

BOARD OF SELECTMEN
MEETING MINUTES

March 31, 2010

Approved on April 14, 2010

A meeting of the Orleans Board of Selectmen was held on Wednesday, March 31, 2010, in the Nauset Room of the Town Hall. Present were Chairman Jon R. Fuller, Vice-Chairwoman Margie Fulcher, Selectman David M. Dunford, Selectman Mark E. Carron, Assistant Town Administrator Myra Suchenicz, Town Administrator John Kelly, and Recording Secretary Kristen Holbrook.

Chairman Fuller called the meeting to order at 5:30 pm.

On a motion by Mr. Dunford, and seconded by Mrs. Fulcher, the Board voted, by way of roll call, to enter into executive session for the purpose of discussing property negotiations. The vote was 4-0-0, with Mr. Dunford, Mr. Fuller, Mrs. Fulcher and Mr. Carron all voting aye.

Mr. McGrath joined the meeting at 5:35 pm.

On a motion by Mr. McGrath, and seconded by Mrs. Fulcher, the Board voted, by way of roll call, to return to open session. The vote was 5-0-0, with Mr. McGrath, Mr. Dunford, Mr. Fuller, Mrs. Fulcher and Mr. Carron all voting aye.

Public Comment: (00:00:30)

Jeffrey Eagles, a resident of Orleans, spoke to the Board regarding placing the final report of the citizen peer review committee for the MEP reports on the Town of Orleans website.

Ben Buck, a resident of Rock Harbor Road, spoke to the Board regarding political power running roughshod over the townspeople.

Fred Perreault, a resident of Orleans, spoke to the Board regarding the Department of Public Works.

Approval of Minutes: (00:09:22)

On a motion by Mr. Dunford, and seconded by Mrs. Fulcher, the Board voted to adopt the minutes of the March 10, 2010 meeting as amended. The vote was 5-0-0.

On a motion by Mr. Dunford, and seconded by Mrs. Fulcher, the Board voted to adopt the minutes of the March 17, 2010 regular session meeting as amended. The vote was 5-0-0.

FY11 Final Budget Review: (00:14:43)

The Board met with Town of Orleans Finance Director David Withrow to finalize the FY11 budget.

Town Administrator John Kelly presented the Board with the updated financial plan and the list of items that are left for consideration for the budget.

On a motion by Mrs. Fulcher, and seconded by Mr. Fuller the Board voted to reconsider their previous decision not to place the local option meals and rooms tax on the Annual Town Meeting Warrant. The vote was 3-2-0. Mr. Dunford and Mr. Carron voted nay.

On a motion by Mrs. Fulcher, and seconded by Mr. McGrath the Board voted to place an article to adopt the local option Meals Tax on the Annual Town Meeting Warrant. The vote was 3-2-0, Mr. Dunford and Mr. Carron voted nay.

Mr. Kelly recommended that the Board move forward with making the recommended changes to balance the FY11 budget and maintain the 5% free cash reserves.

On a motion by Mr. Dunford, and seconded by Mrs. Fulcher, the Board voted to approve the following items and funding to be added back in to the FY2011 Town of Orleans Operating Budget: Fund the Police Summer Specials in the amount of \$15,000, Fund the Part-Time Mechanic Position in the amount of \$25,000, Fund the Retiree Health Insurance, with no changes, in the Amount of \$36,800, Fund the Barnstable County Retirement Assessment in the amount of \$45,750, and to reduce the Town of Orleans FY2011 Operating Budget in the following amounts: Transfer Available Stabilization Fund balance in the amount of \$32,500, reduce the Trash Trailer expenditure by using remaining bond authorization in the amount of \$30,000, reschedule the replacement of the F550 Truck to FY2013 in the Amount of \$52,000, Reduce the seasonal labor position for the Highway Department in the amount of \$6,800, reduce the available Comprehensive Wastewater Management Plan Project Manager funds in the amount of \$20,000, and transfer funds from the CATV franchisee fees for internet in the amount of \$10,000. The vote was 5-0-0.

James Dewitt, a resident of Orleans, asked the Board if the Retiree Health benefits would be reconsidered at any time in the near future. Mrs. Fulcher stated that it was not likely.

Mr. Kelly presented the Board with information on the Petition Article for the layout of Beach Road and the questions that the Board had on funding should the article pass at the Annual Town Meeting. Mr. Kelly suggested that the Board consider offering an amendment from the floor of Town Meeting to fund a preliminary study for the feasibility of the project and form a task force made up of the planning board, traffic study committee, the Parks Department, and the Bike Ways Committee, to look at the initial assessment of the project with a budget of \$6,000 for preliminary engineering.

Mrs. Fulcher stated that she would like to see more of an interest in the petition and she would like to know what the reaction is from the abutters of Beach Road.

Mr. McGrath stated that there was an initial petition with 100 signatures, and the one before the Board is a renewal, which was needed to correct some wording in the document.

Mr. Fuller stated that the Bike and Walkways Committee strongly supports the petition and he feels that they would continue to support the issue in the form of a study with a smaller funding amount.

On a motion by Mr. Dunford, and seconded by Mrs. Fulcher, the Board voted to follow the Town Administrator's recommendation and ask the Town Administrator to approach the petitioners to add a friendly amendment to the article indicating that the article would seek only to fund a preliminary study of the potential layout options for Beach Road in the amount of approximately \$6,000. Should the petitioners decline the friendly amendment the Board will seek their own amendment from the floor of Town Meeting. The vote was 4-1-0, Mr. Carron voted nay.

On a motion by Mrs. Fulcher, and seconded by Mr. Dunford, the Board voted to recommend approval of the proposed Town of Orleans FY11 operating budget in the amount of \$27,409,566.00. The vote was 5-0-0.

Finalize Annual and Special Town Meeting Warrants: (01:31:15)

On a motion by Mr. Carron, and seconded by Mr. McGrath, the Board voted to recommend approval of the Annual Town Meeting Articles to Accept the Reports of Town Committees, to adopt the Capital Improvement Plan for FY12-FY16, and to Fund the FY11 CPA Program Projects. The vote was 5-0-0.

On a motion by Mrs. Fulcher, and seconded by Mr. Carron, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to Fund Water Quality Drainage Improvements. The vote was 5-0-0.

On a motion by Mrs. Fulcher, and seconded by Mr. McGrath, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to Fund Pavement Management Projects. The vote was 5-0-0.

On a motion by Mrs. Fulcher, and seconded by Mr. McGrath, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to Fund Replacement of the Fire Department Pumper Truck. The vote was 5-0-0.

On a motion by Mr. McGrath, and seconded by Mr. Carron, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to Fund the Replacement of the Highway Department Front End Loader. The vote was 5-0-0.

On a motion by Mrs. Fulcher, and seconded by Mr. Carron, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to Fund Replacement of the I&M Plant Filter Membrane Rack. The vote was 5-0-0.

On a motion by Mr. Dunford, and seconded by Mrs. Fulcher, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to Accept Transportation Bond Bill Funds. The vote was 5-0-0.

On a motion by Mr. Dunford, and seconded by Mrs. Fulcher, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to Hold the State Harmless for Work. The vote was 5-0-0.

On a motion by Mr. Dunford, and seconded by Mrs. Fulcher, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to Authorize the Town to Sell Surplus Equipment and Accept Gifts. The vote was 5-0-0.

On a motion by Mr. Dunford, and seconded by Mrs. Fulcher, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to Adopt M.G.L Chapter 44 Section 53 ½ Revolving Accounts. The vote was 5-0-0.

On a motion by Mrs. Fulcher, and seconded by Mr. Carron, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to Adopt M.G.L Chapter 71 Section 16B Assessment Formula for Nauset Regional Schools. The vote was 5-0-0.

On a motion by Mrs. Fulcher, and seconded by Mr. Carron, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to Transfer Water Reserves for Appropriations to Water Service Connection Account. The vote was 5-0-0.

On a motion by Mrs. Fulcher, and seconded by Mr. Dunford, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to Fund the Orleans Chamber of Commerce. The vote was 5-0-0.

On a motion by Mrs. Fulcher, and seconded by Mr. McGrath, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to fund Human Services Agencies in the amount of \$64,871. The vote was 5-0-0.

On a motion by Mrs. Fulcher, and seconded by Mr. Carron, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to Fund the Fourth of July Parade in the amount of \$7,500. The vote was 5-0-0.

On a motion by Mr. Dunford, and seconded by Mr. McGrath, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to fund FY11 Elected Official Salaries in the Amount of \$5,350. 4-1-0, Mr. Carron voted nay.

On a motion by Mrs. Fulcher, and seconded by Mr. McGrath, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to Amend General Bylaw Chapter 40: Personnel. The vote was 5-0-0.

On a motion by Mrs. Fulcher, and seconded by Mr. McGrath, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to Adopt General Bylaw: Public Shade Trees, as amended. The vote was 5-0-0

On a motion by Mrs. Fulcher, and seconded by Mr. Carron, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to Adopt General Bylaw: Second Hand Merchandise Dealers, as amended. The vote was 5-0-0.

On a motion by Mr. McGrath, and seconded by Mrs. Fulcher, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to Amend Zoning Bylaw Chapter 164-4: Definitions (building height, wind facilities). The vote was 5-0-0.

On a motion by Mr. McGrath, and seconded by Mrs. Fulcher, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to Amend Zoning Bylaw Chapter 164-13: Schedule of Use (use-language). The vote was 5-0-0.

On a motion by Mr. McGrath, and seconded by Mrs. Fulcher, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to Amend Zoning Bylaw Chapter 164-22: Modifications (square feet on non-conforming lot). The vote was 5-0-0.

Mr. McGrath moved the Board to recommend approval of the Annual Town Meeting Article to Acquire Conservation and Watershed Protection on Brewster Land. Mrs. Fulcher seconded the motion. After a brief discussion Mr. McGrath withdrew his motion and Mrs. Fulcher withdrew her second pending further information from the Board of Water and Sewer Commissioners.

On a motion by Mr. Carron, and seconded by Mr. Dunford, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to Fund Layout of Nauset Beach Road from Main Street to Nauset Beach. The vote was 1-4-0, Mr. McGrath, Mr. Fuller, Mr. Dunford and Mrs. Fulcher voted nay, and the motion failed.

On a motion by Mr. McGrath, and seconded by Mrs. Fulcher, the Board voted to recommend approval of the Annual Town Meeting Warrant Article to accept Local Option for Meals Tax. The vote was 3-2-0, Mr. Carron and Mr. Dunford voted nay.

Mr. Carron moved the Board to recommend approval of the Special Town Meeting Warrant Article for Bills of Prior Years. Mr. McGrath seconded the motion. Town of Orleans Finance Director David Withrow recommended that the Board wait until the night of Town Meeting to make a recommendation, as there is a possibility that additional bills may need to be added to the dollar amount. Mr. Carron withdrew his motion and Mr. McGrath withdrew his second.

On a motion by Mr. Carron, and seconded by Mr. McGrath, the Board voted to recommend approval of the Special Town Meeting Warrant Article to Transfer Funds from Police Station Engineering to Construction for Repairs in the amount of \$9,800. The vote was 5-0-0.

On a motion by Mr. Carron, and seconded by Mrs. Fulcher, the Board voted to recommend approval of the Special Town Meeting Warrant Article to Transfer Funds from Free Cash for Eldredge Field Light Replacement in the amount of \$6,575. The vote was 5-0-0.

On a motion by Mr. Carron, and seconded by Mrs. Fulcher, the Board voted to recommend approval of the Special Town Meeting Warrant Article to Transfer Funds from FY10 Special Events accounts to a separate article in the amount of \$3,000. The vote was 5-0-0.

On a motion by Mr. Carron, and seconded by Mrs. Fulcher, the Board voted to place an article on the Special Town Meeting Warrant to authorize the Selectmen to sign Cape and Vineyard Electric Compact Power Supply Agreements. The vote was 5-0-0.

On a motion by Mrs. Fulcher, and seconded by Mr. Carron, the Board voted to place an article on the Special Town Meeting Warrant to Authorize and Fund Land Acquisition of the property owned by G.R.B.S Corp. located on Beach Road and Hubler Lane. The vote was 5-0-0.

On a motion by Mrs. Fulcher, and seconded by Mr. Carron, the Board voted to place an article on the Special Town Meeting Warrant to Authorize and Fund Land Acquisition of the Putnam Property. The vote was 5-0-0.

Vote to Place Debt Exclusion Questions on Ballot: (02:20:30)

On a motion by Mr. McGrath, and seconded by Mr. Carron the Board voted to place Question 1 on the Annual Election Ballot "Shall the Town of Orleans be allowed to exempt from the provisions of Proposition 2 1/2, so called, the amounts required to pay for the bond issued in order to fund the design and construction to the town's drainage infrastructure system including all expenses incidental and related thereto?" The vote was 5-0-0.

On a motion by Mr. Carron, and seconded by Mr. McGrath, the Board voted to place Question 2 on the Annual Election Ballot "Shall the Town of Orleans be allowed to exempt from the provisions of Proposition 2 1/2, so called, the amounts required to pay for the bond issued in order to fund the local share of the town's ongoing pavement management program to repair, resurface and reconstruct the town's roadways, including all expenses incidental and related thereto?"

On a motion by Mr. Dunford, and seconded by Mr. McGrath, the Board voted to place Question 3 on the Annual Election Ballot: "Shall the Town of Orleans be allowed to exempt from the provisions of Proposition 2 1/2, so called, the amounts required to pay for the bond issued in order to fund the Replacement of the Fire Department Pumper Truck including all expenses incidental and related thereto?" The vote was 5-0-0.

On a motion by Mr. McGrath, and seconded by Mr. Dunford, the Board voted to place Question 4 on the Annual Election Ballot "Shall the Town of Orleans be allowed to exempt from the provisions of Proposition 2 1/2, so called, the amounts required to pay for the bond issued in order to fund the purchase of the Highway Department Front End Loader, including all expenses incidental and related thereto?" The Vote was 5-0-0.

On a motion by Mrs. Fulcher, and seconded by Mr. Carron, the Board voted to place Question 5 on the Annual Election Ballot "Shall the Town of Orleans be allowed to exempt from the provisions of Proposition 2 1/2, so called, the amounts required to pay for the bond issued in order to fund the Replacement of Water Treatment Plant Membranes including all expenses incidental and related thereto?" The vote was 5-0-0.

On a motion by Mr. Carron, and seconded by Mrs. Fulcher, the Board voted to place Question 6 on the Annual Election Ballot "Shall the Town of Orleans be allowed to exempt from the provisions of Proposition 2 1/2, so called, the amounts required to pay for the bond issued in order to fund the Purchase of a Conservation and Watershed Preservation Restriction on two adjoining parcels of land off Route 39 in Brewster, MA within Zone II zone of contribution to the Orleans public water supply, shown on the Brewster Assessor's Map 45 as Parcels 41 and 58-1, including all expenses incidental and related thereto?" The vote was 5-0-0.

On a motion by Mr. Dunford, and seconded by Mrs. Fulcher, the Board voted to place Question 7 on the Annual Election Ballot "Shall the Town of Orleans be allowed to exempt from the provisions of Proposition 2 1/2, so called, the amounts required to pay for the bond issued in order to fund the Purchase of all or a portion of the land located at Beach Road and Hubler Lane, East Orleans, MA, shown on the Orleans Assessor's Map 38 as parcels 16-6, 16-1, 16-2, 16-3 and 16-4-1 including all expenses incidental and related thereto?" The vote was 5-0-0.

On a motion by Mr. McGrath, and seconded by Mr. Carron, the Board voted to place Question 8 on the Annual Election Ballot "Shall the Town of Orleans be allowed to exempt from the provisions of Proposition 2 1/2, so called, the amounts required to pay for the bond issued in order to fund the Purchase of all or a portion of the land located at 50 Bridge Road, Orleans, MA consisting of approximately 16.6 acres shown on the Town of Orleans Assessor's Map 10 as parcel 1 including all expenses incidental and related thereto?". The vote was 5-0-0.

Town Administrator's Report: (02:27:22)

Mr. Kelly asked the Board to vote to establish a 53e1/2 Revolving account for the Council On Aging. FY10.

On a motion by Mr. Dunford, and seconded by Mrs. Fulcher the Board voted to authorize the creation of a revolving account under M.G.L 53E 1/2 for the balance of fiscal year 2010 to allow the Council on Aging to access the funds on hand to help offset operating budget expenses related to van operations. The vote was 5-0-0.

On a motion by Mrs. Fulcher, and seconded by Mr. Carron, the Board voted to deny the request of Carolyn DelGizzi owner of ADG, Inc. d/b/a Orleans Lobster Pound, to temporarily close her business for the period of April 1, 2010 through June 10, 2010 and reopen on June 11, 2010 and advise the owner that as a condition of their liquor license they must remain open at least 3 days each week beginning April 1, 210 through June 26, 2010 in accordance with the Town of Orleans Rules and Regulations of the Liquor Licensing Authority and M.G.L Chapter 138. The vote was 5-0-0.

Mr. Kelly provided the Board with an update on the Yearly Operating Plan update for NStar that had been forwarded to him through the executive Director of the Cape Cod Commission.

Liaison Reports: (02:41:30)

Mr. McGrath reported on a meeting of the Barnstable County Municipal Solid Waste Advisory Committee meeting.

Mr. Carron reported on a recent meeting of the Finance Committee.

On a motion by Mrs. Fulcher, and seconded by Mr. Dunford, the Board voted to cancel the scheduled Board of Selectmen's meeting of April 1, 2010. The vote was 5-0-0.

Any Other Business: (02:44:07)

Mrs. Fulcher reminded the Board about the Teacher Appreciation Week.

Adjourn: (02:44:25)

On a motion by Mrs. Fulcher, and seconded by Mr. McGrath, the Board voted to adjourn. The vote was 5-0-0.

Respectfully submitted,
Kristen Holbrook

Sims McGrath Jr., Clerk