

**MARION BOARD OF SELECTMEN
WATER/SEWER COMMISSIONERS**

July 7, 2009

Minutes

The meeting was called to order at 7:00 p.m. Present were Chairman Stephen M. Cushing, Board members Jonathan F. Henry and Roger F. Blanchette and Town Administrator Paul F. Dawson. Also present were Lee Craver, Gretchen Grundstrom of *The Sentinel*, Adam Silva of *The Wanderer*, W. Dale Jones, Police Chief Lincoln W. Miller, Sergeant Marshall Sadeck, Officers Jeffrey Tripp and Kevin Paulson, Carol Sanz, Owner's Project Manager Richard Pomroy and Town Counsel Jonathan Witten. Also present were Caz owner George Ferry, Attorney Theresa Gomes, d.j. Andre Smith, Ronald Robinson, bartenders Anne Marie Gifford, Jamie Silvia, Lisa Nickerson, a number of unidentified others who didn't sign in, Kenneth Horne of Verizon and Helene Craver, secretary.

Mr. Blanchette moved the minutes of June 16, 2009; the motion was seconded and carried unanimously.

Mr. Henry moved all-alcohol one-day licenses to VFW Post #2425 for July 18 and 19, 2009; the motion was seconded and carried unanimously.

Mr. Dawson announced that the contract for the design and construction of phase 2 of the village loop project with Tata & Howard was ready for signature. Mr. Dawson explained that the contract calls for a lump sum payment of \$135,000, with construction costs not to exceed \$220,000. Mr. Dawson said that this was probably a realistic number, as the Town has a good history of the soil conditions in the general area. Mr. Blanchette noted that the funding has been approved by Town Meeting and that we will not be raising rates to cover the cost of the project.

Mr. Henry moved to approve and sign the contract; the motion was seconded and carried unanimously.

Mr. Henry moved to approve a street closure for the 1st Congregational Church on July 25 for their annual summer fair; the motion was seconded and carried unanimously.

Mr. Dawson noted that a bid opening had been held for the materials testing for the new police station and that the OPM, Richard Pomroy, had recommended UTS, even though they were not the low bidder.

Mr. Blanchette moved to grant the contract to UTS; the motion was seconded and carried unanimously.

Mr. Dawson reminded the Board that he would be on vacation July 11 through July 18.

At 715 p.m., the continued hearing regarding the Caz was reopened.

Mr. Blanchette moved to appoint Jonathan Witten hearing officer; the motion was seconded and carried unanimously.

Mr. Witten said that the purpose of tonight's hearing was to discuss two incidents witnessed by Officers Tripp and Paulson on April 26 and May 17, respectively, which involved alleged after-hours alcohol consumption and other matters pertinent to the case. Mr. Witten explained that the Board's options include continuing the hearing to gather more evidence, close the hearing without a decision or close the hearing after rendering a decision. Mr. Witten requested those present who would testify to stand and promise to give testimony to the best of their knowledge, which would be accurate and truthful, which oath was taken.

Chief Miller read the pertinent sections from the police reports of April 26 and May 17, which purported that alcoholic beverages were being served past the closing time of 1:00 a.m. Ms. Gomes questioned Officer Tripp regarding the April 26 incident; he testified that he heard yelling and screaming and a disturbance, but did not observe any sales or consumption of alcohol. Ms. Gomes then questioned Officer Paulson regarding the May 17 incident; he did not observe any alcohol being consumed or sold, but saw two bartenders cleaning up and cups on tables. Ms. Gomes then questioned Mr. Ferry, who testified that his bar was busy in the summer with family birthday parties and events and that he is the main bartender, with assistance from Ms. Gifford and Nickerson at the larger events. Mr. Ferry said that April 26 was a "pretty big" night and that there was arguing outside, the police came and arrested some people and everyone left. Ms. Nickerson testified that the last drink served was at 12:45 a.m. Mr. Robinson testified that he stopped playing music at 12:45 or 12:50. Ms. Gifford testified that the last drink was served at 12:45 or 12:50 on May 17. Mr. Robinson testified that the police arrived at 1:15 a.m. and no one was drinking at that time.

Mr. Witten reminded Mr. Ferry that the closing time on the license is 1:00 a.m. with all drinks removed from the tables by 1:00 a.m. Mr. Ferry said that he looked to make sure and everything was stacked on the bar. Mr. Witten noted that the officers' reports stated that there were drinks on the tables and plastic cups on the bar. Mr. Ferry said that he never saw it. Mr. Witten noted that the advertising light was on; Mr. Ferry said that it is usually shut off as soon as they close or they clean up, then shut it off.

Mr. Silvia said that he helps bartend once or twice a month and was there on May 17 at a family birthday party, when Officer Paulson appeared at 1:15 a.m., but no one was drinking alcohol. Mr. Silvia said that family members were helping to clean up and he told everyone that they had to leave. Mr. Silvia said that, at the May 17 incident, everyone there was a family member and that most of them had left at 1:00 a.m. to go to other places that closed later.

Ms. Gifford said that she was there on May 17, bartending, that the last drink was served at 12:45 a.m. and that everyone was cleaning up when Officer Paulson arrived. Ms. Gifford said that all of the cups were at the end of the bar next to the sink and trash barrels.

Ms. Nickerson said that she was bartending on April 26 and there was no after-hours drinking that night; as soon as the fight started, she began taking everyone's drinks and shut off the light and locked the door at 12:40 a.m. Ms. Nickerson said that she pushed everyone out. Ms. Nickerson said that she was also sitting at the bar on May 17 when the police arrived; drinks had been piled up to be thrown out. Ms. Nickerson said that she was waiting for everyone to leave to help clean up.

Mr. Smith said that he was a part-time d.j. at the Caz once or twice a month when there is a function and was at the Caz on May 17, when the music was turned off at 12:40 a.m. and was helping clean up. Ms. Gomes asked if he noticed anyone drinking. Mr. Smith said that he didn't really look at that. Mr. Smith said that he saw two police officers come in, but didn't remember exactly when.

Ms. Gomes said that the evidence has not shown any alcohol being served after 1:00 a.m.; that Officer Paulson saw one beer bottle on a table, but he doesn't know when it was served. Ms. Gomes said that several witnesses testified that no one was drinking and that family members were cleaning up. Ms. Gomes said that, on April 26, Officer Tripp didn't actually go into the bar and didn't observe any alcohol. Ms. Gomes asked that no sanctions be imposed; rather, they would prefer to pay a fine only. Mr. Henry asked if being a family member mitigates the offense. Ms. Gomes said that they were just there to help clean up.

Mr. Witten restated the Board's options. Mr. Witten said that the law is clear when the alcohol has to be removed from the premises. Mr. Witten said that it might be in the Board's best interests and of the licensee's to take the matter under advisement. Mr. Witten noted that Ms. Gomes has requested that the Caz be fined in lieu of suspension. Mr. Witten said that it is his recommendation to take the matter under advisement.

Mr. Blanchette moved to take the matter under advisement; the motion was seconded and carried unanimously.

Mr. Dawson agreed to provide Ms. Gomes with copies of Chapter 138 and the appropriate Alcoholic Beverages Control Commission regulations. Mr. Witten said that he would provide Ms. Gomes with a copy of the audio transmission of the relevant police tapes.

The Board then met with Mr. Horne regarding the relocation of a pole at Benson Brook Road for the new police station. The Board noted that there were concerns whether the relocated pole would interfere with other operations, but they had subsequently determined that, because of vegetation and other poles/wires, a potential emergency exit for boats from the harbor across Route #6 was not feasible in any event. Chief Miller noted that the driveway for the police station has already been designed and any deviation would involve change orders and cause unnecessary delays. Chief Miller said that he had discussed this with the boatyards and they are comfortable with the situation as it stands. Mr. Blanchette agreed.

Mr. Henry moved to approve the request as listed in the petition; the motion was seconded and carried unanimously.

Mr. Henry asked what the plans were for the water supply to the new station. Chief Miller reported that he and Robert C. Zora, Superintendent of Public Works, had discussed this and concluded that the best solution was to run a line from Benson Brook Road, across Route #6.

The Board then met with Mr. Pomroy, owner's project manager for the police station, who reported on the general contract bid opening and the Police Station Building Committee's recommendation that the bid be awarded to the low bidder, B. C. Construction of Wakefield, Massachusetts. Mr. Pomroy said that the bid included alternates 1 and 2. Mr. Henry said that he had personally heard the argument on Town Meeting floor regarding reducing the scope of the project and keeping costs under control by limiting the square footage of the building and now they have added the two options back into the project. Mr. Henry said that, although it is still under budget, the citizens have expressed concern that their wishes were not being followed. Mr. Pomroy said that it was important to realize that the space requirements haven't changed; the reduction in the size of the building from the first presentation in 2004 to 2008 was due to the increase in the costs. However, he explained, the costs have plummeted over the last twelve months, allowing the Town the opportunity to add back the footage which had been subtracted. Mr. Henry said that he never would have taken the emergency operations center out in the first place, as there is no one place where all facets of emergency operations could be held. Mr. Pomroy said that the very weak construction environment had also allowed them to include the basement storage area. Mr. Dawson said that there is currently no space in the Town where all departments could coordinate services in an emergency. Mr. Jones thanked the architect and owner's project manager and the members of the committee and hoped the Board would support them in awarding the contract.

Mr. Blanchette moved to approve the recommendation of the committee and award the bid to B. C. Construction; the motion was seconded.

Mr. Dawson requested the motion reflect to approve the bid with the addition of alternates 1 and 2.

Mr. Blanchette moved to amend his motion to include alternates 1 and 2; the motion was seconded and carried unanimously.

Mr. Dawson hoped that the Board could sign the contract documents at the next meeting.

Mr. Dawson reported that he had received a complaint from a handicapped person from Rhode Island that he had been denied access to Silvershell Beach. Mr. Dawson explained that he had consulted with Town Counsel, whose opinion is on the agenda, that federal and state laws apply to the beach whereby the Town must provide reasonable accommodation. Mr. Dawson suggested the Town provide a 20-minute drop-off parking spot to accomplish this. Mr. Cushing noted that the Recreation Committee is responsible for the beach. Mr. Dawson explained that he had discussed this with the Recreation Director, who will have a sign made for the parking spot. Chief Miller said that this was a good solution, but the parking regulations would have to be amended to allow for someone displaying a handicapped placard to park there. Mr. Witten said that the regulations may have to be revised to comply with the Americans

with Disabilities Act. Mr. Dawson suggested that, for tonight, the Board allow the Recreation Committee to reserve a parking spot for persons requiring assistance at Silvershell Beach not to exceed twenty minutes. Mr. Witten said that removing the word "handicapped" was appropriate.

Mr. Henry moved Mr. Dawson's suggestion; the motion was seconded and carried unanimously.

Mr. Witten recalled that the Town Meeting had granted permission to dispose of a parcel of land in which the Town was given interest by the Chester Vose Trust. Mr. Witten explained that the Chester Vose Trust allowed for the reduction of the local tax rate, which the Town had requested the courts remove, so the sale can be completed to a third party—to dissolve the trust to convey the land. Mr. Witten explained that the proceeds would go to the general fund, which allows for the spending of the proceeds for municipal purposes. Mr. Cushing asked if this would also have an effect on the tax rate. Mr. Witten said that it would have an effect on the levy—not the rate. Mr. Witten said that the dissolution of the Trust would not negate the yearly contribution for the reduction of taxes. Mr. Dawson said that it was his understanding that the potential buyer has gotten control over all the land, with the exception of Marion's share. Mr. Witten said that the next step was to be taken in executive session—whether to enter into a purchase and sale agreement for the land.

Mr. Dawson explained that Mr. & Mrs. Converse of 26 Main Street had requested a reconsideration of the Board's denial of an abatement on their water/sewer bill. Mr. Dawson said that he cannot explain the spike in water usage, but all tests on the meter had proven it was accurate. Mr. Blanchette surmised that the problem stemmed from someone flushing a toilet that did not subsequently shut off. Mr. Henry said that the homeowners should be advised to have the water shut off when they are not in residence. Mr. Dawson recommended that the abatement denial not be reversed.

Mr. Blanchette moved that the 2009 reappointments be approved as presented and that the Board members' signature stamps be authorized for use for the purpose of signing the appointments; the motion was seconded and carried unanimously.

(The list of appointments is attached to these minutes and made a part by reference.)

Mr. Blanchette moved to go into executive session at 9:30 p.m. for the purpose of discussing the purchase of real property and not to return to open session following the executive session; the motion was seconded and carried unanimously., Messrs. Cushing, Henry and Blanchette voting aye.

Respectfully submitted,



Roger F. Blanchette

Date voted: 8/4/09

Attachment

2009 Reappointments

Alternative Energy Study Committee	
Robert D. Fisher	June 30, 2010
Norman A. Hills	June 30, 2010
Eunice C. Manduca	June 30, 2010
David K. Pierce	June 30, 2010
William A. Saltonstall, Jr.	June 30, 2010
Americans with Disabilities Act Coordinator	
Paul F. Dawson	June 30, 2010
Bird Island Lighthouse Restoration Committee	
Michael H. Cormier	June 30, 2010
Sherman F. Briggs, Jr.	June 30, 2010
Joseph P. Keogh	June 30, 2010
Douglas Watson	June 30, 2010
Building Department	
Richard W. Marx, Building Commissioner/Inspector of Buildings/ Zoning Enforcement Officer	June 30, 2010
Scott C. Shippey, Alternate Building Inspector	June 30, 2010
Randy A. Caswell, Inspector of Wires	June 30, 2010
Mark D. Farrell, Alternate Inspector of Wires	June 30, 2010
Paul Maloney, Interim Plumbing & Gas Inspector	June 30, 2010
Steven E. Gibbs, Alternate Plumbing & Gas Inspector	June 30, 2010
Buzzards Bay Action Committee (Marion's representative)	
Roger F. Blanchette	June 30, 2010
Michael H. Cormier, alternate	June 30, 2010
Carver/Marion/Wareham Regional Refuse Disposal District	
Stephen M. Cushing	June 30, 2010
Albert W. Richards	June 30, 2012
Cemetery Commissioner	
Richard I. Arthur	June 30, 2012
Chief Procurement Officer	
Paul F. Dawson	June 30, 2010
Community Preservation Committee	
Loretta B. Schaefer (Historical)	June 30, 2010
Margherita B. Baldwin (Parks)	June 30, 2010
Randy L. Parker (Open Space)	June 30, 2010
Dorothy E. Burrill (Housing)	June 30, 2010
Norman A. Hills (Conservation)	June 30, 2010
Thomas R. Magauran (Planning)	June 30, 2010
John Rockwell (Open Space)	June 30, 2010

2009 Reappointments

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Conservation

Sherman E. Briggs, Jr. June 30, 2012
Lawrence B. Dorman June 30, 2012

Council on Aging

Kathleen A. Anderson June 30, 2012
Joan A. Hartnett-Barry June 30, 2012
Eunice C. Manduca June 30, 2012
Charles R. Smith June 30, 2012

Emergency Management

W. Dale Jones June 30, 2010

Emergency Medical Services

David C. Zander, Emergency Medical Services-Basic October 1, 2009

Fence Viewers

Carolyn M. Eames June 30, 2010
Albert W. Richards June 30, 2010
Paul F. Dawson June 30, 2010

Fourth of July Parade Committee

Ronald J. Barros June 30, 2010
Jeanne Davidson June 30, 2010
Ernest T. Halunen June 30, 2010
Frances Florindo June 30, 2010
Rodney P. Hunt June 30, 2010
Gardner S. McWilliams June 30, 2010
Joyce McWilliams June 30, 2010
Joseph F. Napoli June 30, 2010
Virginia Perry June 30, 2010
Paul J. St. Don June 30, 2010
John J. Robarge June 30, 2010
William D. Titcomb June 30, 2010
Joseph P. Zora June 30, 2010

Harbormaster

Michael H. Cormier June 30, 2012

Deputy Harbormaster/Shellfish Officer

Isaac W. Perry June 30, 2012

Assistants to the Harbormaster/Shellfish Officer

Scott C. Cowell June 30, 2010
Earnest W. Holland June 30, 2010
Kyle C. Letendre June 30, 2010

Michael Paoella June 30, 2010
John A. Potito June 30, 2010
Christopher W. Washburn June 30, 2010
Peter A. Borsari, Reserve June 30, 2010

Vincent J. Malkoski, Jr., Reserve June 30, 2010
Chester S. Smith, Reserve June 30, 2010

Herring Inspectors	
James R. Gurney	June 30, 2010
Carolyn M. Eames, Assistant	June 30, 2010
Wharfingers	
Kenneth O. Clark, Jr.	June 30, 2010
Eunice C. Manduca	June 30, 2010
Historical Commission	
Phyllis M. Washburn	June 30, 2012
Marine Resources Commission	
Peter A. Borsari	June 30, 2012
Eivind H. Strand	June 30, 2012
Marion Affordable Housing Trust	
Roger F. Blanchette	June 30, 2010
Dorothy E. Burrill	June 30, 2010
Stephen M. Cushing	June 30, 2010
Reginald C. Foster	June 30, 2010
James T. Grady	June 30, 2010
Jonathan F. Henry	June 30, 2010
Ora Mae Torres	June 30, 2010
Marion Cultural Council	
Lynne Parks-Kuhl	June 30, 2012
Susan J. Schwager	June 30, 2012
Marion Pathways Committee	
Kenneth S. Litke	June 30, 2010
John Rockwell	June 30, 2010
Joan A. Hartnett-Barry	June 30, 2010
Diane Y. Bondi-Pickles	June 30, 2010
Joseph P. Keogh	June 30, 2010
Jeffrey W. Oakes	June 30, 2010
Jonathan F. Henry, <i>ex officio</i>	June 30, 2010
Marion Scholarship Education Fund Committee	
Debra M. Blanchette	June 30, 2010
Jane K. McCarthy	June 30, 2010
Loretta B. Schaefer	June 30, 2010
Lora A. Sharpe	June 30, 2010
Marion 2015 Oversight Committee	
Sherman E. Briggs, Jr.	June 30, 2010
Christopher B. Bryant	June 30, 2010
Steven J. Grima	June 30, 2010
A. Lee Hayes	June 30, 2010
Andrew N. Jeffrey	June 30, 2010
Thomas R. Magauran	June 30, 2010
Alan I. Minard	June 30, 2010

Joseph F. Napoli	June 30, 2010
Sidney J. Weinberg, Jr.	June 30, 2010
Mattapoisett River Valley Water District	
David K. Pierce	June 30, 2012
Mattapoisett River Valley Water Supply Protection Advisory Committee	
David K. Pierce	June 30, 2010
Robert C. Zora	June 30, 2010
Memorial Day Committee	
Ronald J. Barros	June 30, 2012
Ernest T. Halunen	June 30, 2012
Gardner S. McWilliams	June 30, 2012
Joseph P. Zora	June 30, 2012
Music Hall Advisory Committee	
Stephen M. Cushing	June 30, 2010
Phyllis M. Washburn	June 30, 2012
A. Truman Terrell, III	June 30, 2012
Oil Spill Coordinators	
Michael H. Cormier	June 30, 2010
Thomas Joyce, Interim	
Parks Committee	
Margherita B. Baldwin	June 30, 2012
Personnel Advisory Committee	
James B. Barron	June 30, 2010
Roger F. Blanchette	June 30, 2010
Stephen M. Cushing	June 30, 2010
Hamish C. Gravem	June 30, 2010
Karen C. Kevelson	June 30, 2010
Jonathan F. Henry	June 30, 2010
Alan I. Minard	June 30, 2010
Lee Vulgaris	June 30, 2010
Constables	
Lincoln W. Miller	June 30, 2010
Russell F. Tinkham, Jr.	June 30, 2010
Police Station Building Committee	
Stephen M. Cushing	June 30, 2010
W. Dale Jones	June 30, 2010
Robert R. Dion	June 30, 2010
Lincoln W. Miller	June 30, 2010
William W. Saltonstall	June 30, 2010

Public Works

Gary R. Sherman, Cross Connection Tester June 30, 2010

Recreation Committee

Carolyn M. Eames June 30, 2012

Senior Center Study Committee

Albert M. Cordeiro June 30, 2010

Mary J. Gallini June 30, 2010

Eunice C. Manduca June 30, 2010

Joseph F. Napoli June 30, 2010

Lucy P. Napoli June 30, 2010

Ray E. Pickles June 30, 2010

David B. Titus June 30, 2010

Tabitha L. Tripp June 30, 2010

Susan J. Schwager, Alternate June 30, 2010

Ora Mae Torres, Alternate June 30, 2010

Sippican School Major Maintenance Committee

Brad A. Gordon June 30, 2011

W. Dale Jones June 30, 2012

Edwin M. Fava, Jr. June 30, 2012

SRPEDD

Jonathan F. Henry June 30, 2010

Patricia McArdle (Planning Board) June 30, 2010

Tree Planting Committee

Susannah Davis June 30, 2012

Margot D. Stone June 30, 2012

Joyce C. West June 30, 2012

Tri-Town River Committee

James R. Gurney June 30, 2010

Randy L. Parker June 30, 2010

Veterans' Agent/Grave Officer

William D. Titcomb June 30, 2010

Water Committee

David K. Pierce June 30, 2010

Paul F. Dawson June 30, 2010

W. Dale Jones June 30, 2010

Donald J. Torres June 30, 2010

Robert C. Zora June 30, 2010

Water/Sewer Rate Review Team

Rebecca L. Carvalho June 30, 2010

Paul F. Dawson June 30, 2010

Judith M. Mooney June 30, 2010

Robert C. Zora June 30, 2010

Zoning Board of Appeals

William A. Jones

June 30, 2011

Eric V. Pierce

June 30, 2014

Domingo P. Alves, Alternate

June 30, 2012

June M. Robbins, Alternate

June 30, 2012