

Board of Selectmen
Library Meeting Room
December 15, 1997
Minutes

The meeting was called to order at 6:00 p.m. by Chairman David Ernst. Selectmen present included Jeffrey White, Lawrence Gallagher and Carolina Kiggins. Selectman John Ryerson was absent (he arrived at 7:02 p.m.). Acting Town Administrator Edgar Gadbois also attended.

The Board met with the following individually and discussed their applications for appointment. Chairman Ernst recused himself and Vice-Chairman White conducted the meeting.

- on a motion by White, seconded by Kiggins, the Board voted unanimously to appoint Christopher Merl to the Shellfish Advisory Committee through 6/30/98.

- on a motion by White, seconded by Kiggins, the Board voted unanimously to appoint William Young, Jr. to the Shellfish Advisory Committee through 6/30/98.

A question was raised as to the status of the openings on the Committee. There was consensus that these appointments be contingent upon clarification of the membership of the Committee.

Selectman Ernst rejoined the Board.

- on a motion by White, seconded by Ernst, the Board voted unanimously to appoint Betty Kimball to the Board of Health through 6/30/2000.

- on a motion by White, seconded by Kiggins, the Board voted unanimously to appoint Clarence Smith to the Historical Commission through 6/30/99.

- on a motion by Ernst, seconded by White, the Board voted unanimously to appoint Arno Masters to the Council on Aging through 6/30/2001.

- on a motion by Gallagher, seconded by White, the Board voted unanimously to appoint Assistant DPW Director Mark Vincent as an ex-officio member of the Permanent Building Needs and Assessment Committee. Chairman Ernst recused himself and Vice-Chairman White conducted the meeting.

- on a motion by Gallagher, seconded by Kiggins, the Board voted unanimously to appoint Alfred Pickard to the Marina Advisory Committee through 6/30/99. Chairman Ernst rejoined the Board.

At 6:30 p.m. the Board held a public hearing on a violent dog complaint filed with the Board of Selectmen regarding a german shepherd named Hollywood owned by Samuel Baird of Wellfleet. Vice-Chairman White read the public notice. Chairman Ernst indicated that the hearing would be conducted in accordance with MGL 140, section 157. Betty Sala, Charles Amsler, Lorial Russell, Samuel Baird, Diane Paoletti, Nicole Hamblen, Priscilla Hamblen and Alan Hight were sworn in. The complainant, Dog Officer Lorial Russell, testified first, outlining two incidents where Hollywood had been accused of attacking a person or another animal. The medical records of Robert Brett, a dog bite victim in March, 1997, were submitted to the Board for review. Betty Sala, Charles Amsler and Alan Hight testified as supporting witnesses for the complainant. Hollywood's owner, Samuel Baird, questioned Mr. Hight and stated his position that he did not believe that his dog Hollywood had been involved in the reported incidents. Diane Paoletti testified in support of Mr. Baird. It was noted that Hollywood had not been vaccinated for rabies since April, 1997 and that she had not been registered with the Town. On a motion by Kiggins, seconded by White, the Board voted unanimously to close the hearing. The Board deliberated. Selectman Ryerson arrived at 7:02 p.m. On a motion by Kiggins, seconded by Gallagher, the Board voted 4-0-1, with Ryerson abstaining, the following findings of fact:

- 1) an incident occurred in March, 1997 at which time Robert Brett was bitten by a dog
- 2) an incident occurred in November, 1997 at which time Alan Hight's dog Banjo was bitten by Samuel Baird's dog Hollywood
- 3) Hollywood's inoculations are not up-to-date
- 4) Hollywood is not registered in the Town of Wellfleet
- 5) the Town's leash law was violated

On a motion duly made and seconded, the Board voted 4-0-1, with Ryerson abstaining, that the Dog Officer speak with Hollywood's veterinarian to obtain Hollywood's vaccination record and rabies assessment and report same to the Board of Selectmen before the dog will be allowed back in the Town of Wellfleet; Hollywood must then be registered and an effective restraint mechanism, approved by the Dog Officer, must be used; if there is another incident, the Board will hold another hearing when further measures may be imposed. It was noted that written notice of the findings of fact and order of the Board of Selectmen will be sent via registered mail to Mr. Baird. Chairman Ernst informed Mr. Baird of his right of appeal.

Open Session:

- Joel Fox addressed the Board regarding Old Pier Road. On a motion by Gallagher, seconded by White, the Board voted unanimously to seek an opinion from Town Counsel. A motion to appeal the decision of the Conservation Commission regarding removal of sand on this road was withdrawn.
- Assembly of Delegates representative Roger Putnam addressed the Board for advice about expenditure of surplus funds by Barnstable County. On a motion duly made and seconded, the Board voted 4-1, with Ernst voting against, to express a majority view of the Board that these monies come back to the general fund of Wellfleet. In this regard Mr. Ernst noted that it was not a case of money "coming back" to the Town. These monies were paid by citizens as fees for registering real estate transactions and county funded regional projects would benefit Wellfleet.
- Ruth Rickmers addressed the Board regarding payment of restitution by Luke Fox - she was referred to the Attorney General's Office.
- Gerard Lofgren addressed the Board regarding his unanswered correspondence - his letters will be forwarded to the Acting Town Administrator.

The Board held a public hearing to help identify future cable related needs and to review Media One's performance under the present license. Vice-Chairman White read the public notice. Discussion included the need for a Cable Advisory Committee, inequity in the number of stations available in Wellfleet and the public access channel. Representatives from Cape Cod Community College requested that the Town consider including the College's access channel in its contract package. On a motion by Kiggins, seconded by White, the Board voted unanimously to close the hearing.

The Board met with B.L. Hathaway to review the Coastal Village Fishing Festival which has been sponsored for the past two years by the Lower/Outer Cape Community Coalition. Ms. Hathaway indicated that the Coalition's intent is to turn over event coordination to a Wellfleet-based group.

On a motion by Kiggins, seconded by White, the Board voted 4-0-1, with Gallagher abstaining (he had not attended the meeting), to approve the minutes of December 1, 1997 as printed.

On a motion by Kiggins, seconded by White, the Board voted unanimously to approve the minutes of December 5, 1997 as printed.

On a motion by Ryerson, seconded by Kiggins, the Board voted unanimously to approve the business licenses of The Lighthouse Restaurant; Consider the Lilies, Inc.; Uncle Frank's; Jules Besch Stationers and Bay Sails Marine, Inc. Selectman White recused himself. On a motion duly made and seconded, the Board voted unanimously to approve the business licenses of Joseph Lema & Son, Inc. and Christine's Oasis. Selectman White rejoined the Board.

Selectman Ryerson recused himself. On a motion by White, seconded by Gallagher, the Board voted unanimously to approve the liquor licenses for Finely J.P.'s, Inc.; Bookstore & Restaurant, Inc. and The Lighthouse Restaurant. Selectman White recused himself. On a motion by Gallagher, seconded by Ernst, the Board voted unanimously to approve the liquor license of Joseph Lema & Son, Inc. Selectmen Ryerson and White rejoined the Board.

The Board discussed the Request to Use Town Property submitted by E-Z-Doze-It Excavating, Inc. to use Powers Landing from December 16, 1997 through February 14, 1998 from 7:00 a.m. to 6:00 p.m. for construction of shorefront protection revetments for Seashell Condos, Edwine Kerr, June Emery and Robert O'Reilly with excavator and rubber tire loader. Harold McGinn attended to represent E-Z-Doze-It. On a motion by Gallagher, seconded by White, the Board voted unanimously to approve the request.

The Board held a public hearing to consider the application of Todd and Holly LeBart for renewal of shellfish grant license #85-E and transfer of shellfish grant license #85-EA from Todd LeBart to Todd and Holly LeBart. Chairman Ernst recused himself and Vice-Chairman White conducted the hearing. The hearing notice was read by Selectman Gallagher. Todd LeBart attended. The Shellfish Constable gave his recommendation that the license be renewed and the transfer request granted. On a motion by Ryerson, seconded by Gallagher, the Board voted unanimously to renew shellfish grant license #85-E to an expiration date of 11/14/2005 and to transfer grant license #85-EA from Todd LeBart to Todd LeBart and Holly LeBart. Chairman Ernst rejoined the Board.

The Board discussed the Planning Board's proposed article for the 1998 Annual Town Meeting regarding communication structures. There was consensus to table the matter until the Planning Board reviews Town Counsel's legal opinion.

The Board reviewed correspondence:

- a) 12/12/97 request from Cape Cod Community College President

Page 4 - Board of Selectmen Minutes - 12/15/97

Richard Kraus for support of "distance learning" through Media One - there was consensus that the Acting Town Administrator draft a response noting that the matter was discussed at tonight's hearing and thanking Mr. Kraus for his thoughts.

- b) 11/19/97 memo from the Planning Board regarding recommendations for replacement of Town Planner - there was consensus that a letter be drafted thanking them for their input.

- c) 11/25/97 from Barbara Atwood regarding July 4th parade of 1998 - on a motion duly made and seconded, the Board voted unanimously that the

Acting Town Administrator draft a letter recommending that the parade be held on July 4th rather than July 5th.

d) 11/29/97 letter from H. Sarkis Terkanian regarding 11/17/97 Special Town Meeting - there was consensus that a letter be drafted indicating that the Board will seriously consider the recommendations.

e) DEM 1998 Greenways and Trails Demonstration Grants Program - forwarded to Open Space Committee.

f) 11/17/97 letter from A.E. Rizzotti Jr. regarding the fee increase for non-resident shellfish permits - there was consensus that the Shellfish Constable draft a response.

On a motion duly made and seconded, the Board voted unanimously to level fund its FY'99 operating budget.

On a motion by Ernst, seconded by Ryerson, the Board voted unanimously to approve the Capital Improvement Plan and forward it to the Finance Committee.

The Town Administrator discussed his report with the Board noting that he intends to reappoint Assistant Shellfish Constable James McGrath to a three year appointment. There was no objection from the Board.

On a motion duly made and seconded, the Board voted unanimously to authorize the Acting Town Administrator to sign the Intergovernmental Agreement of the Cape Light Compact on behalf of the Town.

On a motion by Ryerson, seconded by White, the Board voted unanimously to sign the warrant for the January 27th Special Barnstable County Election.

On a motion duly made and seconded, the Board voted unanimously that the Town Administrator, using a committee of four, come forth with a list of candidates not to exceed seven which in their opinion are the strongest candidates of those who applied and be presented to the Selectmen by January 5, 1998. It was suggested that the committee be comprised of the Town Accountant, Assessor, Howard Grossman, Zel Levin and Helen Purcell.

On a motion duly made and seconded, the Board voted unanimously to adjourn at 8:50 p.m.

Respectfully submitted,



Linda Smulligan
Administrative Assistant



David Ernst, Chair



Jeffrey White



Lawrence Gallagher

Carolina Kiggins



John Ryerson