**BOARD OF SELECTMEN**

**MEETING MINUTES**

March 31, 2014

Approved on May 7, 2014

A meeting of the Orleans Board of Selectmen was held on Monday, March 31, 2014 in the Nauset Room of the Town Hall. Present were Chairman Sims McGrath Jr., Vice-Chairman David M. Dunford, Clerk Jon R. Fuller, Selectman John Hodson III, Selectman Alan McClennen Jr. and Town Administrator John Kelly.

Chairman McGrath called the meeting to order at 5:00 PM.

Meet with Town Counsel Michael Ford in Executive Session:

**On a motion by Mr. Dunford, and seconded by Mr. Fuller, the Board voted to enter into executive session for the purpose of considering the purchase, exchange or lease of real property, and that the Chair declare that an open meeting would have a detrimental effect on the negotiating position of the body.** The vote was 5-0-0, with Mr. Dunford, Mr. Fuller, Mr. McGrath, Mr. Hodgson and Mr. McClennen all voting aye.

**On a motion by Mr. Fuller, and seconded by Mr. Dunford, the Board voted to return to open session.** The vote was 5-0-0, Mr. Dunford, Mr. Fuller, Mr. McGrath, Mr. Hodgson and Mr. McClennen all voting aye.

The Board returned to open session at 5:14 PM.

Meet with Town Counsel Michael Ford in Open Session: (00:00:15)

1. Review the state’s HCP question why and how we operate the south portion of Nauset Beach without an order of conditions
2. Review MEPA requirements and ramifications for Nauset Beach ORV program as part of low-effect permit application.
3. Vote on whether or not to proceed with MEPA process

Mr. Ford stated that the Town has always applied the order of conditions for the Nauset Spit to the south portion as well. He also discussed the home rule petitions filed by Orleans and Chatham, which asked for relief from the Wetlands Protection Act, so that an appeal of an order of conditions would not stay the activity. Mr. Ford explained that part of the HCP provisions require an order of conditions for the beach and the Board would need to make a decision on whether or not to proceed. Mr. Ford stated that it might be in the best interest of the Town to file the notice of intent as it is possible that the state would intervene with or without the ENF MEPA filing.

Mr. Dunford asked how the notice of intent would impact the time schedule for the HCP. Mr. Fuller stated that he felt it would be best to move forward as so much time had been invested in the HCP to date. Mr. Hodgson asked why an order of conditions was needed. Mr. Ford explained that the Wetlands Protection Act requires an order of conditions be in place any time an alteration of a protected area occurs. Mr. McGrath asked for clarification on the need for the order of conditions. Mr. Ford noted that the Order of Conditions is a legal requirement for the HCP permit.

Town of Chatham Selectman Sean Summers spoke to the Board regarding the informal order of conditions.

**On a motion by Mr. Dunford, and seconded by Mr. Hodgson, the Board voted to direct the Town Administrator and Town Counsel to:**

1. **Draft a letter to DEP indicating the current de facto application of the order of conditions for Nauset Spit to the south portion of the beach and indicating that a notice of intent will be filed for the south portion of the Beach with the Conservation Commission,**
2. **To proceed with the formal process and filing a notice of intent with the Conservation Commission for an order of conditions for the south beach and**
3. **To continue with the HCP permit application process.** The vote was 5-0-0.

**On a motion by Mr. Fuller, and seconded by Mr. Hodgson, the Board voted to send a communication to the Conservation Commission asking them to call a meeting as soon as possible for consideration of an order of conditions for the south portion of the beach.** The vote was 5-0-0.

**On a motion by Mr. McClennen, and seconded by Mr. Dunford, the Board voted to direct the Town Administrator to remit the Boards actions and votes to the Town of Chatham Town Manager.**  The vote was 5-0-0.

The Board discussed the quantum of vote necessary for the wastewater articles for the Annual Town Meeting. Mr. Ford stated that he felt the article would require a ⅔ vote, but recommended that the Board have Bond Counsel and the Town Moderator review the article as well.

Mr. McClennen stated that he felt there is clear evidence of damage to the marsh and the proposal to understand what is happening to the ecosystem of the marsh is crucial to the Board’s next steps in the wastewater plan.

Town Administrator’s Interim Plan to fill the Natural Resources Manager position:(00:57:10)

Mr. Kelly informed the Board that Nate Sears will be the acting Natural Resources Manager for approximately the next six months. At that time the position will be advertised for a permanent position. Mr. Kelly also stated that the interim time period will be used to evaluate the job description for possible revisions before advertising.

Mr. Dunford asked if the resources and personnel that are in place are adequate to handle the key beach issues that are pending for this season. Mr. Kelly explained that the funds are budgeted for the bird monitor positions and extra seasonal beach staff, but without an approved HCP many questions remain. Mr. Hodgson stated that he would reach out to state and federal officials for a clarification of the timeline.

Wastewater Discussion - Follow-up from March 17, 2014 meeting: (01:10:12)

Mike Domenica presented the Board with the revised RFQs for the utility surveys and Tri-Town/Namskaket Marsh studies.

**On a motion by Mr. McClennen, and seconded by Mr. Fuller, the Board voted to remove the landfill groundwater testing tasks, amended to included testing for contaminants other than Nitrogen, from the Tri-Town RFQ and attach them to the Namskaket Marsh RFQ.** The vote was 5-0-0.

Mr. Dunford asked how Mr. Domenica saw the stakeholder group interacting with the consultant. Mr. Domenica replied that it would be absolutely necessary for the consultant to meet with the stakeholder group.

The Board discussed the budget for the wastewater planning studies and consultants. Mr. Kelly stated that any studies or consulting services are contingent upon Town Meeting articles for funding. Mr. Dunford asked if it would be beneficial to draft a Special Town Meeting article in case of a short fall. Mr. Kelly explained that the funding would be available after the Annual Town Election, and that if necessary, he would go before the Finance Committee for a supplemental transfer.

**On a motion by Mr. McClennen, and seconded by Mr. Fuller, the Board voted to accept and authorize the draft RFQ #2 as amended to remove the landfill plume.**  The vote was 5-0-0.

Mr. Kelly explained the interview and selection process for the firms who have submitted proposals for the RFQ #1.

The Board reviewed the draft scope for RFQ #3 - Namskaket Marsh. Mr. Hodgson suggested that staff consider making the meeting schedules for water quality meetings easier to track. Mr. Kelly presented the Board with an opinion from Bond Counsel for the article. The Board also reviewed the draft article and motion for the Annual Town Meeting. Mr. McClennen noted that aquaculture, groundwater contour mapping and fertilizer management are three key needs for water quality planning. Mr. McClennen suggested adding money to the article for a study of the impact that Oyster grants have on water quality. Mr. Dunford asked how such a study could be beneficial to the current water quality planning process. Mr. McClennen replied that the suggestion would be to engage a firm to craft the best way to track to impacts of the current grants and how to gather the data to measure the impact. Mr. McGrath asked Mr. Domenica how such a study could be scoped.

Mr. Domenica stated that he felt the study could be very appropriate and that he felt the information is worth having, but that further research was needed as to the actual execution of the project. Mr. Hodgson asked if there was a way to measure the impact of the Oysters based on the size of the water body.

Mr. McClennen suggested asking the Planning Director and Planning Board to gather all of the downtown area planning information that has been completed thus far for the Board to incorporate into the water quality planning process.

The Board recessed for 5 minutes. The meeting reconvened at 8:17 PM.

Continue with Review of Annual and Special Town Meeting Warrant Articles: (03:06:41)

1. Consider Todd Thayer’s offer to accept gift of house for Visitor’s Center at Depot Square

Mr. Kelly updated the Board with the necessary Town Meeting article for funding for the relocation and foundation for the donated house. Mr. Kelly also informed the Board that there are other costs associated for ensure building code compliance, updating the septic system, as well as lead and asbestos testing.

Todd Thayer, owner of the house to be donated, spoke to the Board regarding the historic home and stated that he has done research to ensure that moving the house is a viable option. He noted that he would like to facilitate the process by updating the home to ensure architectural access compliance while at its current location. He stated that he felt it would be an asset to the town for a potential visitor’s center at Depot Square.

Mr. McClennen noted that the Board had included money in the CPA for the relocation of historic buildings. He stated that he felt that this project may be eligible for CPC funding if the Historical Commission found the property to be historically significant.

Mr. Dunford stated that he felt this was a viable option and that the Town Meeting vote to reauthorize the study for a Visitor’s Center at Depot Square would be crucial to the next steps. Mr. Kelly noted that none of the funding needed for moving the proposed building is included in the article for the study. Mr. Fuller stated that he is in favor of the proposal and felt the this offer could be a positive for all those involved as it fits in with the streetscape plan for downtown. He urged the Board to support the proposal in all ways possible. Mr. Hodgson asked that the Town Administrator prepare a timeline for the Board to have as the study moves forward.

Peter Haig, Architectural Design, spoke to the Board regarding the condition of the house and the potential for moving the house.

Mr. Thayer stated that he felt a public/private partnership could work very well for this project.

FY 2015 Budget Review: (03:32:46)

The Board reviewed the updated information on the FY 2015 budget. Mr. Dunford asked for clarification on the assumptions made in the updated budget. Mr. Dunford asked for a new financial plan reflecting the costs of Article 2.

Continue with FY16 - FY20 CIP Review: (03:30:41)

Mr. Kelly presented the Board with the updated FY16-FY20 CIP. Mr. McClennen suggested that the wording for the CWMP be adjusted to remove the word “phase”.

**On a motion by Mr. Dunford, and seconded by Mr. Fuller, the Board voted to move the OES Building Envelope Project to FY16.** The vote was 5-0-0.

Mr Dunford asked for a status update on the dredging of Rock Harbor. Mr. Kelly noted that he is still awaiting a communication from Eastham regarding the re-use of dredge material for beach nourishment.

Annual and Special Town Meeting Warrants Review: (03:45:14)

The Board reviewed the Annual and Special Town Meeting Warrant Articles.

**On a motion by Mr. Fuller, and seconded by Mr. Hodgson, the Board voted to place and recommend approval of Annual Town Meeting article “to Accept the Reports of Town Committees.”** The vote was 5-0-0.

**On a motion by Mr. McClennen, and seconded by Mr. Dunford, the Board voted to place and recommend approval of the Annual Town Meeting article “to fund CPA Projects.”** The vote was 5-0-0.

**On a motion by Mr. McClennen, and seconded by Mr. Hodgson, the Board voted to place and recommend approval of the Annual Town Meeting article “to Transfer CPA Funds for Habitat for Humanity.”** The vote was 5-0-0.

**On a motion by Mr. Dunford, and seconded by Mr. Fuller, the Board voted to place and recommend approval of the Annual Town Meeting article “to fund Water Quality Drainage Improvements.”** The vote was 5-0-0.

**On a motion by Mr. Fuller, and seconded by Mr. McClennen, the Board voted to place and recommend approval of the Annual Town Meeting article “to fund Pavement Management Program.”** The vote was 5-0-0.

**On a motion by Mr. McClennen, and seconded by Mr. Hodgson, the Board voted to place and recommend approval of the Annual Town Meeting article “to Accept Transportation Bond Bill Funds.”** The vote was 5-0-0.

**On a motion by Mr. Dunford, and seconded by Mr. Fuller, the Board voted to place and recommend approval of the Annual Town Meeting article “to Hold the State Harmless for Work.”** The vote was 5-0-0.

**On a motion by Mr. McClennen, and seconded by Mr. Hodgson, the Board voted to place and recommend approval of the Annual Town Meeting article “to Accept Gifts and Sell Surplus Equipment.”** The vote was 5-0-0.

**On a motion by Mr. Fuller, and seconded by Mr. Dunford, the Board voted to place and recommend approval of the Annual Town Meeting article “to fund OPEB stabilization fund.”** The vote was 5-0-0.

**On a motion by Mr. Dunford, and seconded by Mr. McClennen, the Board voted to place and recommend approval of the Annual Town Meeting article “to fund building and facility maintenance stabilization fund.”** The vote was 5-0-0.

**On a motion by Mr. Fuller, and seconded by Mr. Dunford, the Board voted to place and recommend approval of the Annual Town Meeting article “to Authorize Creation of a CCT Stabilization Fund.”** The vote was 5-0-0.

**On a motion by Mr. Dunford, and seconded by Mr. Fuller, the Board voted to place and recommend approval of the Annual Town Meeting article “to Adopt Nauset Regional Assessment Formula.”** The vote was 5-0-0.

**On a motion by Mr. Fuller, and seconded by Mr. Dunford, the Board voted to place and recommend approval of the Annual Town Meeting article “to Fund Chamber of Commerce.”** The vote was 5-0-0.

**On a motion by Mr. Hodgson, and seconded by Mr. McClennen, the Board voted to place and recommend approval of the Annual Town Meeting article “to Fund Human Services Advisory.”** The vote was 5-0-0.

**On a motion by Mr. McClennen, and seconded by Mr. Fuller, the Board voted to place and recommend approval of the Annual Town Meeting article “to Fund Fourth of July Activities.”** The vote was 5-0-0.

**On a motion by Mr. Dunford, and seconded by Mr. Fuller, the Board voted to place and recommend approval of the Annual Town Meeting article “to Fund elected officials salaries.”** The vote was 5-0-0.

The Board deferred their decision on the Annual Town Meeting Warrant article which would allow for the use of alternate members on the Historical Commission pending further information.

**On a motion by Mr. Fuller, and seconded by Mr. McClennen, the Board voted to place and recommend approval of the Annual Town Meeting article “to amend Zoning Bylaw to accept FIRM.”** The vote was 5-0-0.

**On a motion by Mr. Fuller, and seconded by Mr. Dunford, the Board voted to place and recommend approval of the Annual Town Meeting article “to Transfer Water Service Connection Account.”** The vote was 5-0-0.

**On a motion by Mr. Fuller, and seconded by Mr. Hodgson, the Board voted to place and recommend approval of the Annual Town Meeting article “to fund Depot Square Feasibility Study.”** The vote was 5-0-0.

**On a motion by Mr. Dunford, and seconded by Mr. Hodgson, the Board voted to recommend approval of the Annual Town Meeting article “to extend Tri-Town IMA.”** The vote was 5-0-0.

**On a motion by Mr. Dunford, and seconded by Mr. McClennen, the Board voted to place and recommend approval of the Annual Town Meeting article “to fund Tri-Town Facility Costs.”** The vote was 5-0-0.

Mr. Kelly noted that Mr. Ford’s opinion is that the 3 petition articles are non-binding.

**On a motion by Mr. Dunford, and seconded by Mr. Fuller, the Board voted to place and recommend approval of the Transfer Article.** The vote was 5-0-0.

**On a motion by Mr. Fuller, and seconded by Mr. Hodgson, the Board voted to place and recommend approval of the article to Fund Police Department Fingerprint Technology.** The vote was 5-0-0.

**On a motion by Mr. McClennen, and seconded by Mr. Dunford, the Board voted to place the article to Authorize CVEC OffTake Power Sales Agreement.** The vote was 5-0-0.

**On a motion by Mr. Fuller, and seconded by Mr. McClennen, the Board voted to place and recommend approval of the article to Fund Unanticipated Employee Retirement Buyout.** The vote was 5-0-0.

Agenda Items Held Over from March 19th Meeting: (04:35:07)

Mr. Kelly updated the Board with information on the requested resolution from Cape Abilities and Autism Speaks.

**On a motion by Mr. McClennen, and seconded by Mr. Dunford, the Board voted to agree to the request from Cape Abilities and Autism Speaks New England to “Light it Up Blue”.** The vote was 5-0-0.

The Board took no action on the Equal Pay Day Resolution.

Other Items for Future Agendas: (04:55:51)

Mr. McClennen asked that Mr. Kelly provide a copy of the Tri-Town RFQ to Eastham and Brewster.

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

The meeting adjourned at 10:10 PM.

Respectfully submitted,

Kristen Holbrook

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Jon R. Fuller, Clerk