

**ORLEANS BOARD OF SELECTMEN
MINUTES**

Thursday, April 29, 2010

Approved on May 19, 2010

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TOWN OF ORLEANS
TOWN CLERKS OFFICE
Delina Asst

Present: Chairman Jon R. Fuller, Margie Fulcher, Sims McGrath, Mark E. Carron, David M. Dunford, Town Administrator John F. Kelly, Asst. Town Admin. Myra Suchenicz, Finance Director David Withrow, Town Meeting Moderator Duane Landreth, Town Counsel Mike Ford, Town Clerk Cynthia May, Finance Committee Chair Walter Bennett and Open Space Committee Chair Alan McClennen.

Chairman Fuller called the meeting to order at 1:00 p.m.

Pre-Town Meeting: (00:35)

John Kelly began by reviewing the warrant articles for the Annual Town Meeting.
Article 1 Report of Selectmen, Town Officers and Special Committees.

Article 2: Town and School Budget-

Mr. Kelly noted that the main motion will be for a reduced amount; \$33,000 less than the amount in line item #57. Chairman Fuller will give a power point overview of the final operating budget. Walter Bennett will give the Finance Committee's comments and a brief presentation as well.

Article 3: Capital Improvements Plan-

Chairman Fuller will give an overview and the Finance Committee will give a brief presentation as well.

Article 4: Fund Community Preservation Act Program Budget-

CPC Chair Julia Enroth will present programs chosen for funding in FY2011.

Article 5: Highway Department Water Quality Drainage Improvements-

This is a Capital Budget Article and a ballot question. A 2/3 vote is required.

Article 6: Highway Department-Town Pavement Capital Budget -

This is a Capital Budget Article and a ballot question. A 2/3 vote is required.

Article 7: Fund Replacement of Fire Dept. Pumper Truck-\$480,000

This Article seeks authorization to fund the replacement of the Fire Department pumper truck. Mr. Carron noted that the summary it should state that the current truck is a 1993 vehicle put in service in 1994. This is a ballot question and 2/3 vote is required.

Article 8: Funding the Front End Loader-\$150,000

This is a ballot question and a 2/3 vote is required.

Article 9: Water Department-I&M Plant Filter Membrane Rack Replacement-\$285,000

While this article is a ballot question, the funds are in the Water Department's projections. The debt will be paid by Water Department reserves. A 2/3 vote is required.

Article 10: Accept provisions of Local Option Sales Tax on Restaurant Meals-

Mrs. Fulcher will be speak to this article. A simple majority vote is required. This is a split vote. Mrs. Fulcher will be present the majority; Mr. Carron will present the minority. A simple majority vote is required.

Article 11: Accept Transportation Bond Bill Funds-

This housekeeping article allows the Town to accept \$237,460 from the State to perform Chapter 90 work. A simple majority vote is required.

Article 12: Holding State Harmless for Work-

Mr. Kelly explained that this article holds the State harmless for work such as that performed by Mass Dept. of Environmental Management within tidal and non-tidal waterways within the Town as well as other work. A simple majority vote is required.

Article 13: Authorization to Sell Surplus Equipment and Accept Gifts-

Mr. Kelly stated that a change has been made to allow the proceeds from such sales to be placed in the general fund, water surplus fund or reserve for appropriation account, as appropriate. A simple majority vote is required.

Article 14: Adopt-Revolving Accounts-

Mr. Kelly stated this is housekeeping article which allows programs for composting and recycling bins, Council on Aging programs and maintenance of the COA van plus maintenance for the Gavigan property and conservation properties as well as the Cultural Council awards for shows. A simple majority vote is required.

Article 15: Assessment Formula-Nauset Regional Schools-

This is an annual vote to use the inter-municipal agreement for the assessment of cost to member towns, rather than the State formula. A simple majority vote is required.

Article 16: Transfer Water Service Connection Funds-

A transfer for the water service connection fund which occurs each year. Moneys come from existing fund balance in the water department. A simple majority vote is required.

Article 17: Fund Visitor Mgt. Services by Orleans Chamber of Commerce-

Funding for the Visitor Center at Eldredge Parkway. A simple majority vote is required.

Article 18: Fund Human Services Agencies-

Fund grants for various human services agencies. A simple majority vote is required.

Article 19: Fund Fourth of July Parade-

Fund the parade operations. A simple majority vote is required.

Article 20: Salary of Elected Officials-

Fund the salaries of the Board of Selectmen, Moderator and Constables. This is a split vote. Mr. Carron will present the minority.

Article 21: Amend General Bylaw-Personnel-

Mr. Kelly explained that this article will update language in the personnel bylaw. This has not been done since 2004. A simple majority vote is required.

Article 22: Adopt General Bylaw-Second Hand Merchandise Dealers and Collectors-
Simple majority vote is required. Chief Roy will be on hand at Town Meeting in the event that questions arise. A simple majority vote is required.

Article 23: Adopt General Bylaw-Public Trees-
The Planning Board will be present this article. Tree Warden Dan Connolly will be present to answer questions. A simple majority vote is required.

Article 24: Amend Zoning Bylaw-Definitions-
Language must be added to "Building Height" to address Non-Commercial Wind Facilities. A 2/3 vote is required.

Mr. Kelly asked Moderator Landreth about a request he received from Francesca Bignami, a non-resident taxpayer, who wishes to speak to Article 26: a Zoning Bylaw Amendment at Town Meeting. Moderator Landreth replied that from his point of view, it would be better to include this person in the procedural motion.

On a motion by Mark Carron and seconded by David Dunford, the Board voted to include the non-resident taxpayer's comments in the opening procedural motion. All in favor 5-0-0.

Mrs. Fulcher asked for clarification that any non-resident taxpayer that chooses to speak at future town meetings and will they have to ask the body. She felt concerned that people will not know the procedure of notifying the Moderator beforehand. Mrs. Fulcher asked to change her vote to nay on the last motion, as she would like to discuss this matter further and have a policy in place for all non-resident taxpayers who wish to address town meeting. Mr. Kelly reminded Mrs. Fulcher that we have a bylaw in place that covers precedent setting issues in regard to this process.
Chairman Fuller moved to reconsider the motion. Sims McGrath seconded. All in favor 5-0-0. (28:07)

Margie Fulcher moved, seconded by Sims McGrath, that a motion be made at the opening of the meeting to allow Ms. Francesca Bignami to speak to Article 26 as a non-resident taxpayer. All in favor 5-0-0.

Article 25: Amend Zoning Bylaw-Schedule of Use Regulations-
A 2/3 vote is required.

Article 26: Amend Zoning Bylaw-Modifications-
A 2/3 vote is required.

Article 27: Acquire Conservation and Watershed Protection Restriction on Brewster Land-
This is an Open Space article. Orleans has a deal in principal. The Town's portion of \$375,000 is subject to debt exclusion. A 2/3 vote is required.

Article 28: Fund Layout of Beach Road from Main Street to Nauset Beach-

Mr. Kelly noted there is an agreement with the petitioners to present a modified proposal which supports a feasibility study for layout options in the amount of \$6,000. Rick Sigel will be presenting this article. Mr. Carron alerted the Moderator that there might be a move to take this article out of order. A simple majority vote is required.

Article 29: Free Cash-

A simple majority vote is required.

Special Town Meeting: (43:13)

Mr. Kelly reviewed of the articles for Special Town Meeting.

Article 1: Bills of Prior Years. David Withrow noted that to date, the figure is \$574.11. A simple majority vote is required.

Article 2: Transfer Article-

Mr. Kelly noted that he will provide the information to the Board and the Finance Committee for recommendations for this article. A simple majority vote is required.

Article 3: Transfer of Funds for Police Station HVAC Repairs-

Mr. Kelly explained this is a transfer from the design account from the renovations that took place in 2006 and transfers the money to the construction account, allowing the Chief to make the necessary HVAC repairs. A simple majority vote is required.

Article 4: Transfer Funds for Replacement-

Mr. Kelly noted this is money collected since the installation of new lights at Eldredge Field. This is to pay for replacement bulbs. A simple majority vote is required

Article 5: Transfer Funds for Marine Corps Band Concert-

This money was in the budget for this year and would be saved and transferred for next year without putting it in the FY11 budget. The concert is not being held in Orleans this year. A simple majority vote is required.

Article 6: Authorize Intergovernmental Agreements Related to Renewable Energy- Mr.

Kelly stated that this is for the Cape & Vineyard Electric Cooperative related to Renewable Energy Projects. Town Counsel Mike Ford will be at the next Board meeting to discuss the agreement and to help the Board decide on a course of action. A simple majority vote is required.

Article 7: Acquire Land Owned by G.R.B.S. Corp on Beach Road and Hubler Lane

Mr. Kelly explained that this article allows the Town to acquire the Hubler Property giving the Town access to the existing Nauset Beach parking lot in the event the town lost the entrance or a portion of the lot due to erosion. This is not in the capital plan and therefore subject to a $\frac{3}{4}$ majority vote. Mike Ford reported that a purchase & sales agreement is forthcoming.

Article 8: Acquire Land Owned by Putnam Family-

Mr. Kelly stated that this purchase is for open space and agricultural purposes. A deal is in place and we are waiting a P & S for final signatures. A $\frac{2}{3}$ vote is required.

Article 9: Accept Sale of Alcoholic Beverages by On-Premise Licensees on Sundays and Certain Legal Holidays-

Mr. Kelly explained that this is a local option whereby the Town would authorize the Board, acting as the Licensing Authority, to allow restaurants to sell alcohol on Sundays starting at 11 a.m. instead of noon. A simple majority vote is required.

Cape & Vineyard Electric Cooperative: (53:12) (STM Article 6)

Michael Ford explained the necessity of the article. The Orleans Charter requires any inter-municipal agreement of \$50,000 or more, or for three years or longer, be approved by the town meeting. This agreement is proposed to be 20 in length. The recommendation to the meeting would be to give authorization to the Board to decide whether or not to execute the agreement. Attorney Ford stated that in terms of completeness of the agreement, he could not recall considering the approval of any agreement with as many terms yet to be filled in as what is in front of the Board and questioned if, in fact, it could be called an agreement at this point. None of the key financial terms are evident. Selectmen concurred that the agreement is not informative enough at this point to make a decision.

Mr. Jannell stated Brewster has authorized a turbine as well as Harwich. If they follow their current schedule, in 2-3 months time there may be details to review. The issue is of timing, and Orleans may be asked to execute a power service agreement in advance of town meeting next year.

Mrs. Fulcher noted that a fall town meeting is not planned, so Selectmen should explain the timing to voters. Mr. Kelly replied that the situation is unique given the Orleans Charter. The Board has been told that if a town doesn't go forward with a project when presented, that Town will be out of CVEC. Mr. Jannell stated that Brewster and Harwich have not signed any agreements and continued to explain that Brewster and Harwich will be asked to sign different power purchase agreements. Each town will be buying/receiving power as a host. The balance will be distributed on a pro rata share. Orleans is one member out of 17 towns and will have a rather small municipal load compared to other towns.

Mr. Dunford asked Mr. Ford if the actual payments begin when the project is 70% completed. Attorney Ford replied that indeed commercial operations provide for that. Mr. Dunford did not see either project being 70% completed for a long time and could not understand why we are under pressure to do this.

Attorney Ford noted that the power supply agreements need to be executed and in place along with the host agreements in order to induce the lenders to get the project off the ground. So as a result it was the CVEC's intentions to get the agreements out to all of the towns, get them back and be able to prepare a package for the lenders.

Mr. Dunford noted that we do not know what the amount of energy is that we will be taking from this. Chairman Fuller noted that he feels it is incumbent on CVEC to fill in the terms of the agreement. If we take this to town meeting and it is turned down, we are out of CVEC, but town meeting has very little information to go on. Mr. Carron noted that we have been asking for details for a very long time. He further noted the page dealing with default, commenting that lenders only look at one thing, who can the

lender go to in the event of a default. He does not know what we would be liable for when looking at the agreement before us.

On a motion by Mrs. Fulcher and seconded by Mr. Dunford, the Board voted to indefinitely postpone Article 6 of the Special Town Meeting. Further, as Mr. Carron suggested that a letter be drafted to CVEC noting that we are eager and interested in becoming a partner with them but we need a more complete agreement before we can sign it.

Attorney Ford raised the point that an indefinite postponement is analogous to a "no" vote in most procedural circles. He suggested that perhaps a motion could be fashioned in which the meeting takes no action but the Board makes it clear that we have not rejected the power supply agreement because it was premature.

The motion and the second were withdrawn.

On a motion by Mr. Dunford and seconded by Mrs. Fulcher, the Board voted to structure a motion for Article 6 of the Special Town Meeting that would result in the town meeting taking no action on the municipal agreement at this time. Also, Attorney Ford will fashion the motion so that the Board, in an effort present the most concise information to the voters, will refer the matter back to the Board of Selectmen. All in favor 5-0-0

The Board thanked Asst. Planner John Jannell for his hard work on this project.

Funding Options for Matthews Conservation Restriction and Putnam Property (1:20:20)

Mr. Kelly stated that before the final vote is taken, he wished to make the Board aware that the best approach for both acquisitions would be to authorize the full amount of the articles and proposed using motions prepared by Town Counsel. This maximizes the amount of the applications for state reimbursement (LAND program). This could allow the Town to have additional money for future acquisitions.

Alan McClennen, Chair of the Open Space Committee, stated that both projects fulfill the number one goal of the Open Space plan for Orleans, reading from the guidelines, and noted the purchase of the Matthews property preserves 39.5 acres up gradient of our main well field. If awarded the grant, acquisition cost is less than \$5,000 an acre.

In regard to the Putnam purchase of 13.68 acres, this is the largest piece of dry open space between Town Cove and the Cape Cod Bay. Orleans will be buying this property for about \$25,000 per acre. He listed the recent tax revenue to the town, which was low due to the Chapter 61 provision placed on the property. Both projects will have a very good chance of getting reimbursement at 52% of what the town raises through the Land program. Any grant award would go back into an account managed by David Withrow to be used as working capital for future projects.

On a motion by Margie Fulcher and seconded by Mark Carron, the Board voted to ask the voters to fund the full amount of the purchase price in the motion, and that said amount be solely funded through new debt service. Vote 5-0-0 in favor.

Other business:

Mr. Kelly stated that he spoke with Michael Ford regarding revisions of the Seasonal Alcoholic License Holders Regulations.

On a motion by Margie Fulcher and seconded by Sims McGrath, the Board voted to amend the Rules and Regulations of the Liquor Licensing Authority as follows:

Seasonal Alcoholic License Holders:

Section a: May be open from April 1 to November 30, subject to the requirements of Sections (b) and (c) below. Upon written request the Board may delay opening from April 1 up to May 15, and/or extend the closing from November 30 up to January 15.

Section b: Shall have their establishments open to the public at least six (6) days each week from the last Saturday in June to the first Monday in September.

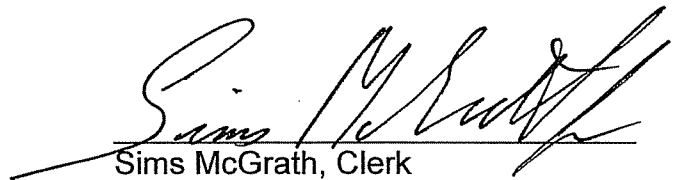
Section c: Must be open at least three (3) days each week from opening to the last Saturday in June and from the first Monday in September to closing.

Vote 5-0-0 in favor.

On a motion by Margie Fulcher and seconded by David Dunford, the Board voted to adjourn. Vote 5-0-0 in favor. (1:49:35)

Respectfully submitted,

Margaret M. Astles


Sims McGrath, Clerk

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