



**Wellfleet Board of Selectmen
Minutes of the Meeting of November 24, 2009
Wellfleet Public Library, 7:00 p.m.**

Present: Chairman Dale Donovan, Michael May, Jerry Houk and Ira Wood; Town Administrator Paul Sieloff.

Not Present: Jacqueline Wildes-Beebe

Chairman Dale Donovan called the meeting to order at 7:00 p.m.

Open Session and Public Comment

Houk announced that the Sandpiper Gallery is hosting a benefit this weekend for Helping Our Women and all proceeds will go to breast cancer research.

May announced that he received information from Maggie Downey at Cape Light Compact indicating the second consecutive rate reduction for members of the Cape Light Compact.

Donovan announced Recreation Dept.'s Christmas Tree Lighting and Caroling on Sunday, December 6th from 2:00 to 4:00pm.

Public Hearing(s) [7:30]

Restaurant Closing Request

MOTION 09-0271: Wood moved to approve the request received November 5, 2009 from Ken Kozak to close the Wicked Oyster Restaurant from November 30, 2009 through January 13, 2010.

May seconded, and the motion carried 4-0.

Restaurant Closing Request

MOTION 09-0272: Wood moved to approve the request received November 6, 2009 from John Pontius to close the Finely J.P.'s Restaurant from December 6, 2009 through January 14, 2010.

May seconded, and the motion carried 4-0.

Shellfish Grant Applications

Proposed continuance to December 8, 2009 of continuation of hearing from November 10, 2009 concerning application received October 13, 2009 from Rebecca Nazarian for a .5 acre shellfish grant to the south of shellfish grant #771 and application received October 15, 2009 from Evan Bruinooge for a .5 acre extension to shellfish grant license #771 at Old Wharf Point.

MOTION 09-0273: Wood moved to continue to December 8, 2009 at 8:00pm.

May seconded, and the motion carried 4-0.

Appeal from Seth D. Wahlstrom

Appeal from Seth D. Wahlstrom under Rule 31(b) of the Wellfleet Marina Rules and Regulations.

May recused himself from the hearing.

Attorney Stephen Ouellette from Gloucester, MA appeared, representing Seth D. Wahlstrom. Wahlstrom essentially disputes the claim that the *Second Effort* is oversized and in violation of the Marina Rules and Regulations. Ouellette explained that it is unusual to hear measurement in gross tons, as gross tons has nothing to do with the vessel's displacement. He added that he believes that the rule is not being accurately read and is interested in hearing from Harbormaster about where he gets his information regarding displacement.

Harbormaster Mike Flanagan agreed with Wahlstrom's attorney concerning the displacement and gross tonnage issue. Flanagan advocates the revision of the Marina Rules and Regulations to clarify the terms used to make them less confusing.

Given the statements of Flanagan, Ouellette strongly urged the board to reverse the decision to ask for the removal of the *Second Effort*. Arguably, the vessel is not in violation of the Marina Rules and Regulations, even as they are currently written.

Donovan asked how Wahlstrom got to be at the L-Pier in the first place. Wahlstrom said that he has been paying transient dockage at the L-Pier since August. Donovan asked if Wahlstrom read the rule that allows transient dockage, if space is available, from Labor Day to Memorial Day only. Wahlstrom countered that he had read the rule, but asked if Donovan had read the rule which states that all vessels should pay \$50.00 per day to unload at the pier. Currently, only transient boats are asked to pay this fee, but technically the rule applies to all boats unloading at the pier. Wahlstrom suggested that if board is going to enforce the rules, they should enforce them all and require all boats unloading at the pier to pay \$50.00 per day, not just the transient boats.

Audience member David Ziemba Jr. asked why the board is not simply taking what is written on the vessel's certificate of documentation instead of listening to Wahlstrom's attorney's explanation.

Audience member David Ziemba Sr. clarified that the certificate of documentation is standard in the industry, and the board should accept the information on the certificate concerning the size of the *Second Effort*.

Flanagan explained that the regulations clearly state that the vessel should not displace more than 50 gross tons. The issue hinges on the word "displace."

Ouellette said that the *Second Effort* displaces about 30 long tons, not anywhere near 50 gross tons. He said that, as written, the regulation mixes apples and oranges. He stressed that his client is not asking for any unusual interpretation of the rules. Rather, he is asking for a straightforward interpretation of the rules.

David Ziemba Jr. explained that there are certain other characteristics of the *Second Effort* not being discussed. For example, the boat used to be owned by Chris King and it was driven into the pier and damaged. The boat was never repaired and was later

bought by Wahlstrom. Ziemba Jr. said that there are environmental and safety concerns about this boat, in addition to the violation of Marina Rules and Regulations.

Donovan said that those other issues are beyond the scope of this hearing.

MOTION 09-0274: Houk moved to rescind the order that Wahlstrom remove the *Second Effort* from the L-Pier, as it is not in violation of the Marina Rules and Regulations.

Donovan seconded, and the motion carried 3-0.

Beach Rules and Regulations

Beach Administrator Suzanne Thomas explained the proposed changes to the Town of Wellfleet Beach Rules and Regulations.

Thomas explained that the actual placement of the sticker needs to be changed to accommodate the prohibition of stickers on windshields by other states, such as New York and New Jersey.

Second, Thomas said that the rule regarding obtaining a beach party permit from the Chief of Police should be deleted, as one has never been issued in Chief Rosenthal's time in Wellfleet.

Thomas explained the added language specifying the need for dog owners to clean up after their dogs at the beach. On the subject of dogs, Thomas referred the board to a sample of the topic-specific brochure for the public concerning dogs at the beach. She added that she can easily and cheaply make others for topics like beach fires, etc.

Donovan noted that the Shellfish Advisory Committee had commented previously on the Beach Rules and that they probably would like to be able to make some comment on items 12, 13, and possibly 14. Donovan suggested that we go ahead with 1, 10 and 11 and leave the others for later, after the Shellfish Advisory Committee has provided their input.

Thomas explained that the Shellfish Advisory Committee's purview is only to be concerned with what happens at the beaches near shellfish beds and, therefore, she thinks that they should have nothing really to do with what goes on at the ocean beaches.

Wood explained that he thinks the Shellfish Advisory Committee is largely concerned with clarity, rather than simply what happens near shellfish beds.

Thomas agreed that clarity is important, but that a concerted effort has been made to clear up much of the confusion with the language in the Beach Rules, as well as the signage at the beaches.

Thomas said that she would prefer the board to take action on all of the proposed changes at once, rather than taking a piecemeal approach. She suggested that they continue the hearing to the next Selectmen's meeting on December 8, 2009 at 8:00pm, in order to give time for the Shellfish Advisory Committee to comment on the proposed changes.

MOTION 09-0275: Houk moved continue the hearing to the next Selectmen's meeting on December 8, 2009 at 8:00pm, in order to give time for the Shellfish Advisory Committee to comment on the proposed changes.

May questioned the need for the Shellfish Advisory Committee to weigh in on the Beach Rules in the first place.

Donovan seconded, and the motion carried 3-0-1. (May abstained.)

Licenses

2010 Renewal of Annual Liquor Licenses as follows:

- A. Bookstore Restaurant (All Alcohol)
- B. The Lighthouse Restaurant (All Alcohol)
- C. Seaside Liquors (All Alcohol)
- D. Wellfleet Marketplace (Wine & Malt Regular)
- E. Wellfleet Spirits Shoppe (All Alcohol)
- F. Finely J.P.'s (All Alcohol)
- G. Farrell's Market (Wine & Malt Regular)
- H. Wellfleet Village Center (Wine & Malt Regular)
- I. Wellfleet Irving (Wine & Malt Regular)
- J. The Wicked Oyster (All Alcohol)
- K. W.H.A.T.-Route 6 (All Alcohol)
- L. D'Italia's (All Alcohol)
- M. Wellfleet Town Pizza (Wine & Malt Regular)
- N. PB Boulangerie Bistro (All Alcohol)
- O. Angry Tomato (Wine & Malt Regular)

MOTION 09-0276: Wood moved to approve all of the above 2010 liquor license renewals except the Wellfleet Marketplace and the W.H.A.T.-Route 6.

May seconded, and the motion carried 4-0.

Wood recused himself from the vote due to his relationships with the Wellfleet Marketplace and the W.H.A.T.-Route 6.

MOTION 09-0277: May moved to approve the 2010 liquor license renewals of the Wellfleet Marketplace and the W.H.A.T.-Route 6.

Houk seconded and the motion carried 3-0.

Appointments

Donovan read a letter of support from Attorney Benjamin Zehnder for the appointment of Lauren McKean to be a member of the Conservation Commission.

MOTION 09-0278: Wood moved to approve the application from Lauren McKean to be a member of the Conservation Commission.

May seconded, and the motion carried 4-0.

Use of Town Property

MOTION 09-0279: Wood moved to approve the application from Kim Shkapich of Wellfleet Preservation Hall to use the backyard at 335 Main Street for a Holiday Bazaar from 10am to 2pm on Saturday, December 5, 2009 and from 12noon to 4pm on Sunday, December 6, 2009 (Rain Date: Sunday, December 13, 2009).

May seconded, and the motion carried 4-0.

New Business**Proposed Annual Employee Holiday Party**

MOTION 09-0280: Wood moved to approve the request for the annual Town of Wellfleet employee holiday part from 1:00 to 4:00pm on Tuesday, December 22, 2009 at the COA.

May seconded, and the motion carried 4-0.

Discussion of Fire Dept. SAFER Grant Application

Fire Chief Dan Silverman explained that the SAFER grant money would be used to create two new fulltime firefighter positions to supplement the fulltime daytime staff. He explained that the majority of fire/rescue calls occur during the day and that the call firefighters/paramedics/EMTs are employed full-time elsewhere and cannot easily leave their employment to respond to daytime calls. Silverman acknowledged that adding these two positions will not eliminate the need for the call department, and would not eliminate the need to pay overtime. But, if the fire department could have these additional fulltime firefighters/paramedics on staff, it could offset cost of overtime to cover scheduled and unscheduled absences of the regular fulltime firefighters/paramedics.

Silverman noted that this grant offers a unique opportunity to address the daytime shift staffing issues, and take advantage of stimulus money to delay the hiring costs for three years into the future. We can get three years for the price of one, and will not have to pay for it until almost 2013.

Wood suggested the need to look at cutting back other positions through regionalization efforts; not just within the Fire Dept. but the Town as a whole.

Houk asked if the grant money would cover 100% of the salary and benefits. Silverman said that 100% of salary and benefits is covered, but the grant money would not cover any overtime. Silverman also noted that the grant positions will reduce the overtime of the career staff, but even they are supportive of this program despite that effect.

As a follow-up to Wood's question about regionalization, Donovan asked whether several towns could apply for the SAFER grant regionally to provide several firefighters to choose from. Silverman said that there are other grants that are regional grants, but he is not aware that the SAFER grant can be applied for regionally. Silverman also noted the small window of time in which to apply for the grant – from November 16, 2009 to December 18, 2009.

Wood noted that most calls are EMS calls, not fires. He feels that Silverman is seeking to hire firefighters when what are really needed are paramedics/EMTs. Silverman agreed that most calls are EMS calls, but that he is trying to address the staffing

situation and overall fire/EMS needs of Wellfleet by having cross-trained firefighters/paramedics on staff.

May asked how many transports from Outer Cape Health Services to Cape Cod Hospital typically take place. Silverman explained that the department has approximately 450 transports to Cape Cod Hospital per year, 50 of which are from Outer Cape Health Services.

Houk asked if Town Administrator Sieloff had any comments. Sieloff expressed concerns about the budget and the cost of hiring two additional fulltime staff at such an uncertain time. Sieloff said that the Town has real financial challenges ahead of it, and should think carefully about adding any new fulltime staff. Sieloff encouraged the board to be very cautious when reviewing this proposal, taking into consideration that 70-80% of the annual budget is related to employee costs.

Houk asked if new positions would be union positions and if there would be the typical union issues should the Town decide later on not to continue to fund these positions. Silverman said that they would be union positions and that the normal discussions would need to take place should the Town decide not to keep these positions.

Silverman explained that the Town is not obligated to take the money if the grant is awarded. He advocated bringing it to the Annual Town Meeting and to ask the voters opinion on whether this is an essential service that they wish to fund.

Wood suggested continuing this discussion to the next Selectmen's meeting on December 8th so that Silverman can present this to the FinCom, who will also be present. Silverman agreed and added that he had also forwarded the proposal to the FinCom last week.

Water System Project Change Order Proposal

Board of Water Commissioners member Emily Beebe explained that they are seeking an additional \$107,600 for design elements for a "spring phase" of construction including three additional water main add-ons. There are a total of eight add-ons, but we are looking at doing only three of them in the spring. Design monies will be used to survey the roads, perform soil borings, delineate wetlands, and put together plans so that projects can be properly bid.

Wood asked how many potential customers these projects would serve. Beebe did not have an estimate, but explained that this phase would close a loop in one area of town and would be within the money that was already appropriated for the project. Beebe explained that connection to the water system is voluntary, so there is no way of knowing how many customers this would serve.

Houk asked what would happen if they don't get the grant and what would the connection fee be for a condominium. Beebe explained that the connection fee would depend on the size of the unit, so she cannot say what the amount would be without specific unit information.

MOTION 09-0281: Wood moved to approve the water system project change order for design of additional water mains as discussed.

May seconded, and the motion carried 4-0.

Private Road Improvement Program

Sieloff explained that this was a program brought forward some time ago by the DPW Director Mark Vincent to address the repair and maintenance of private roads within the Town of Wellfleet.

Donovan explained that tonight's discussion is simply to decide whether the Town, through the DPW, would like to move ahead with a private road improvement program.

MOTION 09-0282: Wood moved to give DPW the go ahead to develop a private road improvement program.

May seconded, and the motion carried 4-0.

Proposed Grant of Exemption from Conflict of Interest Law for 2009 and 2010

Donovan explained that there are many situations in which part-time employees, particularly with the Fire Dept. and Building Dept., provide services to the Town in another professional capacity. In a small community, it can be challenging to find people who are completely independent of the Town to provide such services.

Sieloff explained that the Town is seeking to grant exemptions from the state's conflict of interest laws to three individuals for 2009 and 2010.

Wood asked whether Town is required to look everywhere else to get the services before hiring people who have connections to the Town in some way. Sieloff explained that the requirement is for a fair and open procurement process, but there is no requirement to look exhaustively for alternatives.

MOTION 09-0283: Wood moved to grant exemption to William Grozier, Sean Donoghue, and Stephen Pechonis from conflict of interest law for 2009 and 2010.

May seconded, and the motion carried 4-0.

Discussion on Request for Use of Town Seal

Sieloff explained that the Town has recently learned at least one individual has been using the Town Seal without permission on his website, but the individual has been very cooperative and removed the image from his website when asked. Sieloff said that he was asked by the individual to seek the board's permission to use the Town Seal on his website and was interested in hearing the board members' thoughts on the matter.

Wood expressed that he believes that Town Seal should be reserved for official Town use only.

Houk commented that he has heard from a number of people around town that the website in question is very good and not controversial, but he is inclined to agree with Wood about the use of the Town Seal.

Wood reiterated, and Donovan, Houk, and May agreed that the Town Seal should be reserved for official Town use only.

Proposed Letter to Registry of Motor Vehicles

Donovan explained that Wellfleet is going to make another effort with its neighboring communities to make an appeal to the RMV to keep open the office in Eastham. A draft letter has been circulated to the Towns of Eastham, Wellfleet, Provincetown, and Truro by David Schropfer of the Inter-Municipal Co-op Committee, which the board is being asked to support and sign.

MOTION 09-0284: Wood moved that we support the effort and sign the letter to the RMV requesting it to keep open the office in Eastham.

May seconded, and the motion carried 4-0.

Update on Fall Tax Bill Status

Donovan read aloud a further explanation from Town Collector Marianne Nickerson of the delay in issuing the fall property tax bills.

Sieloff explained that the Town Collector will accept payments before December 31, 2009 so that people can qualify for credit on their income taxes.

Discussion on Proposed Changes to Canoe Rack Rental Program

Beach Administrator Suzanne Thomas explained that, in 2001, the Beach program got permission to build six racks at Gull Pond to store canoes. Responsibility for the program was later shifted to the Harbormaster for a time, then back to the Beach program. Then, permission was granted to double the number of racks to 12. There are approximately 75 useful spaces out of the 12 racks, for various reasons. Approximately \$3,400 of income is generated annually from rental of the rack space, but the number of hours spent on canoe issues is considerable. Thomas estimated that 15% of her time in season is spent dealing with issues concerning the Gull Pond canoe rack rentals. The fact that this relatively minor revenue source is taking up so much time is an indication that it is not being managed appropriately. Thomas explained that a meeting was held recently with Town Administrator Sieloff, Recreation Director Becky Rosenberg, Harbormaster Mike Flanagan, and Thomas to discuss what could/should be done to better manage the program. They agreed on a proposal to hire an outside company to manage the canoe rack rentals at Gull Pond on full-time basis. Thomas explained that the Town could outsource it with minimum bid of \$3,500 annually.

May suggested that another solution would be that the Town not rent canoe rack space at all. Other towns do not do this, both because it is not profitable and because it is a liability issue.

Donovan reminded the meeting that the inception of the canoe rack rental program was not for revenue, but to curb a problem of people chaining boats to trees, fences, etc. He agreed, however, that it was worth looking into the option of having an outside company manage the canoe rack rental program at Gull Pond.

Approval of ABCC Renewal Certification 2010

Donovan noted that the population estimate has jumped from 17,000 to 21,000 and wondered where this information comes from.

MOTION 09-0285: Houk moved to approve the ABCC Renewal Certification for 2010.

May seconded, and the motion carried 4-0.

Old Business

Discussion of Fee Waiver Policy Draft

COA Director Suzanne Thomas explained the history of the fee waiver program. Thomas explained that she took the existing language that is used to for the state's fuel assistance clients and based her draft on that. Thomas recognizes that there are going to be holes in this draft, and is open to suggestions from others on ways to close those holes and improve the document.

Thomas made three important points:

1. This is an income qualification, not asset based.
2. Town will need to determine how much documentation will be required.
3. The income discussed is gross income.

The board thought that it would be good to have such a program in place prior to the Town's SEMASS renewal to avoid people disposing of trash inappropriately when fees go up.

Wood asked if Thomas has gone as far as possible with document. Thomas said that she is looking for input from the Board of Selectmen and others.

Wood clarified that he is wondering if there isn't some other professional or regional organization that could provide useful input. Thomas agreed that there were such organizations, and that she would happily use her contacts to get more information and ideas.

Proposed Fee Modifications:

Zoning Fees – Sieloff explained that the ZBA has come forward with a suggestion for certain increases to the zoning fees. The board felt this was positive, since the ZBA proposed the fee increases themselves.

COA Sound System Fee – COA Director Suzanne Thomas explained that that this fee would be for private groups sponsoring events at the COA. The fee would cover the cost of repairs and use of the sound system. She noted that this fee is common in other towns.

Beach – Sieloff explained that Beach Administrator Suzanne Thomas proposed to increase the Resident Sticker Fee from \$15 to \$25.

Building Dept. Fee – Sieloff explained that Building Inspector Paul Murphy has proposed a .05 increase to each of the series of fees based on square footage. Such an increase would bring them in line with what other area towns charge.

Summer Recreation and Gull Pond Swimming Fees – Sieloff explained that Recreation Director Becky Rosenberg has proposed raising the Resident fees for regular registration and pre-registration by \$5 per fee category.

Recreation Off-Season Sports Program Fees – Sieloff explained that Rosenberg also proposed a new fee of \$15 per child per sport for off-season programs such as soccer, basketball, baseball, and softball. The Town does not currently charge such a fee, but Rosenberg thinks it would be a good idea.

Sieloff added that the Recycling Committee met today and recommended establishing a non-resident, annual swap shop pass for \$1000 per year.

Sieloff also recommended language to be added to the Marina, Shellfish, and Transfer Station rules requiring a minimum payment of taxes in order to qualify for taxpayer status for moorings/slips, shellfish permits, and transfer station permits.

Wood explained that he is sympathetic to the proposed ZBA fees, the COA sound system, the Building Dept. fees, and the Recreation Dept. fees, but that he is not sympathetic to raising the Resident beach sticker fee.

Houk said that he does not want to see any fees being raised on residents, particularly in these difficult economic times.

Building Needs and Assessment Committee

Donovan asked for a follow-up on the BNAC requests concerning boilerplate language for RFPs for work on Town buildings, questions about the solar panels at the Fire Station, and software for the DPW to manage maintenance and scheduling of repairs on Town buildings.

Sieloff explained that he was working with the Town's IT Consultant to develop our own program, as there is apparently no such software commercially available.

Minutes of 11/10/09

MOTION 09-0286: May moved to approve the minutes of November 10, 2009.

Wood seconded, and the motion carried 3-0. (Houk did not vote since he was not present at the last meeting.)

Adjournment

MOTION 09-0287: May moved to go into executive session and not return to open meeting. Houk seconded.

Houk, May, Donovan, and Wood each said, yes, and the regular meeting was adjourned at 9:35p.m

Respectfully submitted,

Susan Cox, Executive Assistant