

BOARD OF SELECTMEN
MEETING MINUTES

February 16, 2011

Approved on March 16, 2011

TOWN OF ORLEANS
TOWN CLERKS OFFICE
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C. McNeil

A meeting of the Orleans Board of Selectmen was held on Wednesday, February 16, 2011 in the Nauset Room of the Orleans Town Hall. Present were Chairwoman Margie Fulcher, Vice-Chairman Sims McGrath Jr., Clerk Jon R. Fuller, Selectwoman Susan B. Christie, Selectman David Dunford, Town Administrator John Kelly and Recording Secretary (pro tem) Lynda M. Burwell

Call to order: (00:00:10)

Chairwoman Fulcher called the meeting to order at 6:34 P.M.

Mrs. Fulcher asked for a moment of silence to remember all fallen and active members of the armed forces serving our country.

Public Comment (00:00:45)

Ms. Judith Bruce of the Orleans Pond Coalition spoke about the success of the six-year old MuttMitt program that has 30 volunteers and probably will have over 50 dispensers of MuttMitts by the end of this year. She explained that dog waste is a source of bacterial and viral pollution in our local water, sometimes closing shellfish beds and beaches. More than 30,000 mitts, provided by Agway, were dispensed in 2009 and 2010. Ms. Bruce expressed appreciation to the many dog owners that use the mitts and take the waste with them, as well as the volunteers that maintain the dispensers. However, there are a few dog owners that do not utilize the dog mitts or that use other bags that are not as sanitary; and then leave them for others to dispose of. She explained that there is no odor when using MuttMitts. Ms. Bruce mentioned special thanks to Parks & Beaches Superintendent Paul Fulcher for installing receptacles for people to leave their bags at Nauset Beach. Mrs. Fulcher expressed appreciation to Ms. Bruce and the Orleans Pond Coalition for their hard work on the Town's behalf.

Meet with Cape Cod Commission Representative, Quarterly Update (00:06:15)

Mr. Peter Monger reported that the Cape Cod Commission (CCC) will be conducting a Public Hearing on March 1, 2011 regarding the Orleans Comprehensive Wastewater Management Plan. Also he discussed that the Ocean Management Plan Policy Committee continues to meet as well as the Stakeholder's Subcommittee. He announced that the CCC has been going to each watershed on the Cape and will consider management of several watersheds in Orleans later this year. The CCC Planning Department continues working with Orleans regarding the Route 28 roundabout at the intersection of Route 6A.

Mr. Fuller noted that Mr. Monger will be on the CCC subcommittee to review the Orleans CWMP.

In answer to Mr. Dunford's inquiry, Mr. McGrath noted that a final draft Ocean Management Plan would be ready by May 31, 2011.

Hearing on Harbormaster's Decision – Rock Harbor Slip Regulations (00:11:00)

Captain Addison "Buddy" Wilson and his son, Brett Wilson, owners of the Charter Boat High Calibre, were present at this hearing. Captain Wilson explained his request that the Town allow him to transfer his slip to his son whose name is already on as a slip holder. Captain Addison has been a member of the Rock Harbor Charter Board Association and has held his slip since the 1980's. Brett Wilson is also a licensed captain who ran the Captain Cook last year. Captain Addison Wilson requested that the Board of Selectmen allow him to transfer the slip to his son enabling him to pass the business to him.

Captain Wilson read a letter from Captain Charlie Miller of the Miller Time, another captain at Rock Harbor, who explained the original intention of the dockage agreements, and his encouragement to the Board of Selectmen to approve Captain Wilson's request.

Selectmen discussed the issue of boat ownership, the issue of financial hardship, and the number, sizes and purpose of boats on the waiting lists.

Orleans Harbormaster Dawson Farber and the Selectmen discussed the waiting lists and how the Rock Harbor Slip Regulations adopted in 2000 and how they relate to this situation. Mr. Farber noted that there is no regulation in the Regulations allowing for transfer of a slip by an owner. He discussed that the Board might take into consideration the purpose of the vessel, noting that it is a charter fishing boat that has an economic value to the Town as its activities support several other industries in town.

Mr. Farber explained the categories in the waiting lists; one for 23 feet and smaller, another for 24 feet and larger, and a third list for the privately-maintained piers. If all slips were to be transferred for recreational uses there would be no charter boat fishing fleet, one of the greatest draws to Orleans.

Mr. Kelly explained that one very important purpose of the Rock Harbor Slip Regulations is to maintain the charter boat business in Orleans.

Mrs. Fulcher discussed that the Regulations allow appeal to the Selectmen for consideration of a slip-holder's request. She noted that she is concerned about not being able to pass a slip on to one's children as part of a business-continuation plan.

John Shakliks, owner of a charter boat at Rock Harbor spoke to the issue that disallowing transfer of a slip to a family member would become a financial hardship for him if he is not able to pass his slip on to family. He noted that once the charter boats are gone from Rock Harbor, there won't be a charter boat fishing fleet in Orleans. This would place an additional burden on the town because fuel revenue from boats would dramatically decrease.

Mrs. Christie stressed the importance that the Board to address this issue, and modify the Regulations. She emphasized that the charter boat fishing fleet has a prime influence on the economy of Orleans. She also agreed that a transfer should be allowed only to a direct offspring.

Mr. McGrath cautioned that the Regulation should insure that a boat owner doesn't profit from transfer of slip, but also it should not interrupt a family's business-continuation plans.

On a motion by Mr. McGrath and seconded by Mrs. Christie, the Board of Selectmen voted to approve transfer of the slip currently held by Capt. Addison "Buddy" Wilson to his son, Brett Wilson as applied for.

Board members discussed that any transfer must be to immediate family in succession. They also discussed that there are too many chances for precedent setting and that the policy must be more specific. It is advantageous to the Town to have a charter boat fishing fleet, and the Regulation's purpose is to maintain a constant number of boats in the charter fleet. It was suggested establishing two classes/lists of charter vs. non-charter and to maintain two lists.

Mr. Kelly explained that Town Council had opined that the Town cannot have a strict policy on transfers of slips. The Regulations must give the Board discretion to evaluate each application using certain criteria. He suggested that Town Council review the issue again.

Mr. McGrath spoke specifically to his motion that the individual involved to whom the transfer would be assigned has been part of the business with his father since 1993, and loss of this boat would diminish the fleet. Mr. Fuller added that the boat would be useless to owner (a financial hardship) if he is not able to transfer the slip to his son.

Mrs. Fulcher called the vote.

The vote was 5-0-0.

Committee Interviews and Appointments (00:43:27)

- a. Barnstable County Home Consortium – Mr. Jon H. Holt
Mrs. Fulcher noted that Jon Holt would be an excellent candidate for the Barnstable County Home Consortium. Mrs. Fulcher further acknowledged Winifred "Freddie" Fitzgerald for her many years of volunteer service on this committee.

On a motion by Mr. McGrath and seconded by Mr. Fuller, the Board of Selectmen voted to appoint Mr. Jon H. Holt to the Barnstable County Home Consortium for a term ending January 31, 2014. The vote was 5-0-0.

- b. Orleans Cultural Council – Ms. Sadie Biathrow
Ms. Sadie Biathrow came forward to introduce herself and discuss her experience and qualifications in the fields of Arts and Education.

On a motion by Mr. Fuller and seconded by Mrs. Christie, the Board of Selectmen voted to appoint Ms. Sadie Biathrow to the Orleans Cultural Council for a term ending June 30, 2014. The vote was 5-0-0.

- c. Cape Cod Water Protection Collaborative – Selectman Sims McGrath
Board members discussed the one-year term as proposed and Mr. McGrath discussed whether it might be advantageous to have his appointment fall at the same time of year as others considered by the Board.

On a motion by Mr. Fuller and seconded by Mrs. Christie, the Board of Selectmen voted to reappoint Mr. Sims McGrath to the Cape Cod Water Protection Collaborative for a term ending March 11, 2012. The motion was amended to a term ending June 30, 2012 by Mr. Fuller, and the amendment was seconded by Mrs. Christie. The vote was 5-0-0.

Mr. Fuller reported that James Balliet, Chairman of the Disabilities Commission, is resigning from that committee for business reasons. He noted that the Commission has not met in four months and he is unsure whether they have enough members for a quorum. Mr. Kelly was requested to outline the criteria for membership on that Commission for the next meeting.

Meet as Park Commissioners (00:53:50)

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

Mr. Sims McGrath, Chairman of the Park Commission, called the meeting to order.

Mr. Kelly reported that Mr. Paul Fulcher, Parks and Beaches Superintendent, suggested increasing fees for non-resident beach stickers, and for the coupon books to be distributed to real estate companies and motels. He recommended approval of the changes requested by Mr. Fulcher.

Mr. Kelly further explained that non-resident beach parking fees are not subject to the five percent rule. He also noted that some towns do not offer the same fee structure as Orleans, therefore the notation of "N/A" in the attached spreadsheet.

Mr. Fuller expressed support for the plan as proposed because it allows Orleans to continue offering free beach parking stickers to its residents. Mr. McGrath suggested that the Commissioners might want to discuss that issue at a future meeting.

Mr. McGrath noted that the increase in revenue from the proposed non-resident fee structure could be \$34,700 based on the same number of non-resident tickets sold as in 2010.

On a motion by Mrs. Fulcher and seconded by Mrs. Christie, the Park Commissioners voted to adopt the fees as recommended. The vote was 5-0-0.

On a motion by Mr. Fuller and seconded by Mr. Dunford, the Park Commissioners voted to adjourn their meeting. The vote was 5-0-0.

Mrs. Fulcher reconvened the meeting of the Board of Selectmen.

Temporary Closing – Nauset Beach Club Restaurant (01:01:04)

Mrs. Fulcher outlined the background for a request from Mr. Arthur Duquette, owner and manager of Nauset Beach Club Restaurant for a temporary closing from March 7, 2011 through March 22, 2011 for the purpose of vacation and maintenance purposes. According to Rules and Regulations of the Liquor Licensing Authority, the business may close anytime during the period December 1 through March 31 for an extended period not to exceed thirty (30) days.

The Town Administrator's recommendation was to approve the request to temporarily close the Nauset Beach Club Restaurant from March 7, 2011 through March 22, 2011 for vacation and maintenance purposes.

On a motion by Mr. Fuller, and seconded by Mr. McGrath, the Board voted to approve the request of Arthur Duquette, owner and manager of the Nauset Beach Club Restaurant to temporarily close the business for the period of March 7, 2011 through March 22, 2011 for vacation and maintenance purposes and in accordance with the Rules and Regulations of the Liquor Licensing Authority. The vote was 5-0-0.

Town Administrator's Report (01:03:10)

Request for Fee Waiver – Habitat for Humanity

Town Administrator John Kelly discussed with the Board a letter from Victoria Goldsmith on behalf of the Habitat for Humanity of Cape Cod requesting that the Town waive all application, permit, and inspection fees relative to the construction of a new affordable two-bedroom home at 49 Nickerson Road. He noted that they would have to apply separately to the Board of Health and Water and Sewer Commissioners for a waiver of their particular fees.

On a motion by Mr. McGrath and seconded by Mr. Dunford, the Board of Selectmen voted to waive the building application, permit, and inspection fees for the new Habitat for Humanity two-bedroom home to be constructed at 49 Nickerson Road in Orleans. The vote was 5-0-0.

Transmit Budget and Capital Plan to Finance Committee

Town Administrator John Kelly discussed with the Board's transmission of the Operating Budget and Capital Improvement Plan for FY13 through FY17 to the Finance Committee within 30 days of receipt by the Board.

On a motion by Mrs. Christie and seconded by Mr. McGrath, the Board of Selectmen voted to transmit the Budget and the Capital Improvement Plan for FY13 – FY17 to the Finance Committee as-is, with the understanding that the Board will continue their review and may make further changes as they consider the overall financial needs of the Town. The vote was 5-0-0.

Follow-Up Discussion on Fees and Draft Policy Review

Mr. Kelly continued his discussion noting that the Board would hold a joint Public Hearing on the proposed Capital Improvement Plan with the Finance Committee on February 23, 2011. He noted changes to the poster and flyer prepared by the Finance Committee as suggested by Board members and suggested that it be forwarded back to the Finance Committee for publication.

On a motion by Mr. Fuller and seconded by Mr. Dunford, the Board of Selectmen voted to accept the changes that have been made and forward it on to the Finance Committee for publication. The vote was 5-0-0.

Mr. Kelly continued the discussion of fees and draft policy review. He explained that some departments have suggested increases in fees that might increase the town coffers by approximately \$169,500, in particular the Building Department, Board of Selectmen, Treasurer/Tax Collector, and Town Clerk. Board members discussed certain specific items in those departments.

Board members discussed with Mr. Kelly whether to place the proposed fee increases on the Town Meeting warrant.

Mr. Fuller suggested a motion to place the proposed fee increases on the warrant as an Article for Town Meeting. Mr. Kelly indicated he wouldn't need a motion, just a consensus from the Board for direction.

Mr. Kelly would place the discussion on the agenda for the March 2nd meeting for further discussion as to whether it should be placed on the Town Meeting warrant. He will also confirm that the November 17th list is the most up-to-date schedule.

Update on Water Superintendent's Position

Town Administrator John Kelly updated the Board on the open Water Department Superintendent position and his proposal to realign existing staff. He had received only six applicants for the open Superintendent's position. He proposes to have this plan in place for sixteen months in order to evaluate if the promotions from within are effective; and this action could save approximately \$45,000.

He also explained that the new wastewater plan might require an override in order to staff the implementation plans.

Mr. Kelly discussed the need for a certified testing lab manager in the Water Department. The requirement for certification is included in the job descriptions and the proposed candidates are currently pursuing that certification by taking classes.

Mr. Kelly will request affirmation of this plan at the next meeting. Mr. Dunford requested a schedule of the \$45,000 savings, and Mr. McGrath requested that a date for review of the position change be indicated on the plan.

Beach Road Sidewalk Study – Progress Report

Mr. Kelly presented the Board with a progress report on the Beach Road Sidewalk Study. He discussed that the Traffic Study Committee and the Planning Department along with the Parks Department to determine the feasibility of a sidewalk from the center of East Orleans to Nauset Beach. They will be hiring FST, a traffic engineering firm, to help with the study. Mr. Kelly discussed the three options for a sidewalk (with or without a curb) and/or bike path and the footage required for each; and how much it would cost to "take" the property necessary for a sidewalk. They will need to conduct outreach to abutters to sense how many abutting property owners would accept the taking. The Bikeways and Pedestrian Committee has requested that an Article be placed on this year's Town Meeting warrant. It was the consensus of the Board that it is premature to put an Article on the Town Meeting warrant before holding the Public Hearing to get a sense of support for the project.

Cape Cod Commission DRI Hearing on the Orleans CWMP

Mr. Kelly notified the Board that a hearing will be held by the Cape Cod Commission concerning the Orleans Comprehensive Wastewater Management Plan on March 1, 2011 at 6:00 P.M. in the Nauset Room of Town Hall. Mr. Kelly explained that the issue is whether or not Orleans' plan meets the Regional Policy Plan Regulations. Peter Weiskel will be at the hearing to discuss issues regarding the wastewater plume in Cape Cod Bay.

Mr. McGrath pointed out that all of the members of the subcommittee except for one are from Lower Cape communities and Orleans should be comfortable with their commentary.

Staff Recognition

Mr. Kelly reported that he had received two letters of recognition involving Town staff. He noted that the first complimented the staff of the Building, Conservation, and Health Departments for their assistance in obtaining permits. The second letter commended the staff of the Highway Department and Marge Astles for their assistance in clearing a drain on John Kenrick Road that prevented her from accessing her mother's house. Mrs. Astles contacted the resident to ensure that she was safe.

Mr. Kelly will write letters of recognition to those employees for their extraordinary service.

Liaison Reports: (02:09:30)

Mr. Dunford had no reports for the Board.

Mr. Fuller reported on the recent Finance Committee meeting on February 7, 2011, Planning Board meeting on February 8, 2011, and the Bikeways and Pedestrian Committee on February 14, 2011.

Mr. McGrath reported on the Renewable Energy Committee and the Cape Cod Commission Cape Cod Ocean Management Plan has been distributed to the Policy Committee.

Mrs. Christie reported on the Board of Health February 3, 2011 meeting, the February 3, 2011 meeting of the Community Preservation Committee, the February 7, 2011 Orleans Cultural Council meeting, and the February 8, 2011 meeting of Snow Library Trustees.

Mrs. Fulcher reported on the February 3, 2011 Affordable Housing Committee meeting, the Orleans Elementary School Committee meeting, and the Nauset Regional School Committee meeting.

Any Other Business: (02:34:00)

Mr. Fuller discussed Unfunded Liabilities and suggested that the Town establish a trust account.

A motion by Mr. Fuller and seconded by Mrs. Fulcher, to place an Article in the May Town Meeting warrant to establish a trust account for Unfunded Liabilities was proposed.

Mr. Kelly explained that because this subject was not listed on the agenda for this meeting, it could not be voted upon. Mr. Fuller agreed to postpone his motion. Mr. Kelly noted that this topic will be on the agenda for the March 2, 2011 meeting of the Board. An Unfunded Liabilities trust fund would primarily be for unfunded, unforeseen retiree health insurance expenses. Mr. Fuller suggested that Town Meeting establish the fund at this point and then later hold discussion on how to fund it.

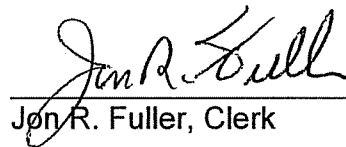
Mrs. Fulcher noted that the Orleans Athletic Association is celebrating its 25th anniversary. She will prepare a short letter of congratulations from the Town for their newsletter.

Adjourn: (02:41:00)

On a motion by Mr. McGrath and seconded by Mr. Fuller, the Board voted to adjourn this meeting at 9:15 P.M. The vote was 5-0-0.

Respectfully submitted,

Lynda M. Burwell


Jon R. Fuller, Clerk