

BOARD OF SELECTMEN REGULAR MEETING MINUTES AUGUST 22, 2016

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

Also Present: Timothy J. King, Town Administrator

Chairman Sullivan opened the meeting at 6:01 p.m. with a salute to the Flag and publicly announced under M.G.L. Chapter 30A, Section 20(e) that the meeting was being recorded.

Appointments and/or Resignations:

1). Carole Mann told the Board that she would like to get involved in the Town's agricultural issues. She felt that there were not enough farm regulations. Mrs. Mann mentioned that she lived on a horse farm and that all her horses were rescues. She noted that she was a certified Level III Reiki Master and has worked on animals on a Holistic basis for the past seven years. After a brief interview, Selectman Vieira made a motion to appoint Carole Mann as a Regular member of the Westport Agricultural Commission. Selectman Dutra seconded the motion – voted unanimously.

2). Geralyn Gaskell informed the Selectmen that she had been involved with animals all her life (raising chickens, working at a family private zoo, foster parent to 2 Capuchin monkeys, etc.). She stated that she was also a Reiki Master and serviced her dogs and cats. Mrs. Gaskell said that she was interested in helping animals and changing the regulations. Selectman Vieira made a motion to appoint Geralyn Gaskell as an Alternate member of the Westport Agricultural Commission. The motion was seconded by Selectman Ouellette, and was voted unanimously.

3). On a motion by Selectman Ouellette, which was seconded by Selectman Shufelt, the Board voted unanimously to accept, with regret, Eileen McCarthy Mendonca's resignation as Principal Clerk for the Council on Aging and to send her a thank you letter.

4). Present was Kenneth Manchester and John Borden, Chairman of the Shellfish Advisory Committee. Mr. Manchester was requesting that he be appointed to the Shellfish Advisory Committee. He noted that his father had been an original member of that committee. Mr. Manchester told the Board that he was a commercial fisherman for 23 years and owned his own lobster boat and that he now owns a wholesale seafood company in New Bedford. Selectman Shufelt stated that she did not think there were any vacancies on the Shellfish Advisory Committee. Mr. Borden informed the Board that at the June 2nd Shellfish Advisory Committee meeting George Smith had announced that he was resigning. He continued by saying that he had called and asked Mr. Smith to send a letter of resignation but hMr. Smith hadn't responded. Mr. Smith has not been sworn in either. Selectman Dutra made a motion to rescind the appointment to George Smith based upon the review of the Shellfish Advisory Committee's June 2nd minutes and the fact that he has not been sworn in to date. Selectman Shufelt seconded the motion. Chairman Sullivan asked Mr. Borden if the staff typed up a letter of resignation for Mr. Smith would he

deliver it to him to sign. Mr. Borden agreed to deliver the letter. Selectmen Dutra and Shufelt withdrew their motion and second. Selectman Dutra then made a motion to appoint Kenneth Manchester to the Shellfish Advisory Committee contingent upon the resignation of Mr. Smith. The motion was seconded by Selectman Vieira and was voted unanimously.

Beverly Bisch, COA Director RE: Permission to Post & Hire for the Principal Clerk Position at the Council on Aging:

Council on Aging Director Beverly Bisch met with the Board to request permission to post the vacant COA principal clerk position. Selectman Dutra made a motion to post the position as requested. Selectman Ouellette seconded the motion, which was voted unanimously.

Action Items:

2). On a motion from Selectman Ouellette, seconded by Selectman Shufelt, the Board voted unanimously to accept, on the Council on Aging's behalf, the \$178.00 donation from the Second Half Bridge Club and the \$20 donation in memory of Doris Bento.

Public Hearings RE: The Application Request of John P. Fennelly for a Private Shellfish Grant/Aquaculture License for a .73 Acre Site (East Branch Site #3) and Application Requests for Renewals by Michel A. Jusseume for a 1 Acre Site (West Branch #3); Christopher M. Jusseume for a 1 Acre Site (West Branch #4); Kerian Fennelly for a 25 Acre Site (Gooseberry Site #1); and Kristen M Fennelly for a 25 Acre Site (Gooseberry Site #2):

The hearings opened at 6:21. Selectman Shufelt read the public notice. No abutters were present. Meeting with the Board were Christopher Leonard, Director of Marine Services, John P. Fennelly, Christopher Jusseume and Kerian Fennelly. Mr. Leonard informed the Selectmen that the first hearing (John Fennelly) was for a new Aquaculture License that had previously belonged to Albert Lees III who had decided to give it up. Mr. Fennelly was the next person on the waiting list. Mr. Leonard explained that the waiting list was for the inside. He continued by saying that the Town had a 2 acre spot open in the West Branch next to the Jusseume site, and that everything was full in the East Branch, and 50 acres of the 200 acre site off of Gooseberry were occupied. John Fennelly has been issued a license for a 25 acre site off of Gooseberry but it's still pending at the moment because the Division of Marine Fisheries has to do a bottom sample tow. It's been over two years since they last inspected and they have to make sure that it is an unproductive bottom and a habitat will not be wrecked by putting an aquaculture site on top of it. Mr. Leonard said that he has a waiting list of 7 or 8. Chairman Sullivan questioned Mr. Leonard if there was a mechanism in place if someone was not utilizing their site. Mr. Leonard replied that, per Massachusetts law, the licensees have to file a progress report by February 28th of every year. Also, he and his staff are well aware which sites are being worked on and which aren't. If the report has not been filled out and if they are not working on their site then the Town does not have to renew their License.

1). John P. Fennelly (.73 Acre Site - East Branch Site #3) – Selectman Shufelt noted that on August 4th the Shellfish Advisory Committee had approved the new Aquaculture License. Selectman Vieira questioned the amount of the bond. Mr. Leonard explained that a \$25,000 performance bond was required to cover the cost of cleaning up and \$250,000 liability insurance per site. For example if there was a hurricane and the site was abandoned, the Town would have to deal with it especially if someone got hurt, the Town would be covered. Selectman Dutra made a motion to approve the new Aquaculture

License for John P. Fennelly. The motion was seconded by Selectman Ouellette and was voted unanimously.

2). Michel A. Jusseume (1 Acre Site – West Branch #3) – Christopher M. Jusseume was present representing his father. Selectman Ouellette stated that since there were no issues, according to Mr. Leonard, he would make a motion approving the renewing of the Aquaculture License. Selectman Shufelt seconded the motion – unanimously voted.

3). Christopher M. Jusseume (1 Acre Site – West Branch #4) - Christopher M. Jusseume was present for his hearing. Mr. Leonard stated that there were no issues. On a motion by Selectman Dutra, which was seconded by Selectman Shufelt, the Board voted unanimously to renew the Aquaculture License.

4). Kerian Fennelly (25 Acre Site – Gooseberry Site #1) – Kerian Fennelly was present for his hearing. Mr. Leonard stated that there were no issues. Selectman Ouellette made a motion to renew the Aquaculture License. The motion was seconded by Selectman Shufelt and was voted unanimously.

5). Kristen M. Fennelly (25 Acre Site – Gooseberry Site #2) – Kerian Fennelly was present representing his wife. Mr. Leonard again stated that there were no issues. Selectman Ouellette made a motion, which was seconded by Selectman Shufelt, to approve the Aquaculture License renewal. The motion was unanimously approved.

The hearings were closed at 6:39 p.m.

Shellfish Advisory Committee & Christopher Leonard, Director of Marine Service RE: Approval of Amendments to the Shellfish Aquaculture Rules & Regulations:

Meeting with the Selectmen were Christopher Leonard, Director of Marine Services, and John Borden, Shellfish Advisory Committee Chairman. Mr. Leonard said that Mrs. Pelland (Administrative Assistant/Confidential Clerk) had pointed out to him several things that needed to be amended, corrected, changed or added. The Shellfish advisory Committee had reviewed and approved the revisions at their last meeting. He then reviewed the revisions with the Board. Section 7.1 used to read that “the Licensing Authority shall allow one (1) site or a total of 6 acres per household, unless there are no applicants on the waiting list”. It will now read “the Licensing Authority shall allow one (1) site or a total of 1 acre per household in the river, and one (1) site or a total of 25 acres east of Gooseberry Island, unless there are no applicants on the waiting list”. Section 9.21 will be deleted. It currently reads “the completed application shall be submitted to the Licensing Authority by United States Postal Service Certified mail, Return Receipt requested”. Mr. Leonard explained that the problem with this section was that people walking in with applications cannot just hand it to the Selectmen’s staff. Chairman Sullivan voiced his concern, because of the waiting list, that the applications be date stamped and initialized by the staff person who received the application. Selectman Vieira questioned whether Mr. Leonard had reviewed the fee schedule and had compared it to other area towns because it seemed a little bit low. Mr. Leonard stated that he would be looking into it and see what other towns were charging. Section 9.4.4.1(F) presently states that a “license may not be issued for more than five acres in the Aquaculture Zone outside the river or one (1) acre on the inside of the river in the Aquaculture Zone”. This section will be revised to read “A license may not be issued for more than 25 acres in the Aquaculture Zone outside the river or one (1) acre on the inside of the river in the Aquaculture Zone. Section 9.4.4.1(I) states that “A renewal application shall be on a form prepared and issued by the Town”. Mr. Leonard noted that presently there is no renewal application so this section will be deleted until a renewal application is approved. The last sentence of Section 10.1.3 states that “Proof of a performance bond of \$25,000 and liability insurance of \$25,000 is required”. “Per grant site” will be added after “required”. Mr. Leonard explained that in the

past site owner's were combining multiple sites under one bond. The Division of Marine Fisheries informed Mr. Leonard that each site needed a separate bond and liability insurance policy. Mr. Leonard remarked that this Section was a work in progress. He continued by saying that more revisions were needed because a licensee with one acre and a licensee with 25 acres were required to have the same performance bond and liability insurance policy. The Selectmen agreed to allow the Director of Marine Services and the Shellfish Advisory Committee to work on how to scale the requirements and return in a few months with the revision. In Section 14 "the Town's Conservation Commission, the Zoning Board of Appeals and the Planning Board" will be deleted. Mr. Leonard explained that after talking with the state and reviewing the steps going through the original aquaculture licensing process, there seemed to be a redundancy and talking with some of these boards it doesn't really pertain to them. Chairman Sullivan stated that the Selectmen would approve the wording that he given the Board that night but would like to revisit this section because he did not want the Board approving something contingent upon other things under their control. Section 24.5 states "A Licensee shall file an annual report with the Licensing Authority in accordance with the form provided by the Licensing Authority, submitted not later than December 31st of each year". Mr. Leonard told the Selectmen that the date December 31st should be revised to "February 28th" and that "per state law Chapter 130, Section 65" should be added to the end of the sentence. Selectman Vieira questioned how that change would work for the Town. He was told that this report had nothing to do with the Town Report. Mr. Leonard responded that there are only two entities in aquaculture (the Fennelly's and the Jusseaume's) and that in talking with the Division of Marine Fisheries he was told that a third aquaculture entity was required before numbers of production could be divulged to the public. Chairman Sullivan questioned whether there was any consequence to the Town by moving the date from December 31st to February 28th to receive a yearly report on the aquaculture activity. Mr. Leonard replied that there were no consequences. Selectman Dutra noted that the reason they were trying to move the date was to keep it consistent with the state cycle and it doesn't impinge upon the Town's ability to collect the information to meet the internal deadline of January 31st for the licenses because that information is all maintained by the Waterways Department. Selectman Dutra made a motion to accept the recommendations of the Shellfish Advisory Board and the Director of Marine Services, as presented, with the understanding that the Board will be receiving subsequent reports and updates regarding license fees and liability insurance and bonding requirements. Selectman Ouellette seconded the motion, which was voted unanimously.

Police Chief Keith Pelletier RE: Request for a Contingent Offer of Employment to Michael Jacques & Zachary Shay:

Present was Police Chief Keith Pelletier. He informed the Board of Selectmen that Officer Tara Souza would be getting married and moving out of Town within the current year. The Police Chief noted that training at the Plymouth Police Academy would begin in September so he was requesting that the Board appoint Michael Jacques and Zachary Shay as Police Officer Trainees in order for them to attend the academy. Selectman Dutra made a motion to offer Michael Jacques and Zachary Shay a contingent offer of employment subject to their completion of the Full Time Police Academy, a successful physical and psychological screening, background check and any other training deemed necessary. The motion was seconded by Selectman Ouellette and was voted unanimously.

Action Items:

3). Mr. King explained why the Police Station Building Committee was recommending the Town enter into a contract with Tecton Associates for the professional design of the new Police Station instead of Reinhardt Associates who had been contracted for the Feasibility Study. He stated that Reinhardt Associates had been chosen by the Police Station Building Committee to do the Feasibility Study and that Tecton Associates had been their second choice. Under State procurement laws the Town could either

negotiate with the same firm to do the design work for the police station and if they were unable to reach a contract with the first firm, they could negotiate with the second firm, or the Town could go through the entire competitive process for qualifications based procurement for design services. The Town Administrator said that the Police Station Building Committee had reviewed the performance of Reinhardt Associates during the Feasibility Study and subsequently, at this point in time, they were unable to reach a contract agreement with them and, based on that, the Police Station Building Committee, with the concurrence of himself and Chief Pelletier, had recommended that they proceed with negotiating a contract with Tecton Associates and that negotiated contract was before the Selectmen for approval. Chairman Sullivan noted that there were five steps to the process of building a new police station. The first step was the Feasibility Study, which the Town contracted with Reinhardt Associates for \$25,000. The second step was the Town went through a qualification based competitive bid for the Owner's Project Manager (OPM), which was awarded to CMS for \$36,000. The third step is to design the building and the Town has the option of continuing with Reinhardt Associates who proposed to do the work for \$670,000. Mr. King noted that Reinhardt Associates had modified the amount to \$700,000. Mr. Sullivan explained that this is a process in which it is not a competitive bid, like lowest price, by State law it is a qualifications based selection with a price that comes later. Chairman Sullivan stated that in the price that came later the Police Station Building Committee was disappointed with some of the things that came about because there were changes in what was expected. It could not be reconciled and the Committee felt that they could make out better with the second choice, Tecton Associates. Mr. King reported that the Committee had interviewed a Tecton Associates representative the previous week and were pleased with the cost proposal and presentation and was unanimously recommending that the Board of Selectmen approve the contract with Tecton Associates. Chairman Sullivan continued by saying that once the Town has a design, the fourth step would be to go out for bid for the construction of the police station. He noted that this would be a competitive price bid, which would be the lowest qualified bidder would be awarded the contract. The Chairman then said that the fifth step would be to select an Owner's Project Manager for the construction of the new police station. Mr. King explained that during the construction the Owner's Project Manager is the Town's representative to make sure that both the architect doing the design and the contractor doing the construction are properly performing their responsibilities. Mr. King stated that the Police Station Building Committee was extremely satisfied with CMS and they would continue as the OPM for the construction phase. Mr. King noted that the cost proposal from Tecton Associates for the design phase is \$499,623 and would take the Town right through the construction of the building including closeout. Chairman Sullivan said that, so far, only \$25,000 has been spent for the Feasibility Study and that \$36,000 has been allocated for the Owner's Project Manager for the design phase. Selectman Vieira stated that he was in support of this and would vote for it that night, but he wanted to see a little bit more detail and the dollars because the Board did receive a letter that day from Reinhardt Associates. He went on to say that he was respectful of the reasons why the Committee had decided to go with Tecton Associates, he just needed to see the backup data. Chairman Sullivan gave Mr. King a spreadsheet that he had made up in order to understand the steps in this process and the steps that are competitive price bid versus qualification based bidding. He asked the Town Administrator to fill in the blanks for the Selectmen. The Chairman added that he would like to see the same thing for the School Building Committee project. Selectman Shufelt questioned the \$200,000 difference between the two contracts. Chairman Sullivan noted that there was a sense of cooperativeness that had fallen apart with Reinhardt Associates. Selectman Vieira stated that by just reading the letter that the Board had received that day, it seemed that Reinhardt was trying to justify not working with the Committee on the design of the building. Chief Pelletier said that he had made a commitment to the public that the project would come in at a certain dollar amount and he did not feel it would happen if they continued with Reinhardt Associates. Selectman Shufelt stated that she wanted to be certain that this \$200,000 was not going to come up later when the new company says wait, we missed this one. Mr. King assured her that it wouldn't happen. One reason being that Tecton Associates needed the project to get them through to the next year. The second reason being that the architect at Tecton Associates had previously worked at another firm that did a lot of police stations and they recognize that they have to be very competitive with their pricing for their design services. He continued by saying that the third reason was he had spoken

with the architect that day and he had told him that he had based his proposal based on the estimated cost of the construction of the building using standard Architect Internet National Association factors for each step of the design process. The architect told him that he felt very comfortable with his price and would not come back to the Town for more money. Chairman Sullivan questioned whether the Town would have some cancellation charges from Reinhardt Associates. We've paid them \$25,000, have they done any work beyond that the Town may have to pay. Mr. King responded that if they submit a request, the Committee would come back to the Selectmen to discuss it. He went on to say that the amount of work done by Reinhardt Associates from approval at Town Meeting to the designer selection has been modest. Selectman Dutra made a motion to award the contract for the professional design of the new police station to Tecton Associates for \$499,623. The motion, which was seconded by Selectman Vieira, was unanimously approved.

4). On a motion by Selectman Shufelt, which was seconded by Selectman Ouellette, the Board voted unanimously to accept the \$500 donation from the Westport Police Association for the repair of the playground slide at the Town Hall Annex.

1). Selectman Dutra made a motion to approve the request from Max Performance to hold the Buzzards Bay Triathlon on September 18th subject to the organization following the Police Department recommendations received from Lieutenant John Bell. Selectman Ouellette seconded the motion and requested that the event be placed on the Town's website. The motion was unanimously approved.

Liquor Licenses RE Approval of Three One-Day All Alcohol Liquor Licenses for the Holy Ghost Club:

A). Fundraiser on Saturday, September 3rd; B). Wedding Shower on Sunday, September 4th; and C). Fundraiser on Saturday, September 17th. Selectman Ouellette made a motion to approve the three One-Day All Alcohol Liquor Licenses for the Holy Ghost Club. Selectman Shufelt seconded the motion, which was voted unanimously.

Discussion Items:

Special Town Meeting – Chairman Sullivan stated that the Board had a few reasons to schedule a fall Special Town meeting. The first being the potential creation of a DPW. The second reason is funding for Middle School costs by transferring funds from an article previously approved at another Town Meeting for Middle School environmental testing. The third reason being that the Board is conducting an investigation into what happened at 465 American Legion Highway and how it might have been prevented or what the Town could do to prevent it from occurring again that might involve revisiting the by-law that was put before the voters at the 2012 Annual Town Meeting. He continued by saying that there was another potential reason but the Board didn't have anything specific to propose at that time. Chairman Sullivan noted that Town Clerk Marlene Samson had suggested that the most ideal date would be November 15th. Chairman Sullivan asked Mr. King what would be the deadline if they were to schedule the Town Meeting for November 15th. Mr. King responded he thought a couple of months. Ms. Bouchard told the Selectmen that they needed to give the Finance Committee at least 30 days to review the warrant before the scheduled date of the Special Town Meeting. Mr. King stated that the Board would have to decide by their next meeting if they would be scheduling the Special Town Meeting for November 15. The Board directed Mr. King to provide them with a timeline with all the deadlines the Board would have if they scheduled a November 15th Special Town Meeting. After some discussion, the Selectmen agreed to tentatively schedule it for November 15th and they would make a decision at their next meeting if they would go forward with that date.

Approval of the 8/8/16 Regular Meeting Minutes:

Selectman Shufelt made a motion to approve the 8/8/16 Regular Meeting Minutes. The motion was seconded by Selectman Dutra and was voted unanimously.

Town Administrator Report:

Question & Answer:

- 1). Robert Alves – Mr. Alves asked where the approximately \$18,000 spent for the work done on the cul-de-sacs would be coming from. Chairman Sullivan replied that it would probably come out of the Highway Department budget.
- 2). Michelle Medeiros – Ms. Medeiros requested an explanation as to why the residency requirement in Mr. King's contract had not been enforced. Chairman Sullivan responded by saying that the current Town Administrator has a residency requirement that states the Board of Selectmen and the Town Administrator shall agree on a reasonable timetable for this to occur. At the time the contract was signed, Mr. King had a child in school. Chairman Sullivan noted that they were now approaching the end of his contract and starting to look at negotiating what will go on next, so that might be the time, if someone has an issue about residency, that the Board might be looking at that.
- 3). Wayne Sunderland – Mr. Sunderland commented that there was no need to combine the Highway, Cemetery and Transfer Station into a Department of Public Works. He stated that the employees in those departments were doing a good job already and that such a major change should not be rushed. Chairman Sullivan answered that he thought it would be more efficient to have personnel cross-trained.

Board Members Comments:

Selectman Ouellette read an invitation that was received from Brad Fish, Veterans Service Agent, inviting residents to a ceremony that will be held observing the 15th year anniversary of September 11th on Sunday, September 11th at the Hix Bridge Fire Station at 8:45 a.m. Mr. Fish requested that people planning to attend should be in place by 8:30 a.m.

Chairman Sullivan read an announcement from the Friends of the Westport Library (F.O.W.L.) regarding their annual sale of used books. Preview night for members of F.O.W.L. will be Friday, September 9th and opening day for the public is Saturday, September 10th. Children's books will be 25¢ each, all others \$1 - \$2 each plus some specially priced choice items. Closing day will be Saturday, September 17th which will be "Bag of Books Day" at \$5 per bag with F.O.W.L. supplying the bags.

Selectmen Liaison Committee Reports:

Selectman Vieira reported that there were still 2 vacancies to be filled on the Cable Advisory Committee.

Board Members Suggestions for Future Agenda Discussion/Action:

Selectman Shufelt requested that the Board discuss the Town Administrator's contract at one of their September meetings. She noted that Mr. King's contract ended on June 30, 2017 and that one of the

clauses in the contract stated that the Board must give him nine months notice if they decided not to renew the contract. Selectman Vieira stated that the Selectmen should have some kind of evaluation form.

Board Members Comments Continued:

Selectman Ouellette thanked everyone who had donated much needed supplies for the animals and the volunteers taking care of them.

Executive Session:

Selectmen Michael Sullivan, Craig Dutra, Steven Ouellette, Antone Vieira and Shana Shufelt, on a roll call vote, voted to enter into executive session at 8:10 p.m. under Massachusetts General Laws Chapter 30A, Section 21, to approve the Executive Session Minutes of August 1, 2016 and August 8, 2016 and to discuss the ongoing situation at American Legion Highway. The vote was Selectmen Sullivan, Dutra, Ouellette, Vieira and Shufelt in favor.

Open Session:

On a motion by Selectmen Ouellette, which was seconded by Selectman Shufelt, the Board voted, by roll call vote, to return to open session at 9:25 p.m. The vote was Selectmen Sullivan, Dutra, Ouellette, Vieira and Shufelt yes.

Adjournment:

Selectman Ouellette then made a motion to adjourn the meeting at 9:26 p.m. The motion was seconded by Selectman Shufelt and was voted unanimously.

Respectfully submitted,

Denise Bouchard
Secretary to the Board of Selectmen

APPROVED: _____
Shana M. Shufelt, Clerk