

**MEETING MINUTES
BOARD OF SELECTMEN
October 29, 2019**

Present: Anthony Vegnani, Chairman, Shawn Harris, Vice Chairman, Karen Canfield, Clerk, Karen Connolly, Maura Curran

Also present: James Boudreau, Town Administrator

The Meeting was called to order at 7:03 p.m.

Acceptance of Agenda

Mr. Harris made a motion to accept the agenda for October 29, 2019

Second by Ms. Curran Unanimous vote (5-0)

WALK INS – none

REPORT OF THE TOWN ADMINISTRATOR

1. Field Update: The project is on-time and on-budget.
 - o The field should be ready for the Thanksgiving football game against Hingham. Bleacher installation is on-going:
 - o Visitor bleacher installation today
 - o 10 and 12 row units for the home side will be delivered on Thursday and installation will commence
 - o Press box is currently scheduled for delivery next Wednesday
 - o Track installation is on-going
 - o Rain is slightly delaying surfacing install because it is an extremely moisture sensitive installation process.
 - o Fencing system installation is on-going
 - o Restroom/concession building foundation work is scheduled for early next week
 - o Electrical transformer pad inspection is scheduled for tomorrow - primary electrical installation will follow
 - o Scoreboard is scheduled for delivery and installation the week of 11/11

The Field will be ready for and opened for the Thanksgiving game, but the work will not be completed at the site, particularly the concessions building and finished items like driveway entrance pillars, etc. . After the Thanksgiving Game the field will be closed and returned to the contractor.

2. Related to the fields, we have the issue of what the Board wants to do with the money from Toll Brothers which we received for work on athletic fields in lieu of constructing a field at the Wompatuck School. JV baseball has been particularly vocal as the JV field is gone with the construction of the softball diamond at the high school. Two options would be behind the old gates and central field. I will put on our next agenda and have recreation in to discuss.
3. The new, donated flag pole has been installed at the Public Safety complex. Thank you to Tony Meschini for his generous donation. The old pole will be installed at the library.
4. Water. Ice pigging is done for the fall. We are continuing our flushing program. The last week or so has provided us with some more water, so we will keep going. Once we get the report on how much material was removed from the pipes by the ice pigging, we will share it with the BOS. We

are pleased with the results that we have gotten thus far from the ice pigging and the flushing. We will evaluate our progress in the spring and determine if more ice pigging is needed.

5. Budgets have been submitted by the Town Departments to the finance office for review. Nancy and I are in the process of reviewing 48 department budgets totaling \$56.9 m in requests (does not include the school budget). This week we will be meeting with 26 members of the staff (department heads etc.) to review their budgets with a tentative presentation date of 11/19/19 to the BOS. That is also the date for the BOS to hold our tax classification hearing.
6. The Town received two reimbursements from FEMA for Storm Riley of March 2018 last week. \$86,663.01 reimbursement for emergency seawall and sidewalk repairs and \$6,457.50 for fence and stone wall repairs. We have filed 21 claims for Storm Riley with FEMA totaling \$5.1. Those claims are in various stages of approval.
7. Regional Sewer meeting next week. Will get an update at that time.

SCHEDULED ITEMS:

Wind Turbine, Al Bangert

BACKGROUND

- The Scituate wind turbine was put into operation on March 29, 2012.
- Several residents have complained that the turbine makes sounds that disturb them under certain wind conditions. The complaints occur primarily during late spring, summer, and early fall nights.
- After a study to determine wind conditions that generated the annoyance, the BOS asked Scituate Wind to implement a mitigation program in 2017 that would shut down the turbine when those conditions existed between 11pm and 6pm from June 1st to October 15th.¹
- In May 2018 the BOS awarded a \$50,000 contract to Epsilon Associates to conduct a wind turbine noise compliance test. Epsilon worked with the DEP to establish an agreed upon “Sound Level Compliance Monitoring Protocol” involving 4 Scituate locations² and specific wind conditions. Monitoring for wind conditions commenced in March 2019.

DISCUSSION

- Epsilon has completed 3 of the 4 evening noise tests³ generating 12 pieces of data. Once the 4th evening of data gathering has been completed, they will analyze all 16 pieces versus DEP regulations and supply the Town with a full report.
- Currently testing is at a standstill since the turbine has been out-of-service for repairs. It is not expected to be back in service for several more weeks.
- At this point we may have enough data to complete the analysis. I conferred with the folks at Epsilon who believe they can get the 4th set of data yet this fall once the turbine returns to normal operation. They suggest that we stay the course through December and decide to abort if they cannot get this last data set by 12/31. They have set aside time in January to complete the tedious data analysis and can deliver a final report in early February.

RECOMMENDATION

- Continue to monitor for wind conditions and complete the 4th set of data. If this cannot be accomplished by December 31st, instruct Epsilon Associates to discontinue testing, conduct the data analysis, and deliver a final report concerning turbine compliance/non-compliance by early February 2020.

¹ This mitigation program has been implemented every summer since then.

² McKeever residence, Dardi residence, Karlsberg residence, Vitali residence.

³ 4/18/19, 7/31/19 and 10/1/19.

Ms. Connolly is confused about the conditions needed for testing. Mr. Bangert said in 2017, the Board of Health tracked all reports and correlated the complaints to the conditions while complaints were occurring. The DEP developed the test protocol that is being tested with the wind turbine company. The wind conditions necessary to test are the wind conditions at the top of the turbine. Ms. Curran finds it difficult to understand why it has taken over a year to obtain the data. Mr. Bangert said they have to predict what the conditions will be and get the team together to get the testing. Mr. Bangert said our contract protects us for compensation if the wind turbine falls short. Ms. Canfield asked if we would get all the data. Mr. Bangert said yes, we will get all the data. Ms. Canfield asked what is the mechanical problem. Mr. Bangert said there is a piece of equipment in the turbine that is indicating an overheating condition and the turbine shuts off automatically. It has been a problem for 18 months. The experts are in Austria and Romania. They are getting closer to finding the problem. Mr. Vegnani said everyone is frustrated that it has taken so long to get the testing done. Ms. Connolly asked if the company has the data to date. Mr. Bangert said we have millions of pieces of data that is put into an algorithm and there is an \$8000 cost to determine the test results. Mr. Bangert said the other option is to analyze what we have and provide additional funding to analyze the final result.

Surplus Auction, Jim Boudreau, Town Administrator

Mr. Boudreau said the Town has accumulated surplus items, vehicles, and old school equipment and would like to hold an auction. The Selectmen were provided with a copy of the Department Inventory of auction items. Bids were sent out and an online auctioneer has been identified to use at no cost to the town. The funds go back into the general fund.

Move to approve a surplus auction to dispose of obsolete items. Motion by Ms. Canfield second by Mr. Harris Unanimous Vote (5-0)

Rick Murray 16 Colier Road asked if the boats were initially purchased with enterprise funds and if so can the proceeds from the auction be returned to the enterprise fund. Mr. Boudreau said yes the money for anything purchased from the enterprise fund would be returned to the enterprise fund.

Resolution to Notice of Non-Compliance Turbidity Violation, Sean Anderson, Water Superintendent & Kevin Cafferty, DPW Director

Last September the Water Department was in to see the Selectmen regarding the violation of the clarity of the water. The plan was to shut down the plant and complete all the work to fix the problem. This work was completed. The letter was just issued this October regarding the issue 13 months ago. Jim McLaughlin from the DEP (Department of Environmental Protection) stated in a letter to Sean McCarthy, DPW Water Superintendent "We received your response to the turbidity NON-CSA today and that action has been closed out in our database. Thank you very much for your rapid response to resolve this situation. I also applaud the entire Scituate Department of Public Works for your work this year to overcome serious challenges with your water system. Although many of your customers are still frustrated, you are taking the proper managerial, financial and planning steps necessary to repair your aged infrastructure." This is very positive feedback from the DEP and Mr. Boudreau wanted to share this with the Board of Selectmen. Mr. Vegnani asked Mr. McCarthy and Mr. Boudreau to pass along their thanks to the Water Department.

MassWorks Contract Amendment Request to change type of system and length of contract for Cedar Point, Jim Boudreau, Town Administrator

Mr. Boudreau said this is the formal request to change the scope of the work and the contract end date. We had two bidders to do the engineering work necessary for Cedar Point.

Move to approve the amendment to the MassWorks Contract to change the scope of the project to a new gravity sewer system and the contract end date to June 30, 2022. Motion by Ms. Connolly second by Ms. Canfield Unanimous Vote (5-0)

Shellfish Aquaculture Regulations

1. Waterways Commission, Brian Kelly, Chair
2. Shellfish Advisory Committee, Susan Harrison, Chair
3. Tom Shields, South Shore Regional Supervisor, MA Division of Marine Fisheries
Mike Dimeo, Shellfish Constable, Jamie Davenport, Jeff Palmer, Craig Rosenquist; Shellfish Advisory Committee Members also Shawn Harris, BOS Liaison, Jack McInnis, EDC Liaison

As a follow up to the 10/1 meeting Ms. Harrison prepared a bullet list of items. She has provided a list of items to review this evening. She is requesting approval from the Board of Selectmen to move forward with the regulations that are not site specific.

Fees: The fee can be raised from \$25 to \$100 an acre if we petitioned the legislature via a home rule option to request this change. A five year budget was provided to the Board.

Feasibility of Briggs Harbor/Bassing Beach: The Committee provided an updated picture of Briggs Harbor/Bassing Beach map to include a recreational usage lane. This can be modified and changed and is not part of the regulations. This is a starting point for a pilot for 17 acres. The location does not need to be decided tonight. Ms. Canfield said the Board charged the Shellfish Advisory Committee with coming up with regulations for aquaculture. The second piece is how this is rolled out and what it will look like. Community engagement would be the next steps. Ms. Canfield would like to get through the rules and regulations tonight.

Mr. Vegnani said the main issues to discuss tonight are: Fees, transferability, how do you determine who gets the license, Cohasset neighbors need to be on board.

Recreation:

Jackie Fandell, 147R Glades Road, Recreational use should be considered.

Garrett Banks, 128 Indian Trail, Damage recovery when things wash ashore and who is re

Robert Thorndike, Glades Road asked if we are asking at other sites or is this the only option.

Peter Marathas, 20 Wood Island Road said it appears that structures get built and will the regulations address the structures. Yes these are addressed.

William Graham, 14 Tilden Avenue, Floats and docks at growing area would be allowed? It needs to be in the rules and regulations

Donna Dunn, 26 Kathy's Path, Are there other areas that may be a possibility? Mr. Vegnani said there are other areas being considered.

Kitty Ames 950 Glades Road Will there be lights at night in this area? No, lights will not be used. Mike Dimeo said it is illegal to shellfish at night and there is no need for lights. They will add something about lights to the regulations.

The draft regulations are posted on the Waterways site and the Shellfish Advisory page also on the Town of Scituate website.

There is a separate application to get a float. You have to apply in the town and the state. There is language in the regulations.

The board has the right to condition the issuance of a license. The board asked that this be added to the guidelines.

Holly Whiteside, 1000 Glades Road asked how the land will be accessed. Mr. Davenport said they would be accessed by boat, there is no access by land.

Passive recreation is allowed all through this area. The regulations allow for passive recreation. The farms are 18" and there are 5 hours the farms are exposed. A channel was created for boating and recreation. Water skiing and tubing is not allowed in the area and should be currently monitored and enforced. This should be a no wake zone now. Harbormaster Mone said no motorboats within 150 feet from shore. Ms. Canfield said in the regulations it says no license shall be allowed to obstruct navigational waters.

Beth McGrath, Tilden Ave wants to challenge the depth of the water. She believes it is 4-6 feet. Tim Davis chairs the harbor committee in Cohasset. In general he said the community is concerned about this project. It is highly used and anything approaching this would severely impact this area. The channel into Briggs Harbor is currently used with lobster traps and used for fishing. Mr. Dimeo said lobster traps should not be impeding navigation. DMF would go out to do site inspections. Farms have to be 25 feet from eel grass.

Resident is concerned in the summer boats are coming in the opposite directions. Paddleboards and kayaks are used in the area. She is concerned at low tide you would see traps. She thinks it is going to be a big impairment for passive recreational use.

John Tedeschi, 1 Jericho Lane has lived in the area and this is a different area than the lobster traps.

Resident said there will be insurance for the aquaculture.

Resident wants to be sure the sailing club will not be impacted. The Cohasset sailing program and Cohasset yacht club has a youth program 9 am to 4 pm and has been in use for decades.

Resident asked who will monitor this area and the answer was the Shellfish constable and the harbormaster as well as the police and the environmental police.

Resident asked if there would be any restriction to get to the beach for boats or kayaks? There will not be any restrictions.

Resident asked if the underwater structures will be marked. DMF requires the four corners be marked and that is the extent of it. Does the equipment have to be marked with a danger sign and the answer is no, this is the corner buoys only. In section 8.4 it says the farmer has the exclusive use of the water and they have the exclusive use to take shellfish. The committee will remove the "exclusive use of the water".

Mr. Vegnani said if we can move forward with the sense that this is going to happen and work to improve it. If you see something is wrong submit the recommendation to improve it.

Resident asked if it can be proven that things go out to sea. She would like confidence that the debris does not end up at the glades. Clean up and removal of equipment is in the regulations. The resident also asked who to report issues to and the response was the shellfish constable. There is a turnaround time in the regulations. Resident asked how to prove whose equipment it is. The current regulation says 15 days to clean up. Ten days is reasonable and they will revise the regulations from 15 to 10 days. State

employees have the right to access any properties. We will have to check on the regulations for the Shellfish constable to access if approval is granted.
Each site will be evaluated for recreation use.

Clean up:

Resident said when the storms come in everything will be washed up to the marshes. By having the aquaculture systems in place they may end up in the marsh and damage the marsh.

Resident asked what the rules are to clean up the marsh. Ms. Curran said whatever the rules are today, there will be no change. You can clean up debris you just cannot put trucks on the marsh. Mr. Davenport showed a picture of aquaculture equipment and the business can live side by side with recreation and are environmentally sensitive. Farmers take the necessary steps to insure they are not making a mark on their surroundings. A bag or a cage could show up in the marsh after a bad storm. There is not tons of junk that goes into the marsh. Ms. Connolly asked if anyone inspects the farms. Mr. Davenport said there is no inspection but the shellfish constable is a set of checks and balances and the license. Ms. Connolly asked how we ensure how these are done properly. Ms. Harrison said there could be checks and balances with early inspections. Ms. Connolly said this is a pilot program and we can see how it goes. We are a fishing village and this is not out of the realm of our culture. The board agrees there needs to be a clause added for inspections. Mr. Vegnani requests that a fee be added for inspections.

Robert Thorndike, 220 Gannet Road and 1000 Glades Road said there is a velocity zone behind Glades Road and the Cohasset wastewater treatment plant is an issue and the dumping of chlorine into Cohasset Harbor.

Resident Bill McCullen 18 Tilden Avenue said up until tonight the pilot should be 3-5 not 15-17.

A resident asked where is the public access points where residents could see this. Mr. Harris said he went down to Glades Road and these are ¼ mile from the homes. These are further away than he thought.

Gary Banks, Indian Trail thinks 10 days is a long time after clean up and could we shorten the time frame. Mr. Vegnani asked to change it to 7 days after the storm ends.

Resident asked for a time frame for a review if this is a viable plan. Mr. Vegnani said this would be in the guidelines of the pilot.

Cohasset:

Mr. Vegnani said there needs to be input from Cohasset. Ms. Canfield said recreation is a major concern based on the letter received late this afternoon. Mr. Boudreau said the regulations state the applicants must be Scituate residents. Cohasset is interested in participating in this with Scituate. Ms. Curran asked if there was official communications. Mr. Boudreau said it is official and he has met with the Town Manager and Waterways has had meetings with Cohasset community members also. We would need an agreement with Cohasset. There needs to be some language in the regulations to allow other communities to participate. The board would like to add to the regulations that the board reserves the right to waive residency requirements. Ms. Canfield said this is an economic development initiative for the Town of Scituate.

Bob Wigmore, Scituate asked if the fishermen can offload fish and will we be able to offload oysters. Chrissy McCormack of Cohasset said they have limited space at the town pier to unload oysters. Mr. Tedeschi said there were over a dozen mooring boats that worked out of Parker Avenue that unloaded moss over many years. Governors Island is 50/50 Scituate/Cohasset. If they can do it, we can work in harmony and figure this out. David Sincoski said this is a tax payer business model and there should be a

fee for non-residents. Ms. Canfield said a memorandum of understanding could cover this. Non-residents could be charged another fee. Members of the board discussed leaving the fee the same for residents and non-residents farming.

Tim Davis would like an environmental impact statement and the DMF would do this. Mr. Davis wants to be sure of the impact to sailing programs. The committee will look at this. A resident said boats do use Cohasset harbor and the channels need to be reviewed. A resident asked if the assumption would be access via Cohasset she is concerned about the Minot parking lot.

Fees:

Fees were discussed to add an inspection fee.

A resident asked if the money coming in could run up to \$30,000. Mr. Vegnani said this is not a profitable venture. There are other benefits to this.

Donna Dunn, Kathy's path asked if the farmers are charged local taxes and the answer was no. They pay state and federal taxes.

Transferability:

Mr. Harris sees the value of the board allowing a transfer. Ms. Connolly said at this point she is not in favor of a transfer. It would be too hard for the board not to transfer the license. Ms. Curran agrees that she is not in support of transferring licenses. Ms. Canfield said this is different than moorings this is a small business. The value of the small business is in the existing farm. On the other side of it, it would be in the best interest of the farmer and the town that you could require the farmer to provide an opportunity for the next person on the waiting list. The state's position is that nobody owns the land and the Selectmen have control over who access the land. What you are selling is the content and name of the business not the land. Tom Shields said a lot of farmers transfer to family members. A lot of towns keep a waiting list. If the board decides to keep it in the family, that's fine. It is an issue for a lot of towns. Rick Murray, 16 Collier Road is expressing his personal views. Oyster farming is a positive thing for the town and everything can get worked out that was discussed tonight. He is against the idea of transferability for a variety of reasons. The control of the selection needs to stay in the hands of the town. If the outgoing entity is going to be choosing they will do so for their own best interest but it may not align with the town. In terms of recouping investments that is a compelling point. The board could decide if they want to transfer or go to the next person on the waiting list. The decision needs to stay with the board. The outgoing entity can sell their equipment to the incoming person. Mr. Harris said the board has the right to deny a transfer. Mr. Murray said yes but it puts a lot of burden on the board and it could end up going to court. The wording could be the outgoing entity could recommend. Ms. Curran asked Mr. Murray his thoughts on the right to inherit. MGL states that it shall have the right to inherit. A resident said the town might consider a 20 year lease. Ms. Connolly's concern is the issue of transparency and the Selectmen may not know what they sold it for. She does not want to see an underground market for these. Mr. Davenport has been farming for 12 years and the only scenarios he could see to transfer his business is to his three young boys or a long time farmer who works for him. The majority of towns allow transferability and it is managed differently. Some towns charge for it and we can find a compromise that makes it more transparent. The list should be a prequalified list not a "wait list".

Dave Friedman, Oceanside Drive is against transferability. Whatever decision the board makes will be controversial. He said the business does not require a big capital investment. He is against a transfer.

Another resident said he is against the transfer of a license and thinks it should be a lottery system.

Mr. Murray disagrees with a 20 year cap on the use of the land. He thinks if there is a family who has kept this in the family they should be allowed to keep going with it. His only concern is outside of that to another party.

A resident said she agrees with the restriction of transferability. She does feel within the family it is reasonable to transfer the business.

A resident said the transfer should be allowed to a family member. People who are on the list should be the first ones to have a shot at it.

Mr. Davenport said there is an article that talks about family farming and should be allowed to stay in families.

The board agrees to make it transferable to immediate family members only per MGL definition who satisfies all required conditions.

Selection Process:

The Board of Selectmen discussed the criteria for selecting a farmer. Ms. Canfield suggests the board may develop the criteria with ranked recommendations.

Brian Kelly said one of the problems Waterways saw was the potential conflict of interest. Applicants should not be developing the process for rating the applicants. Mr. Vegnani said those members of the Shellfish Advisory and Waterways Commission should recuse themselves or resign from the committee during the next phase of determining the selection process if they are interested in being considered as an applicant. Another resident said the Waterways Commission could review and rank but there is a conflict of interest. He doesn't see how the Board of Selectmen could be impartial. The application process needs to be rigid enough to only get qualified applicants. Another applicant asked if there were more applicants than there was space to accommodate. There were about 15 people interested at the public meeting. Mr. Boudreau said having a bias is not illegal but having a conflict of interest is illegal. Ms. Connolly said they are elected to be trusted and should be able to make a decision. The board discussed lottery process and selection process. Mr. Vegnani said everyone will not be equally qualified. Ms. Curran said there could be a matrix. Mr. Vegnani said the board can decide how they would like to select at a future meeting.

Mr. Shields said there are multiple levels of approval that are required for license holders. Mr. Vegnani thanked everyone that has been involved and unfortunately it is tedious work. It is a dynamic document that can change. Mr. Vegnani thanked both boards for their hard work. The Selectmen will meet after town meeting to determine what the pilot program will look like and the shellfish committee will be involved. Ms. Curran would like a red line version to review of the regulations. A resident asked what the proper way to obtain changes in the plans would be. Ms. Harrison, Chair of the Shellfish Advisory Committee, will post the regulations online and indicate where copies will be available.

The board will vote when the amended version of the regulations is completed and reviewed at a future meeting after the Special Town Meeting.

NEW BUSINESS:

1. One Day Wine & Malt Applications
 - a. Ellen MacKenzie @ Out of the Blue on 11/1 5-9 p.m.

The Selectmen would like a note with the license that the alcohol cannot leave the premise. Move that the Board of Selectmen approve a One-Day Wine & Malt licenses to Ellen Mackenzie for an event at Out of the Blue, 124 Front Street on November 1, 2019 from 5:00 - 9:00 p.m. Motion by Ms. Curran second by Ms. Connolly. In Favor, Connolly, Vegnani, Harris, Canfield and Against Curran motion passes (4-1)

OTHER BUSINESS:

1. Liaison Reports

Mr. Vegnani said the Recreation commission spoke about Steverman Park and a JV baseball field.

Ms. Canfield said the Planning Board hosted second master plan community meeting and the next one is 11/12 at the Gates Middle School

Ms. Curran said the golf committee reviewed preliminary plans for the clubhouse and they will be coming before the Board of Selectmen. The 1Q was the best it has been in 10 years. The Affordable Housing Trust is working with the planning board on the housing plan.

2. Correspondence

Fundraiser for John Reidy this Friday night from 7-11 at the Red Lion Inn to support the Reidy family.

3. Approval of Meeting Minutes

Move to accept the minutes for the October 1st and October 15, 2019 Board of Selectmen Meetings. Motion by Mr. Harris second by Ms. Connolly Unanimous Vote (5-0)

It is Ruth Thompson's birthday tomorrow and the Board of Selectmen recognized Ruth and thanked her for her hard work.

4. Adjournment and Signing of Documents

Mr. Harris made a motion to adjourn the meeting at 10:47 p.m. Second by Ms. Connolly Unanimous Vote (5-0)

Respectfully Submitted,

Lorraine Devin, Recorder

List of Documents for October 29, 2019 Board of Selectmen Meeting

- Agenda
- Wind Turbine Update
- Letter from DEP Non-Compliance Turbidity Violation
- MassWorks Contract Amendment Request
- Shellfish Committee Presentation
 - Shellfish Aquaculture Draft Regulations
 - Correspondence regarding this topic
- Correspondence
 - Beach Commission Sticker Design
- Meeting Minutes for October 1, 2019 and October 15, 2019

BOARD OF SELECTMEN

Anthony V. Vegnani, Chairman

Shawn Harris, Vice Chairman

Karen B. Canfield, Clerk

Karen E. Connolly

Maura C. Curran