

BOARD OF SELECTMEN
MEETING MINUTES

October 20, 2010

Approved on November 17, 2010

A meeting of the Orleans Board of Selectmen was held on Wednesday, October 20, 2010 in the Nauset Room of the Town Hall. Present were Chairwoman Margie Fulcher, Vice-Chair Sims McGrath Jr., Clerk Jon R. Fuller, Selectman David M. Dunford, Selectwoman Susan B. Christie, Town Administrator John Kelly and Recording Secretary Kristen Holbrook.

Chairwoman Fulcher called the meeting to order at 6:30 pm.

Public Comment: (00:01:55)

Mrs. Fulcher welcomed public comment on all issues except items regarding the Park Commissioners meeting.

Caroline Kennedy, President of the Orleans Pond Coalition, thanked the Board and Park Superintendent for their support and participation in Celebrate our Waters Weekend. As Chair of the Water Quality Task Force, Ms. Kennedy informed the Board that there have been some exotic plants found in Pilgrim Lake. She asked that the public be aware that it is not appropriate to dump exotic species into any of the bodies of water in Orleans.

Mrs. Fulcher reminded the Board and members of the audience to use the microphones provided in order for their comments to be recorded. Mrs. Fulcher also announced that the Human Service Advisory Committee is seeking to fill one vacancy at this time. Interested citizens can apply via the Orleans Committee Citizen Interest form and the Town Administrator's Office.

Mrs. Christie informed the Board that the Town of Orleans Flu Clinics would be held November 1, 2010 and November 12, 2010 at the Orleans Senior Center between the hours of 1:00 pm and 4:00 pm. Registration for the clinic is required via website or by calling the Orleans Senior Center.

Mrs. Fulcher asked for a moment of silence in memory of Orleans Water Department Superintendent Lou Briganti who passed away on October 18, 2010. Mrs. Fulcher expressed the Board's sympathy and condolences to Mr. Briganti's family.

Approval of Minutes: (00:08:05)

On a motion by Mr. Fuller, and seconded by Mr. Dunford, the Board voted to adopt the minutes of the September 20, 2010 meeting as amended. The vote was 5-0-0.

On a motion by Mr. Fuller, and seconded by Mr. McGrath, the Board voted to adopt the minutes of the June 23, 2010 Executive Session meeting as written. The vote was 5-0-0.

Meet as Park Commissioners with Park Superintendent: (00:10:32)

On a motion by Mr. Fuller, and seconded by Mr. Dunford, the Board voted to meet as Park Commissioners. The vote was 5-0-0.

Park Commission Chair Sims McGrath Jr. called the meeting of the Park Commissioner to order.

Town Administrator John Kelly presented the Board with information from the 2010 beach season. Mr. Kelly also presented the Board with requests from residents of Aspinet Road regarding some changes that they would like to see implemented for next year.

Town of Orleans Parks and Beaches Superintendent presented the Board with the break down for receipts for the FY11 beach season. Mr. Fulcher stated that there have been a number of letters received in response to the issues of Beach access in the area of Aspinet Road, Callanan's Pass and the Nauset Heights subdivision. Mr. Fulcher stated that he felt that the season went well. He stated that he appreciates the road improvements that the residents have completed. Mr. Fulcher recommended that the management of the area continue as planned with only minor changes to the staffing hours.

Mr. Dunford asked Mr. Fulcher to highlight the major differences between what has been done and the proposal from the abutters of Aspinet Road.

Mr. Fulcher explained that their proposal would have an officer at Aspinet Road as well as the officers at the top and bottom of Callanan's Pass, Mr. Fulcher stressed that the additional officer would require additional funding and might set a precedent for the town to put up signage on private roads and having a town employee direct traffic on private roads. The suggestion for a separate sticker for residents of the Nauset Heights subdivision is thoughtful but is not supported by the residents of Nauset Heights. As the residents of Nauset Heights feel that they have deeded rights to the area.

Mrs. Christie asked if it would make sense to have the officers directing traffic when the weather is inclement. Mr. Fulcher explained that there was one day that it did rain and he discussed the issue with the Chief of Police and next summer during inclement weather, the officers would be reassigned to other areas of the town.

Mr. Dunford asked if the issue of parking had been addressed. Mr. Fulcher replied that he had placed "No Parking" signs and the officers had informed people that they were not allowed to park on the roads.

Mr. Fuller asked if there had been any complaints from residents of Doane Road. Mr. Fulcher indicated that his department had received no complaints.

Mr. McGrath asked if the pedestrian traffic issue had been addressed. Mr. Fulcher replied that many of the complaints regarding pedestrians turned out to be renters who are allowed to use the area at will.

Mr. McGrath called for Public Comment.

Konrad Schultz, a resident of Aspinet Road, spoke to the Board regarding the plan that has been submitted to the Town on behalf of the abutters on Aspinet Road and Callanan's Pass. Mr. Schultz stated that he was surprised to hear that there is a lack of support for the plan from the residents of Nauset Heights.

Bill Henchey, an attorney representing the abutters to Callanan's Pass, spoke to the Board regarding his client's lack of support for the plan that has been submitted. The residents of Callanan's Pass feel that they have deeded rights to use any and all of the roads in the Nauset Heights area and have asked that the Town not be involved in the regulating private roads or access thereto.

Mr. Fuller asked if the residents were supportive of continuing in the same manner as last summer. Mr. Henchey replied that yes the residents were in favor of keeping the status quo.

Mr. McGrath summarized the correspondence received from Carl Trevison, James and Patricia Tyng, the Callanan's Pass Association, Konrad Schultz and Debbie Norton, Charles Kessler and Paul and Linda Sabel.

Mr. Kelly stated that his recommendation is to keep the current plan in place and continue to assist the abutters in keeping the roads safe and passable.

Mr. Fuller also introduced a second letter from Charles Zelle and the Callanan's Pass Association.

Mr. Dunford stated that while there are still some outstanding issues, this year seemed to work well and should continue and be reviewed in one year. Mr. Fuller stated that he agrees but feels the issue should be reviewed every year.

On a motion by Mr. Dunford, and seconded by Mrs. Christie, the Board voted to continue the current traffic and beach management plan for an additional year. The vote was 5-0-0.

Town Administrator John Kelly presented the Board with letter from the US Department of the Interior regarding the Town's desire to seek relief of the regulations and guidelines for conservation of endangered species.

Mr. Fulcher stated that over the years the Town has been dealing with this issue and he has found the Federal Wildlife officials have been helpful. He also stated that this year there was one plover chick that had not fledged and kept the beach closed for an additional 21 days. Further Mr. Fulcher stated that the problem lies with the Massachusetts Wildlife officials as there are no clear-cut guidelines and the regulations are not enforced universally. This is not just an off road vehicle issue, more and more areas are being closed due to nesting birds. Mr. Fulcher also stated that it is not possible for the Town of Orleans to do this alone, all of the Cape towns need to band together and press for changes in the regulations.

Mr. Fuller stated that the Board has been discussing this issue for his entire tenure as a Selectman. He feels that the Town needs to be able to manage the beach without interference from the state.

Mr. Fulcher stated that he needs to be able to work with the state and be able to gain back some control of the beach in exchange for the positive results with the plovers.

Mrs. Fulcher stated that she would like to see a letter from the Parks Superintendent that the Board can endorse and send to the other towns requesting help in changing the regulations and in an effort to meet with the officials to discuss the issues.

Mr. Fulcher also asked that the issue be brought before the Cape Cod Selectmen and Councilor's Association.

Mr. Dunford stated that he agrees with Mrs. Fulcher and he will raise the issue at the next Cape Cod Selectmen and Councilor's meeting and asked that Mr. Fulcher attend the next meeting to introduce the issue.

Mrs. Christie asked if there had been any action taken against the Town of Sandwich for refusing to close their beach for the Fourth of July. Mr. Fulcher stated that there was letter from the Federal officials sent but he is not aware of any other recourse.

Mrs. Christie asked what the Town of Duxbury does that makes them exempt from the regulations. Mr. Fulcher stated that as far as he knows nothing, he has been told that it is an agency decision.

Mr. Fuller expressed a desire for the letter to be sent to Governor Patrick.

Steve Simon, a resident and small business owner in Orleans, stated that he did not feel that writing a letter is going to make changes happen and that the Board needs to act quickly. Mr. Simon asked if Sarah Peake had been consulted regarding the issue.

Bob Long, Chairman of the North Beach Advisory Committee in Chatham, stated that they had recommended that the Chatham Board of Selectmen draft a similar letter and that letter will be presented to the Chatham Board tomorrow evening. Mr. Long also agreed that the letters do need to be sent to all officials.

Carl Trevison, a resident of Doane Road, spoke to the Board regarding the ORV program in Orleans. Mr. Trevison stated that he believes that the real issue is the predators not the ORV's.

William Henchey, spoke to the Board regarding the ORV Beach management plan and its effects on the birds. Mr. Henchey stated that he does not agree that the birds' populations are recovering. He commended the Parks Department for their plan and he feels that it is exemplary. Mr. Henchey agreed that the State Wildlife officials do not enforce the regulations universally. Mr. Henchey also offered assistance in negotiating with the state Wildlife officials.

On a motion by Mrs. Fulcher, and seconded by Mr. Fuller, the Board voted to direct the Town Administrator and Park Superintendent to draft a letter that the Board can endorse and send to the other towns requesting help in changing the regulations and expressing a desire to meet with the wildlife officials to discuss the issues. The vote was 5-0-0.

Mr. Fulcher presented the Board with information on the newly acquired Hubler property. Mr. Fulcher asked what the Board would like to do with the property. Mr. Fulcher estimated that the property would not be needed for approximately fifteen years. He asked the Board for direction on how to proceed with management of the property.

Mr. Kelly reminded the Board that any lease longer than 3 years would need to go before Town Meeting. He stated that the Board could ask the Board of Health for a variance regarding the cesspools on the property, but before the process can start it would be useful to start the process and place an article on the Annual Town Meeting warrant to award a contract.

Mrs. Christie stated that the leasing of another motel in the area has been very successful and she suspects that it would be a good interim solution. Mr. Kelly replied that his office has already received two unsolicited inquiries about the property.

Mrs. Fulcher asked where the funds were coming from at this moment.

Mr. Kelly replied that the maintenance funds are being deducted from the Parks Department budget.

Mr. Fuller stated that he is very supportive of leasing the property with the provision that the proceeds would go toward paying down the debt on the note for the property.

Mr. Kelly asked if the Board would want to set aside money for repaying the principal on the loan or toward the creation of the parking lot.

Mr. Fuller clarified that he does not want the funds from the concession to be spent anywhere other than that piece of property.

Mr. Kelly also reminded the Board that there needs to be a safeguard in place should the town need the property prior to the end of the lease.

Mr. Fuller explained that he wants to see a stabilization fund and also suggested that the Board look for a way to sell or remove the cottages that have cesspools, as it is unfair for the Town to ask for a variance while denying ordinary citizens the same variance.

Mr. Dunford stated that he is on favor of leasing the motel and creating a stabilization fund, and that he would like to see a plan for removal of the cottages as the Board has been working hard on wastewater and extending any kind of variance for cesspools is counter productive.

Mr. Fulcher stated that he feels a ten-year lease would result in the town not spending any money, and he agreed with the creation of the stabilization fund.

Mr. McGrath stated that the lease needs to generate revenue and he would like to see an assessment of how habitable the cottages are and how movable they are as well as if the departments would have use for summer housing. He also stated that at some point the Town will need to decide when to expunge the lot lines.

Mr. Fulcher stated that the Board needs to write a letter to the Cape Cod National Seashore Superintendent Price seeking permission for the Town to brush back the right of way on the Cape Cod National Seashore property between the Hubler property and the South End of Nauset Beach.

Mr. McGrath stated that he would like this done as promptly as possible.

On a motion by Mrs. Fulcher, and seconded by Mr. Fuller, the Board voted to write a letter to the Cape Cod National Seashore Superintendent Price seeking permission for the Town to brush back the right of way on Cape Cod National Seashore property between the Hubler property and the South End of Nauset Beach Parking Lot. The vote was 5-0-0.

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

Town Administrator's Report: (01:58:38)

Mr. Kelly presented the Board with a request from Judi Weil to change the name of the Bike and Walkways Committee to the Bike and Pedestrian Committee.

On a motion by Mr. Fuller and seconded by Mr. McGrath, the Board voted to change the name of the Bike and Walkways Committee to the Bike and Pedestrian Committee. The vote was 5-0-0.

Mr. Kelly presented the Board with a proposed resolution from the Cape Cod for a Truly Green NSTAR Concerned Citizens Against Herbicide Use on Cape Cod.

On a motion by Mrs. Christie, and seconded by Mr. McGrath, the Board voted to sign the resolution from the Cape Cod for a Truly Green NSTAR Concerned Citizens Against Herbicide Use on Cape Cod and forward the signed resolution to NStar for consideration. The vote was 5-0-0

Mr. Kelly presented the Board with updated information on the local receipts for July, August and September.

Mr. Kelly informed the Board of an upcoming change in ambulance billing procedures and staffing.

Mr. Kelly also informed the Board of a request from the Keziah's Lane Association that the Town share the cost of repaving Keziah's Lane.

Mrs. Christie stated that on Monument Road there is a large white gate that says no crossing. Mr. Kelly replied that Monument Road is not part of the agreement.

On a motion by Mr. Fuller, and seconded by Mrs. Christie, the Board voted to authorize the Town Administrator to present an offer to the President of the Keziah's Lane Association for the town to share the cost of repaving the public section of the road for Kent's Point Access in the amount of \$8,000. The vote was 5-0-0.

Liaison Reports: (02:25:53)

Mrs. Christie updated the Board with information from the Snow Library Board of Trustees.

Mr. Dunford updated the Board with information from recent meetings of the Open Space Committee and the Water Quality Task Force. Mr. Dunford explained that the Water Quality Task Force is moving forward with a proposal for the assessment of Cedar Pond.

Mr. McGrath stated that he felt the Board should receive a copy of the final proposal. Mr. Kelly replied that he would share all of the information he has and would pass along any additional information available.

Mrs. Fulcher presented the Board with information from a recent meeting of the Nauset Regional School Committee.

Any other business: (02:31:10)

Mr. Fuller asked Mr. Kelly for a follow-up on the 25% design public hearing for the Roundabout at Rte 28/Rte 6A and Canal Road. Mr. Kelly replied that there have been some delays and the date for the hearing has not yet been set.

Mr. Fuller also asked about the telephone pole on East Main Street. Mr. Kelly replied that Chief Roy is looking into the situation, but has not yet received a response.

Adjourn: (02:50:05)

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

Respectfully submitted,

Kristen Holbrook

Jon R. Fuller, Clerk