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ORLEANS TOWN CLERK

BOARD OF SELECTMEN
MEETING MINUTES

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April 18, 2012

ORLEANS TOWN CLERK

Approved on May 16, 2012

A meeting of the Orleans Board of Selectmen was held on Wednesday, April 18, 2012 in the Nauset Room of the Town Hall. Present were Chairwoman Margie Fulcher, Vice-Chairman Sims McGrath Jr., Clerk Jon R. Fuller, Selectman David M. Dunford, Selectwoman Susan B. Christie, Town Administrator John Kelly and Recording Secretary Kristen Holbrook.

Call to order: (00:00:05)

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

Public Comment: (00:00:12)

Ed Daly, President of the Orleans Citizen's Forum, spoke to the Board to announce that the group will be hosting Candidate's Night on April 24, 2012 at 6:30 PM at the Orleans Council on Aging.

Approval of Minutes: (00:01:27)

On a motion by Mr. Fuller, and seconded by Mr. McGrath, the Board voted to adopt the minutes of the March 27, 2012 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 March 28, 2012 meeting as written. The vote was 5-0-0.

Liaison Reports: (00:04:20)

Mrs. Christie presented the Board with information from a recent meeting of the Snow Library Board of Trustees.

Mr. Fuller updated the Board with information from a recent meeting of the Finance Committee.

Mr. Dunford updated the Board with information from a recent meeting of the Architectural Review Committee.

Mrs. Fulcher shared a notice from the Cape Cod Commission stating that a presentation on street design and best management practices which will be held on April 26, 2012 from 6:30 PM until 8:00 PM at the Brewster Town Hall, Meeting Room B.

6:45 p.m. Public Hearing – Good Sea, Inc. d/b/a Capt'n Elmer's Seafood Restaurant for alteration to expand serving liquor on the deck: (00:10:52)

Chairwoman Fulcher read the public hearing notice as published in the Cape Codder and called the public hearing to order.

The Board reviewed an application from Good Seas Inc. d/b/a Cap'n Elmer's Seafood Restaurant, for an alteration of premises description on their liquor license.

Michelle Costa, manager of Cap'n Elmer's Seafood Restaurant, presented the Board with information on their application.

Mr. Fuller disclosed that he is a trustee for one of the abutters to the property, and would therefore abstain from voting on this application.

Mr. Dunford asked for clarification on the alteration application. Ms. Costa explained that the seating occupancy for the restaurant would not be changing, if granted, the application would be exchanging seats inside of the restaurant for seating on the patio.

No public comment was offered.

On a motion by Mr. McGrath, and seconded by Mr. Dunford, the Board voted to close the public hearing. The vote was 5-0-0.

On a motion by Mr. McGrath, and seconded by Mr. Dunford, the Board, acting as the local licensing authority, voted to approve the application for an alteration of premises by changing the description of Good Seas Inc d/b/a Cap'n Elmer's Seafood Restaurant, Michelle Costa, manager, located at 18 Old Colony Way, to read "18 Old Colony Way; 74 seats; approximately 2,900 square feet one story brick building with dining area, kitchen/prep area, restrooms, 2 entrances/exits; 15' x 20' patio". Approval is subject to all local and state permits, licenses and approvals, laws and bylaws and in accordance with the Town of Orleans Rules & Regulations of the Liquor Licensing Authority adopted December 21, 1994, amended August 9, 1995, February 10, 2010 and April 29, 2010 and Massachusetts General Law Chapter 138 and will become final after approval from the Alcoholic Beverage Control Commission. The vote was 4-0-1; Mr. Fuller abstained from the vote.

6:50 p.m. Public Hearing – Proposed Layout of Aspinet Road and that portion of Inlet Road a.k.a. Cliff Road from Aspinet Road to Callanan's Pass, as a town road: (00:16:45)

Chairwoman Fulcher read the notice for the public hearing as published in the Cape Codder and called the public hearing to order.

Mr. Kelly presented the Board with information from the Planning Board and the Highway Department on the condition of Aspinet Road. The Planning Board issued a letter indicating that they had voted unanimously to support the action and Town Meeting Warrant Article.

The Board reviewed letters from Orleans citizens Carl and Judy Trevisan, James and Patricia Tyng, Fred and Erna Turner, Kinglsey Nelson, Bob and Val Flood, Robert and Dee Rigney Cunningham and Tom Finan in support of a permanent solution for the access to Nauset Spit.

Public Comment:

Fred Turner, a resident of Nauset Heights, spoke to the Board and asked for clarification as to what type of management plan would be in place if the Board were to institute an agreement

for limited use of the road.

Town Administrator John Kelly, read the provisions of the proposed limited use easement agreement with the abutters of Aspinet Road. Mr. Kelly stated that the Town would manage the agreement in much the same way as they had in the past.

Kevin Flynn, a resident of Orleans, spoke to the Board regarding the agreement. Mr. Flynn stated that he felt that the agreement would infringe on his rights, as a resident of Nauset Heights, to use the road.

Mrs. Christie asked if the Town would continue to post a Patrol Officer as in the past, and Mr. Kelly replied that the Officer is necessary to control the flow of traffic and maintain safe use of the road. Mrs. Christie also asked for clarification on the new draft agreement as compared to previous versions of the agreement. Mr. Kelly explained that the new agreement allowed for enforcement of the license for use of the road.

Mr. McGrath clarified that there are two separate issues being discussed, the Annual town Meeting Warrant Article and the license agreement. Mr. Kelly replied that if the Board were to enact the agreement, the Annual town Meeting Article would be indefinitely postponed.

Mr. Dunford asked for clarification, if the Town took possession of the road, what would be the management plan. Mr. Kelly replied that the Parks and Beaches Department and Police Department would need to coordinate traffic flow in the interest of public safety. A final plan has not yet been developed.

Robert Cunningham, a resident of Nauset Heights, spoke to the Board and recommended that the Board act on the Town Meeting Article.

Mr. Fuller stated that the agreement would be a temporary solution for this summer and would allow time to develop the traffic management plan.

Michael Tichner, a resident of Orleans, asked for clarification of the ownership of Inlet Road. Mr. Kelly explained that several of the lots along the road are owned by the National Seashore. The National Seashore has thus far been supportive of the continued public access to Nauset Spit.

Mr. Dunford asked if the abutters, who are not signatories of the proposed agreement, would have the right to block the Town's access to the road, and Mr. Kelly replied that it would be a possibility.

Fred Turner, spoke to the Board regarding the seven other abutters on Aspinet Road, stating that it is his understanding that the other abutters in no way support the blocking of Aspinet Road. He asked if the Town Administrator had met with the other owners. Mr. Kelly informed the Board that the meeting took place on September 6, 2011, all abutters were invited, at that time they reviewed the previous summer, and in January the Board submitted a letter to the abutters hoping to come to an agreement.

Kevin Flynn, a resident of Nauset Heights, asked for clarification of where the barrier would be placed. Mr. Kelly replied that it would be in the same place as it has been previously.

Kingsley Nelson, a resident of Orleans, stated that his concern is that this situation has been going on since 2008 and no permanent resolution has been reached. Mr. Nelson also asked for clarification on the difference between the Town Meeting Warrant Article and the proposed agreement.

Michael Tichner, asked if there had been a discussion of cost of the taking. Mr. Kelly replied that the appraisal has not yet been completed, the Annual Town Meeting Article would authorize the funds for the appraisal.

Mr. McGrath reiterated that it is understood that even if town meeting supports the action, the process will not be complete until after the 2012 summer season.

Hank Schumacher, a resident of 28 Nauset Heights Road, spoke to the Board and asked why there is suddenly an issue.

On a motion by Mr. Fuller, and seconded by Mrs. Christie, the Board voted to close the public hearing. The vote was 5-0-0.

On a motion by Mr. Fuller, and seconded by Mr. Dunford, the Board voted to reaffirm the presentation of, and recommend approval of the Annual Town Meeting Warrant Article for the layout of Aspinet Road and direct Town Counsel to prepare the necessary order of taking subject to receipt of a satisfactory appraisal report. The vote was 5-0-0.

Meet with Weston & Sampson – Technical Review & Cost Analysis of CWMP Options: (01:16:35)

The Board met with consultants Fran Yanuskewicz and Steve Pederson, from Weston and Sampson for a presentation of their Technical Review and Cost Analysis of the Comprehensive Wastewater Management Plan Options. The consultants presented a thorough power point presentation on the cost analysis and technical review of the Comprehensive Wastewater Management Plan.

Nello Trevisan, a resident of Orleans, asked for clarification on the tank replacement figures.

Mr. Pederson stated that for the purpose of this cost estimate, the consultant's are not comfortable assuming that a percentage of the septic tanks are reusable.

David Farquahr, a resident of Orleans, stated that he felt it is wrong to assume that all of the tanks can't be reused, and suggested that the consultant's aim to have a more realistic estimate. Mr. Farquahr also expressed that it would be more cost effective to plan for small pipes to be laid on the road shoulder.

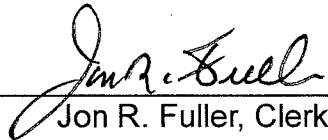
Town Administrator's Report: (02:45:52)
No further information was discussed.

Any other business: (02:45:55)
No other business was discussed.

Adjourn: (02:45:57)

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

Respectfully submitted,
Kristen Holbrook



Jon R. Fuller, Clerk

