

MINUTES OF MEETING OF SELECTMEN/SEWER COMMISSIONERS

Date of Meeting: May 12, 2009

Date of Transcription: May 13, 2009

Transcribed by: Janet Wilson

1. CALL MEETING TO ORDER BY CHAIRMAN

Chairman Sauvageau called the meeting to order at 7:10 P.M.

2. ROLL CALL

Selectmen Present: Bruce D. Sauvageau, Chairman
John P. Cronan, Clerk
Brenda Eckstrom
M. Jane Donahue
Walter B. Cruz, Sr.

Also Present: John J. Sanguinet, Interim Town Administrator

3. CITIZENS PARTICIPATION

Present before the board: Robert Maxim, Chairman of Onset Fire Prudential Committee

Mr. Maxim stated the annual district meeting will be held Monday evening and stated Mr. Sanguinet last fall met with the committee to go over the percentage rate they pay to the town. Mr. Maxim stated it was a good meeting and Mr. Sanguinet was the first Town Administrator to attend a meeting and by him attending the meeting with them they agreed to up he percentage they give to the town from 1 ½ to 3%, which is around a \$22,000 increase. Mr. Maxim wanted to also complement Mr. Foster and stated that they receive the tax money on a weekly basis in the Onset Fire District. Mr. Maxim does credit the Town Administrator for the increase the town will be receiving.

Present before the board: Alan Slavin

Mr. Slavin updated the board with the next UMASS meeting to be held on May 20th and he would like to meet with a Selectmen to go over the paperwork.

Present before the board: John Donahue

Mr. Donahue stated the Secretary of Labor would be in town on May 21st from 6:00 p.m. to 7:00 p.m. on the topic of reform.

4. ANNOUNCEMENTS

SELECTMEN/SEWER COMMISSIONERS MEETING – 5-12-09 (CONT'D)

Spring Plant Sale on Saturday, May 16th from 9:00 a.m. to 12:00 noon at the Congregational Church at Fellowship Hall 1 Gibbs Ave.

5. CONSENT AGENDA

- a. Authorization to sign bills, and documents, etc.

(none)

- b. Approval of minutes: April 14, 2009 (regular meeting)

MOTION: Selectmen Cronan moved to approve the meeting minutes of April 14, 2009. Selectmen Eckstrom seconded.

VOTE: 5-0-0 (Unanimous)

6. LICENSES & PERMITS

- a. Application for a Common Victualler's License by Wareham Persy's Place, LLC, d/b/a Persy's Place, 3198 Cranberry Highway, E. Wareham, MA under the provisions of Chapter 140 of Massachusetts General Laws.

Present before the board: Shawn Heston

MOTION: Selectmen Cronan moved to approve the application for a Common Victualler's license by Wareham Persy's Place, LLC d/b/a Persy's Place, 3198 Cranberry Highway, E. Wareham, MA under the provisions of Chapter 140 of Massachusetts General Laws. Selectmen Eckstrom seconded.

VOTE: 5-0-0 (Unanimous)

- b. Application for a Common Victualler's Licenses by Captain Al's Restaurant, LLC d/b/a Captain Al's, 3236 Cranberry Highway, E. Wareham, MA under the provisions of Chapter 140 of the Massachusetts General Laws.

Present before the board: Attorney Robert Perry & Alfred Harrington
Attorney Perry stated that they have an occupancy permit and the issue with the water should be resolved tomorrow.

MOTION: Selectmen Cronan moved to approve the application for a Common Victualler's License, LLC d/b/a Captain Al's, 3236 Cranberry Highway, E. Wareham, MA under the provisions of Chapter 140 of the Massachusetts General Laws. Selectmen Eckstrom seconded.

VOTE: 5-0-0 (unanimous)

- c. 7:15 p.m. – Hearing – on the application from Captain Al's Restaurant, LLC d/b/a Captain Al's Alfred Harrington, Manager, 3236 Cranberry Highway, Wareham, MA for a Seasonal Common Victualer All Alcoholic Beverages License under the provision of Chapter 138 of the Massachusetts General Laws for 2009.
Present before the board: Attorney Robert Perry & Al Harrington

MOTION: Selectmen Eckstrom moved to open the hearing. Selectmen Donahue seconded.

VOTE: 5-0-0 (unanimous)

The board wants to make sure that no one would leave the establishment with alcohol and gets on a boat. Attorney Perry stated that they would not be letting anyone leave the establishment with any alcohol.

Present before the board: Mr. Angus

Mr. Angus stated that he lives at the corner of Jefferson Shores Road and is the owner of Maxi Gas and stated that he has nothing but positive things to say about Mr. Harrington.

Present before the board: Robert Maxim

Mr. Maxim lives across the street from the establishment on Water Street and said he has never heard any noise from the boaters and there have never been any other problems in the ten years he has lived there.

Present before the board Jim Magnum , Indian Mound Beach resident

Mr. Magnum spoke in favor of Mr. Harrington and feels that the restaurant will be an asset to Buttermilk Bay and hopes that the board will vote in favor of granting the license.

Present before the board: John Williams, Indian Mound Beach

Mr. Williams spoke in favor of Mr. Harrington getting a license and was in favor of him opening the restaurant.

Present before the board: Bonnie Jean Cottuli,

Ms. Cottuli spoke in favor of Mr. Harrington and stated that it's a very family oriented marina and does not foresee any problems.

Present before the board: Shawn Heston

Mr. Heston stated that Percy's place is excited to have another establishment on the strip and would like to support Mr. Harrington.

MOTION: Selectmen Eckstrom moved to close the hearing. Selectmen Donahue seconded.

VOTE: 5-0-0 (Unanimous)

Selectmen Cronan would like to add a condition to the license that any alcohol stay inside the premises or on the deck and it not go onto the beach and not go onto the boating area. Mr. Harrington stated that is the law and it does intend abide by the law.

MOTION: Selectmen Cronan moved to approve the application from Captain Al's Restaurant, LLC d/b/a Captain Al's Alfred Harrington, Manager, 3236 Cranberry Highway, Wareham, MA for a Seasonal Common Victualer All Alcoholic Beverages License under the provisions of Chapter 138 of the Massachusetts General Laws. Conditions are all alcohol stay in the premises or on the deck and not onto the beach area or boating area and noise on the deck area be appropriately monitored by the management. Selectmen Eckstrom seconded for discussion. Selectmen Eckstrom would like added to the motion Alfred Harrington Manager.

VOTE: 5-0-0 (Unanimous)

7. TOWN ADMINISTRATOR'S REPORT

Library Certification The really good news for the week is that the Board of Library Commissioners has rescinded their desertification and approved the waiver.

Municipal Maintenance Summer Hours. Effective Monday, May 18, 2009, MM will operate from 6:00AM to 2:30PM. This is done to allow more work to be done during the cooler morning hours.

Tax Possession and Land of Low Value Auction: The Treasurer's Office has provided a packet of information on several properties.

Tax Possessions, These properties are buyer "beware," and places the responsibility on determining whether a lot is buildable on the prospective purchaser. The Building Department will only indicate what the zoning for any of the properties is but not whether or not they are buildable. Several of these have a building on the property. The Interim Town Administrator asked the board to assist the custodian by placing minimum bids on these properties, which I would estimate at \$30,000 to \$40,000.

Land of Low Value: The second listing is small bits of property that the town is not receiving taxes on but has owners of record. We would be selling our interest in the tax title on these properties and the purchaser would need to foreclose on the

tax lien. The Town has determined that these parcels are not buildable and have issued a statement to the Department of Revenue indicating as such. The Interim Town Administrator asked the board to place a restriction on the land of low value properties that they are unbuildable.

Custodian of the properties: The Board of Selectmen need to name a custodian of the properties at the auction. Mr. Sanguinet would ask that the board appoint John Foster, Custodian.

Problem Solving Workshop. An invitation was received from SRPEDD to attend a Creative Problem Solving Workshop re. Economic and environmental sustainability. The workshop is limited to 27 participants with responses due by May 11, 2009.

Bourne Integrated Solid Waste Management. We received a letter from Bourne relative to the opportunity for asbestos training in June. There are three sessions and each is available to two staff persons from each invitee.

Break-in at Harbormaster Work Shelter. There was a break-in at the site April 25, 2009 and several items stolen. A report was filed with the police and a claim has been submitted to the insurance company. Damages are estimated at over \$8,000 and we have a \$2,500 deductible. The incident is under investigation.

Change in Shellfish Management Area #3. The Board is asked to affirm a change in status of Shellfish Management Area #3 (Long Beach). This was closed to shell fishing as of September 2007 in order for it to recover. The Harbormaster/Shellfish Constable, Michael Parola, feels it is time to reopen the area on a limited basis of three days/week subject to the Special Regulations noted.

MOTION: Selectmen Doanhue moved the Board to affirm the opening of Management Area #3, Long Beach, described as “the waters and flats of that portion of the Wareham River North of a line drawn from the sign on the beach at 67 Towhee Road to Red Nun Buoy 12 Wareham River, South and Easterly from Red Nun Buoy 12 to the sign on the beach at 53 Long Beach Road, encompassing Long Beach Point,” as per the special regulations below:

- The above described area shall be open to:
Recreational Permit Holders may shellfish only on **Thursday, Friday, and Saturday** of each week.

Commercial Permit Holders may Quahog only on **Thursday, Friday and Saturday** of each week.

- Catch Limits***

- A. Recreational permit holders may harvest no more than one (1) peck of shellfish per week as prescribed in the Rules for the Taking of Shellfish, Eels and Sea worms.
- B. Commercial Permit Holder may harvest no more than two (2) bushels of quahogs per day. No quahogs over 2 ½ inches in diameter may be harvested from the management area.

***Commercial Permit Holders are restricted to a two (2) bushel limit on any day they elect to work within the Management Area and the catch limit described in Section V of the Shellfish Regulations shall not apply.

- All other provisions of the Rules for the Taking of Shellfish, Eels and Sea worms shall apply.
Selectmen Eckstrom seconded.

VOTE: 5-0-0 (Unanimous)

Seasonal Soft- Seasonal Soft-Shell Clam Areas. The Board is asked to affirm the enclosed proposal from Michael Parola, Harbormaster/Shellfish Constable. All areas except those specifically noted are closed to the taking of soft-shell clams from June 1, 2009 through September 15, 2009 with the exception of areas noted.

MOTION: Selectmen Donahue moved the Board to affirm the closing of all areas to the taking of soft-shell clams from June 1, 2009 through September 15, 2009, with the exception of the following areas, which shall be open Monday through Saturday:

- Warren Point westerly to the eastern corner of Management Area #3 (67 Towhee Road)
- Stony Point Dike
- Sunset Cove/Shell Point Bay—Except for the easterly shoreline between the Shell Point parking area and a sign placed on the shoreline opposite the intersection of First Street and West Boulevard and/or any swimming beach.
- Widow's Cove/Bass Cove
- Southern Tip of Burgess Point to Codman's Point
- Wickets Island
- The northerly point of Lydia's Island to the western end of Burgess Point

- From the shellfish sign on the beach in front of #4 Seahorse Land southeasterly to the shellfish sign located at #22 Nobska Way.

Areas open Thursday, Friday, and Saturday:

- Management Area #3 – Long Beach
Selectmen Cronan seconded.

VOTE: 5-0-0 (Unanimous)

Appointment of Health Inspector. The Board is asked to affirm the appointment of David Flaherty as Health Inspector for the Town of Wareham. His resume is attached.

MOTION: Selectmen Eckstrom moved to affirm appointment of David Flaherty as Health Inspector for the Town of Wareham. His resume is attached, Selectmen Donahue seconded.

VOTE: 4-0-1 (Selectmen Cronan abstained)

Appointment of Code Enforcement Officer. The Board is asked to affirm the appointment of Kevin Bernardo as temporary Code Enforcement Officer for the Town of Wareham. His resume is attached.

MOTION: Selectmen Eckstrom moved to affirm the appointment of Kevin Bernardo as temporary Code Enforcement Officer for the Town of Wareham. His resume is attached. Selectmen Donahue seconded.

VOTE: 4-0-1 (Selectmen Cronan abstained)

Community Forums: The Governor's Office had notified me that there will be a series of public forums across the Commonwealth where a Senior Officials from the Governors staff will be going to Thirty-six 36 communities to here from residents and municipal leaders about declining revenues and what kind of government we want. Secretary Bump will be in Wareham on May 21st at 6:00 PM as part of this series I have no location, but once I receive one I will issue a press release.

Sewer Business

- S1. **Wareham Sewer Contract No. 1 Takings.** The Board is asked to approve the attached Votes, Motions and Orders of Taking for two (2) pump station easements, as well as the Vote, Motion and Order of Taking for the easement to install and maintain the sewer main in Crab Cove Terrace. Habitat for

Humanities, residents in Crab Cove Terrace and Mr. Morse have been contacted; 75% of the residents responded with authorization, Habitat and Mr. Morse have not received any responses. They should have received the notice last week and are aware of damages assessed by our appraiser R.K. Lyman. Orders of Taking were prepared by Marc Deshaies, our attorney on the sewer projects. I have included maps of the areas, in these takings.

Present before the board: Marc Deshaies

Mr. Deshaies went over the takings with the Board of Selectmen.

Recommended action. Motion for the Board of Selectmen, acting in their capacity as the Board of Sewer Commissioners of the Town of Wareham, acting pursuant to the authority granted them under M.G.L. c.83 §1, vote to take by eminent domain a permanent easement for the purpose of the construction, installation, use, operation and maintenance of a sewer pump station and necessary appurtenances thereto in certain real property owned by Buzzards Bay Habitat for Humanity, Inc., and Arnold M. Morse, as fully described on the attached documents, and that damages, if any, be awarded in the amounts indicated; and further, to take by eminent domain a permanent easement for the purpose of the construction, installation, use, operation and maintenance of a municipal sewer main and necessary appurtenances thereto in certain real property as fully described on the attached document.

MOTION: Selectmen Donahue moved for the Board of Selectmen, acting in their capacity as the Board of Sewer Commissioners of the Town of Wareham, acting pursuant to the authority granted them under M.G.L. c.83 §1, vote to take by eminent domain the properties as described for a permanent easement for the purpose of the construction, installation, use, operation and maintenance of a sewer pump station and necessary appurtenances thereto in certain real property as fully described on the documents before us. Selectmen Eckstrom seconded.

VOTE: 4-1-0 (Selectman Cronan opposed)

- S2. **Authorize Town Administrator to Sign** To expedite payments to the Town from DEP, Mr. Sanguinet asked that the Board approve him signing the bills. Per CDM, upon receipt of the monthly pay estimate from the general contractor and monthly CDM invoices, CDM will send me a form (BMF 1000 Form) that summarizes all of the project costs for that month. Upon the Town Administrator's signature, CDM will forward this form, along with forms that have to be signed by the general contractor (BMF 2000 Form) and by CDM (BMF 3000 Form). CDM then sends the entire package in to DEP;

once approved by DEP, the money is wired to the Town within 2-3 working days. Currently, it could take a couple of weeks before the Board meets and approves all estimate and invoices before CDM can send the package in. If there are any issues with any pay estimates or CDM invoices, we can make the correction on the estimate or invoice for the next month after the Board has had a chance to review copies of the submitted paperwork. Regarding the final pay estimate and final CDM invoices, nothing will be sent to the DEP prior to approval of the Board.

Present before the board: Tom Casey, Construction Project Manager, CDM

Mr. Casey summarized the program stating that an SRF reimbursement process has changed a little in the past 4-5 years. The DEP now does not require the town to do any short term borrowing up front there is no borrowing necessary. In the past the towns use to borrow the money, pay out the money and then get reimbursed. The invoices are now submitted to the DEP and the town is wired the money in 2-3 days and then the town pays out the contractor and CDM. Mr. Casey stated that any change orders are not sent through this process. Mr. Casey stated the that the form given to the Town Administrator to sign is a very detailed list. There are three forms that need to go to the DEP one form that is signed by the town, one by CDM and another one by the General Contractor.

MOTION: Selectmen Donahue moved the board to authorize the Interim Town Administrator to sign invoices on behalf of the Board in order to expedite payments relative to the sewer projects. Selectmen Eckstrom seconded.

VOTE: 5-0-0 (Unanimous)

- S3. **Project Commencement:** A pre-construction meeting was held last week. At this meeting Gioioso presented a tentative schedule of the progression of contract #1. Dates for starting in certain areas may change due to weather or other unforeseen issues that arise. The contractor indicated that he would be beginning May 11 in the Bayside area. Sections of roads may be blocked with detours. A copy of the Schedule will be placed on the web for residents to see, on the cable channel and through this venue and TA reports. Several residents from the Linwood/Ladd area have had some concerns and I will be directing them to CDM or wastewater. Perhaps the Board would like to have a meeting with the residents to discuss their concerns.

- S4. **Sewer Abatement Request – Account 735510, 240 Onset Avenue, Map 1, Lot 532.** The Board is asked to approve abating this account for four months of 2nd half FY09 Sewer User Fee in the amount of \$194.64. Notification was received from the Onset Water District that the water has been off since October 12, 2007. The abatement covers October 2008 through January 2009.

Recommended action. Motion for the Board to abate Account 735510 for 2nd half FY09 Sewer User Fee in the amount of \$194.64.

MOTION: Selectmen Cronan moved the board to abate Account 735510 for 2nd half FY09 Sewer User Fee in the amount of \$194.64. Selectmen Donahue seconded.

VOTE: 4-1-0 (Selectmen Eckstrom opposed)

- S5. **Sewer Abatement Request – Account 792297, 10 Shaw Street, Map 78-2, Lot 66.** The Board is asked to approve abating this account for 1st half FY09 Omitted Sewer User Fee in the amount of \$145.98. The house is still in the construction stage with no connection to the sewer within the house.

Recommended action. Motion for the Board to abate Account 792297 for 1st half FY09 Omitted Sewer User Fee in the amount of \$145.98.

MOTION: Selectmen Cronan moved the board to abate account 792297 for the 1st half FY09 omitted sewer user fee in the amount of \$145.98. Selectmen Donahue seconded.

VOTE: 5-0-0 (Unanimous)

8. **TOWN BUSINESS**

- a. Discussion with Richard Heaton, Re: Affordable/assisted living on Westfield site.

Present before the board: Dick Heaton

Mr. Heaton spoke of the proposed RFP for assisted living/affordable housing on the Westfield site. Mr. Heaton would suggest meeting with school committee, cpa, finance committee, planning board and the ZBA and feels it's so powerful to have them look at it before the RFP is submitted and get their viewpoints so that when it does go on Town meeting floor everybody understands the proposal and can influence it. It's also very powerful from a developer's point of view that the town wide organization has looked at this and has supported it. Mr. Heaton spoke about the cost of bringing sewer to the Westfield site to be about \$.2.5 million.

- b. Any other town business

Selectmen Sauvageau thanked everyone for coming to Town Meeting and thanked the moderator Mr. Donahue.

Selectmen Donahue stated that she has discussions with some of the residents on Maple Springs Road and asked Mr. Sanguinet to enlighten the board. Mr. Sanguinet said that he had discussions with residents of that area and they are concerned with the truck traffic and the use of the road of Tucs Enterprises and he sent a letter off to A.D. Makepeace and they believe the traffic was not their traffic since they have not had any operations going on out there. Mr. Sanguinet did speak with Town Counsel on how the Zoning Board opinion effected the rulings of the Board of Selectmen and her opinion was that the zoning board decision had no effect on the boards decisions unless they believe that the information was provided to the zoning board and their facts were accurate and therefore the board would need to take note position on this and he will provide a copy and stated this is what the board tabled when there was a discussion whether it was a zoning violation back in January and the board may wish to bring this back and discuss at a further meeting. Mr. Sanguinet stated that he is aware that Mr. Tucs is running trucks out of his property down that road on a regular basis. Selectmen Sauvageau would like to see the board take this issue up again and asked if the board would like to hire an engineering services to study that specific operation. Selectmen Cronan would like to invite Mr. Madden come in and go over everything with the board since he is a cranberry bog expert.

MOTION: Selectmen Eckstrom moved the board to issue a cease and desist to Mr. Tucs and A.D. Makepeace until the board gets the opinion and advice from counsel the engineering opinion and until them come in a talk with the board. Selectmen Donahue seconded.

VOTE: 4-0-1 (Selectmen Sauvageau opposed)

Selectmen Eckstrom spoke about the Library Commissioners rescinding their desertification. Selectmen Eckstrom has drafted a letter of concern regarding nitrogen. Selectmen Eckstrom would like to have Mr. Sanguinet have the zoning enforcement officer go and check out Commodore Motors since they are parking the vehicles for sale on the grass. Selectmen Eckstrom spoke of the renewal of the earth removal permit for Lopes Construction.

9. SEWER BUSINESS

a. Any sewer business

10. LIAISON REPORTS
(none)

11. ADJOURNMENT

MOTION: Selectmen Eckstrom moved to enter into executive session to discuss the reputation, character, physical condition or mental health, rather than the professional competence of an individual.

Poll vote: Selectmen Eckstrom – yes
 Selectmen Donahue – yes
 Selectmen Sauvageau – yes
 Selectmen Cronan – yes
 Selectmen Cruz – yes

12. SIGNING OF DOCUMENTS APPROVED BY THE BOARD

Respectfully submitted,
Janet Wilson
Department Assistant

The foregoing minutes were submitted to the Board of Selectmen/Sewer Commissioners on: June 2, 2009

Attest: ***John P. Cronan, Clerk***

Date Signed: June 2, 2009

Date sent to the Town Clerk: June 3, 2009