a period of 20 years; the Town will not be handling the solar array, just the leases for a private developer/lessor to own the solar array and sell power elsewhere. We have also been working with Mr. King and Mr. Connors to identify seventeen parcels for potential solar development for the same use; this would be Solar Phase II project. We have some feedback from the Conservation Commission and Planning and are suggesting a public opinion/interest for viable development, along with the Board looking at the list for identifying viable parcels to included in the release of a second RFP. Discussion ensued. Mr. Hedges stated construction must be completed by December 21, 2016 in order to get the federal investment tax credits. Mr. David Cole urged the BOS to refer this matter to the Planning Board. **Motion** made by Mr. Vieira to refer this to the Planning Board. Second by Mr. Sullivan. Discussion: Mr. Ouellette would like it to go all Boards as needed in order to vet the sites. Amendment is accepted by Mr. Vieira and Mr. Sullivan. The Board voted unanimously in favor.

Board of Health Vacancy: Mr. Dutra stated we have received a letter from the Board of Health and they do not want to fill the vacancy on their Board. Mr. Dutra stated he felt that is was dangerous to have only two members which could potentially create deadlocks and if a Board member were absent, it would give the BOH the inability to act. Mr. Vieira stated the BOH are elected officials and it is for

only a short period of time. **Motion** made by Mr. Vieira to move the recommendation of the Board of Health to not fill the position at this time and let the election process take place in the spring. Second by Mr. Spirlet. The Board voted 3 in favor, 2-opposed (Dutra, Ouellette).

Municipal Expenditures: Proper Public Purposes – Mass Dept. of Local Services: Mr. King stated he has provided the Board with a recent newsletter from Mass Division of Local Services, which references an older article from February, 2006 that provided some helpful information on what towns can and cannot spend money on. Informational item only.

Massachusetts Municipal Association – Annual Meeting: Mr. King reminded the Board of the Annual MMA meeting coming up on January 22-23, 2016; if any of the members are planning to attend, please notify Ms. Pelland so she can make arrangements.

Water Resources Management Committee – RE: Discussion of TMDL Report response letter

WRMC members Bill Harkins and Tim Gillespie were present. Mr. Harkins summarized the WRMC's letter to the Board, noting three areas of concern related to the draft TMDL Report: Agricultural Nitrogen Attribution – too high; Model Runs – need to incorporate new data; and Nitrogen Management – need tools. Mr. Gillespie stated more is needed to be done at the State level in order to give the Board of Health (and the people) more cost effective options because the three systems they have now are expensive; we need to broaden the spectrum; we would like to see a little more action by the DEP to get more options on the list; the DEP needs to do more work and we are trying to push them. Discussion ensued. **Motion** made by Mr. Vieira to move the recommendation of the Water Resources Management Committee's letter as presented with the Town Administrator signing off and forwarding the letter to the appropriate agency. Second by Mr. Spirlet. The Board voted unanimously in favor.

Action Items

1. **Motion** made by Mr. Spirlet to follow the Police recommendation in regards to the request of Seth Guinen for a “Hidden Drive” sign, that no sign be placed but allowing the Highway Department to clean and cut back all brush and trees located within the road layout from the intersection of Sawdy Pond Drive, north side to the driveway at 122 Beechwood Drive. Second by Mr. Ouellette. The Board voted unanimously in favor. A copy of the police recommendation will be sent to Mr. Guinen.
2. Mr. King summarized the project and the Feasibility Cost-Sharing Agreement for the Hix Bridge Ecosystem Restoration Study. Mr. King stated that Senator Rodrigues has managed to get an appropriation in the State budget to cover the Town's local match, including a portion of the Feasibility Study. The Feasibility Study now has the federal funding to back it up, we just need to approve the agreement. Mr. Sullivan stated he spoke with Senator Rodrigues and he has successfully managed to get the funds for our match (\$130,000 of \$260,000) but he would like us to allow him to cross his T's and dot his I's to make sure the funds for that earmark will make it through the budget; he suggested that we wait two weeks to make sure it is in the budget. Mr. Dutra stated he agreed because he has been tracking this and it is not a done deal with the State budget situation. Mr. Dutra stated he wants to make sure that the Town is doing everything on their end to button this up. **Motion** made by Mr. Vieira to move this, subject to funding being available at the State level. Second by Mr. Spirlet. The Board voted unanimously in favor.
3. **Motion** made by Mr. Sullivan to allow the transfer of a 1989 Ford Backhoe from the Highway Department to the Cemetery Department. Second by Mr. Spirlet. The Board voted unanimously in favor.
4. **Motion** made by Mr. Vieira to set a full hearing for unregistered vehicles at 28 Osborn Street in two weeks. Second by Mr. Ouellette. The Board voted unanimously in favor.

5. **Motion** made by Mr. Sullivan to accept donations made to the Council on Aging (\$320 from Osteo class and \$57 from the second half Bridge players) to be placed into the COA Gift & Donation Account. Second by Mr. Ouellette. The Board voted unanimously in favor. At this time, Ms. Bisch's request to appoint personnel at the COA was held until next meeting due to not being posted on the agenda.
6. **Motion** made by Mr. Vieira to approve the request of the Westport Land Conservation Trust regarding parking at Cherry & Webb Beach for December 11, 2015 from 7AM to 10AM, subject to input from the Beach Committee. Second by Mr. Ouellette. The Board voted unanimously in favor. Mr. Tim St. Michel, Chairman of the Beach Committee was present and stated he will speak with Mr. Mann to let him know this request is okay and he will be working with him on the parking.
7. **Motion** made by Mr. Vieira to approve the Community Preservation Act Grant Agreement for Acoaxet Chapel Association as presented. Second by Mr. Ouellette. The Board voted unanimously in favor. Mr. Spirlet asked how many other churches have applied for funding that qualified. Ms. Betty Slade stated there has been three in total approved: Acoaxet, Point and Friends Meeting House.
8. Mr. Dutra stated this is to revise the Board's recommendation of Article 11 of the STM Warrant for December 1st. Mr. Dutra stated this has been debated long and hard by this Board and we had a public meeting on this as part of our meeting two weeks ago; the Town Moderator has been asked to attend tonight to opine or give suggestions, Mr. Dutra stated these were his ground rules to the Board, they will all get one bite of the apple by the ability to weigh in on this at Town Meeting. Mr. Dutra stated there has been a change in circumstance, one property owner has changed due to a Trust changing family members who are now in control of the Trust and that member has not signed onto the easement, which was required under what we were seeking for the conversion of Beach Avenue from a public way to a beach and so, it was suggested by the proponents of this, that we move to pass over this article. **Motion** made by Mr. Sullivan to pass over Article 11. Second by Mr. Ouellette. Discussion ensued. Mr. Vieira noted for the record, that a certified letter was received November 20th from the new owners. Mr. Sullivan said we stated to the voters, we would not bring this to them if we could not achieve a turn-around at no cost, that we could not maintain a handicap-vehicular access and that the abandonment of 600 ft. of roadway that would revert to the abutting landowners, would come back to the Town; it was incumbent upon us to make those things happen and at the moment we can't, so it is important for us to act as a Board to pass over. Town Moderator Fors stated that if the Board votes to pass over, Town Meeting can then discuss this and vote; if it is voted down, that would be unique but if the vote is favorable, it is done. Mr. Fors stated it would be done for this Town Meeting, it does not mean it can't come back at another meeting. Mr. Dutra stated if the vote to pass over is passed, it is dead tomorrow night but if the vote does not concur, it will be up to the Town Moderator on how to handle it. Mr. Fors stated that will be new territory for him. Mr. Fors stated that if the vote to pass over is defeated, then he would look for another motion to go forward but it must contain all or part of the original intent which was abandonment of a portion of Beach Avenue, an appropriation of money, authorizing the Board of Selectmen to secure rights to the land/easement and empowering the Board of Selectmen to do miscellaneous odds and ends in relation to that. Mr. Spirlet stated as it goes now, he would vote to pass over but if we are overruled on the abandonment, his position will change because he wants this to go away; the Town Meeting members will decide the pass-over tomorrow night. Discussion ensued. Final vote: The Board voted unanimously in favor.

One-Day Liquor Licenses – None.

Appointments and/or Resignations

1. **Motion** made by Mr. Ouellette to accept with regrets the resignation of Edward Goldberg from the Energy Committee and to send a letter of thanks. Second by Mr. Sullivan. The Board voted unanimously in favor.

Discussion Items – None.

Minutes

Motion made by Mr. Vieira to approve the Special Meeting Minutes of January 8, 2015. Second by Mr. Ouellette. The Board voted unanimously in favor.

Motion made by Mr. Vieira to approve the Regular Meeting Minutes of August 24, 2015. Second by Mr. Ouellette. The Board voted unanimously in favor.

Motion made by Mr. Vieira to approve the Regular Meeting Minutes of November 02, 2015. Second by Mr. Ouellette. The Board voted unanimously in favor.

Motion made by Mr. Vieira to approve with amendments the Regular Meeting Minutes of November 16, 2015. Second by Mr. Ouellette. The Board voted unanimously in favor.

*Amendments: page 3 – insert “is”. Page 6 – insert “he's”.

Selectmen Liaison Committee Reports – None.

Question and Answer Period – None.

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

Topics not reasonably anticipated forty-eight (48) hours in advance of the meeting

1. **Motion** made by Mr. Spirlet to approve the Change Order #1 for the 2015 Roadway Safety Improvements / Chapter 90 funding for Sodom Road/Narrows Avenue Intersection Safety Improvements – Year 2015. (construction increase - \$34,246.93) Second by Mr. Ouellette. The Board voted unanimously in favor.
2. Mr. King stated he has been contacted by UMass Dartmouth Track Team for rental of the Westport Middle School to use the halls for sprinting; it would be for 2 hrs. a day, 5 days a week for 3 months. **Motion** made by Mr. Vieira to charge the Town Administrator to come back to the Board with a proposal on this request. Second by Mr. Ouellette. The Board voted unanimously in favor.
3. Mr. King presented the Board with an email from Lealdon Langley, Wetlands & Waterways Program Director-DEP which was supposed to be a response to the fine regarding Boathouse Row as to why the Board of Selectmen were not consulted first on this matter. Mr. King stated he inquired and this was the response he received. Mr. Dutra stated they did not answer the question as to why the BOS were not consulted. Mr. Vieira noted that in a way, they apologized because they consulted with the Conservation and Mr. King on this as to what would be the best use; Mr. Vieira stated he had asked the question why it was not put before the Board and they responded, well, we probably should have told you. Mr. Vieira stated the DEP position is to consult with the people who are being fined as to how it will be used; he does not agree with it but the Board did get an answer. Mr. Sullivan stated we did get an answer but the BOS were just not a part of the process. Mr. Dutra stated the proposal to utilize it at the Head does makes sense and is a better use but he asked Mr. King to communicate to the various departments, that in the future, the Board of Selectmen should be consulted on matters such as this. No vote was taken.

Other Business

1. Mr. Vieira asked that the Cease & Desist Order be placed on the agenda for December 14, 2015. Mr. King stated the revised one came in today. Mr. Dutra stated to Mr. King, based upon what is in

it, if there are substantive differences from what they proposed and what we proposed, then we may need to do it in Executive, otherwise, we will handle it in Open Session. Mr. Spirlet stated if the Board does go into Executive Session, during that time, anything dealing with Beach Avenue should be taken out of Executive and put out for open for December 14, 2015.

2. Mr. Ouellette mentioned the passing of retired Police Officer Ralph Martori over the holiday weekend. Mr. Ouellette stated when all the details are in, this should be mentioned at the next meeting.
3. Mr. Vieira mentioned the passing of Norman Michaud, a Town resident and member of the Legion, who was buried today.
4. Mr. Ouellette noted that the Board needs to look at a closing date for the next Annual Town Meeting warrant. This will be addressed at the next BOS Meeting.
5. Mr. Spirlet stated also at the next BOS Meeting on December 14, as he was going through all the legal bills for Beach Avenue and he saw a billing twice. Mr. Sullivan stated we talked about that at our last meeting; Mr. Sullivan then explained the charge, which was about the turn-around.

8:00 PM Executive Session

Motion made by Mr. Vieira to enter into Executive Session pursuant to Massachusetts General Laws Chapter 30A, Section 21 to approve Executive Session Minutes of 08/24/15 and 11/02/15. Second by Mr. Ouellette. The Board voted unanimously in favor.

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

Mr. Dutra announced the Board would return to Open Session in order to adjourn.

8:02 PM Open Session

Motion made by Mr. Ouellette to adjourn the Board of Selectmen Meeting. Second by Mr. Vieira. The Board voted unanimously in favor.

Adjournment.

Respectfully submitted,

Diane Pelland

Administrative Asst/Confidential Clerk to the Board of Selectmen

APPROVED: _____
Steven J. Ouellette, Clerk