

Board of Selectmen, August 20, 2013

MINUTES OF MEETING

BOARD OF SELECTMEN

AUGUST 20, 2013

Present: Shawn Harris, Chairman; John F. Danehey, Martin J. O'Toole, Anthony V. Vegnani

James Toomey, Town Counsel

Press: WATD, Boston Globe, Patriot Ledger, Scituate Mariner

1. The meeting was called to order at 7:00 PM.

2. ACCEPTANCE OF AGENDA/ WALK-IN PERIOD

Mr. Danehey made a MOTION that the Board of Selectmen VOTE to ACCEPT the Agenda for August 20, 2013. SECONDED by Mr. O'Toole. No discussion. Unanimous vote. (4-0)

There were no walk-ins.

3. MEET APPLICANT/ Council on Aging

Deborah Young, 17 Maple Avenue, has lived in Scituate since 1989 and is interested in learning more about and assisting the aging population. She currently participates in some activities at the Senior Center. She believes the seniors deserve respect and she would like to assist their families, as well.

4. DISCUSSION/ VOTE/ Common Victualler's License/ Sand Hills General Store/ 160 Turner Road

The new owners of the Sand Hills General Store live above the store and are interested in restoring a family oriented store to this location. They would like to make it a dependable store in which the community could gather and do their shopping.

Mr. O'Toole inquired about the store's hours. 6 AM to 10 PM – similar to the store's hours in the past. They hope to open next week pending successful inspections. They have upgraded the interior and plan to offer similar products with a few additions. They hope to add ice cream to their product list next summer. They will sell deli sandwiches, packaged foods and penny candy. Mr. Harris asked them to be very careful with tobacco sales. The entire Board wished them "good luck" with their new venture.

Mr. Danehey made a MOTION that the Board of Selectmen VOTE to GRANT a Common Victualler's License to Sand Hills Group, LLC d/b/a Sand Hills General Store,

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160 Turner Road, Scituate conditioned upon successful inspections by Town Departments. SECONDED by Mr. O'Toole. No discussion. Unanimous vote. (4-0)

5. DISCUSSION/ VOTE/ AT & T Cellular Tower/ Wampatuck School Site

Mr. Harris asked Jim Toomey, Town Counsel to participate in tonight's discussion. Mr. Harris stated that he and other members of the Board have attended recent Zoning Board of Appeals (ZBA) hearings on AT & T's application to place a cell tower at 361 Tilden Road. Edward Pare, attorney for AT & T, and Brook Thompson, AT & T Internal Affairs, were present at tonight's meeting. Mr. Pare stated that the ZBA will make a decision on the 361 Tilden Road site very soon. The Selectmen supported the Wampatuck School

site for a cell tower in 2011, as did Town Meeting. AT & T later withdrew that application and then renewed their interest in the Wampatuck site in early 2013 and were turned down by the Selectmen (2-2 vote). He stated that AT & T has visited 31 sites in Scituate and explored alternative technologies. "We are not here to circumvent the ZBA process. There were concerns with the tower site's proximity to the School. If the Board has the 'appetite' to go back to that site – we would be interested."

Mr. Vegnani stated that this has been a "long path". It is a very difficult decision and "no matter where it is put – it will upset people." The DAS system apparently is not powerful enough to fill the "gap" in this area. Mr. Pare stated that the Town's consultant confirmed the aforementioned information at the ZBA hearing. He further noted that even if the current towers were raised 100 feet – the "gaps" in cell service would still exist. Mr. Vegnani asked if the 0 Niles Terrace site (Town owned property) had been explored by AT & T. Mr. Pare stated that the Niles Terrace site has not been engineered, but will not work for AT & T's purposes. Wetlands are an issue. "Even if a 200' tower was installed at that site, there would still be coverage gaps." AT & T would be willing to work with the Town on an optimal site on Wampatuck's land. Mr. Danehey expressed concern over a cell tower in Wellesley that burned and fell over. Mr. Pare stated that the Wellesley tower was not faulty. A welding repair caught the cables on fire. He further stated that AT & T has placed towers on school and hospital roofs. Any health issues will be "fully vetted". Discussion continued on internal versus external antennae. Mr. Harris asked if AT & T erects a tower at the Wampatuck site, will they still want the 361 Tilden Road site a few years later. Mr. Pare answered "no, and this has been testified to at the ZBA hearing". Discussion continued on tower "fall zones". A 150' tower has a 155' "fall zone". Mr. Pare noted that at the 361 Tilden Road there is only 80' when the tower is centered – so an engineered pole that would "fall upon itself" would be constructed.

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Mr. Vegnani stated that "our biggest concern is health. If there is a health issue, we don't want it no matter what". Mr. Pare stated a health physicist, retained by the Town, does regular testing. He noted the towers situated at the Town Hall/High School site are regularly tested (emissions were found to be less than 1% of the FCC standard). The person has excellent credentials and he will be retained for future hearings. "We will not convince everyone, but hope that people will at least listen to him."

Discussion continued on the fact that since a lease for a cell tower at the Wampatuck site was approved by the 2011 Town Meeting, the Town Administrator may issue a new Request for Proposal and carriers can submit bids. The 361 Tilden Road site ZBA hearing would be dropped if the Wampatuck site goes forward. Carla Breitenstein, 20A Marshall Avenue, read reasons why the cellular tower should not be erected at the Wampatuck School site. She specifically spoke about the effects of radiation emitted by cell towers on children and the possibility of future changes in FCC regulations. Jim Toomey, Town Counsel, stated that "once a provider substantiates a gap in cell service, Federal law takes over and the Town must issue a permit and if they do not, the court will force the Town to issue a permit". Wendy Crone, 17 Gannett Road, stated that the Wampatuck School playground would be within the fall zone as would 3 other areas on the school grounds where children "cut through". She stated that a fire or a storm would create a panic situation for the children and staff. "Elected officials are supposed to be protecting our children." Mr. Harris stated that the Board of Selectmen have 15 children between the five members and that they care very much about safety. Laureen Favre, 23 Cherry Lane, asked if she could move her child into a different school. No answer was recorded. She noted DNA mutations, special needs students and that the International Firefighters Association says that cell towers should not be located on fire stations. Maria Ahearn, 334 Tilden Road, is "troubled by the characterization of the Federal law" (piece) and has read court cases in which local jurisdictions retain their rights. She does not believe that alternatives have been explored in this case and has not seen cell tower antennae in residents' back yards. Mr. Vegnani assured everyone present that the consultant presented 36 diagrams of sites that had been considered. "Every indication is that the tower will be erected on one of these two sites." Mr. Toomey stated that the ZBA also looks into other available sites and can deny a permit if they "FIND" other sites are available.

Tracy Shepherd, 34 Cairo Circle, has attended the ZBA hearings and is working with a neighborhood group to block the 361 Tilden Road site. She is very concerned about the health effects of a tower on children and cited an article from the American Academy of Pediatrics. She is in favor of the DAS system. Nicole Young, 385 Tilden Road, stated that a cell tower erected at 361 Tilden Road would be 60' from her backyard. She stated that the ill effects would be twice as great at her home than if the tower is sited a distance from the school building at Wampatuck. Richard Serkey, attorney for the Tilden Road neighborhood group, spoke

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about a petition article promoting the 0 Niles Terrace site to be inserted in the 2013 fall special town meeting warrant. Mr. O'Toole stated that the Wampatuck area was chosen as a position to improve cell phone coverage along our coast. Mr. Pare stated that the Niles Terrace site would also mean a lot of "redundant coverage to another tower" and would "diminish the ability to get coverage out to the coast". Robin Glazier, 26 Persimmon Drive, spoke about 3 coverage maps and she disagreed with Mr. Pare's assessment of redundant coverage at the Niles Terrace site.

Todd Breitenstein, 20A Marshall Avenue, spoke about the pride Scituate teachers and students take in their schools and their overall sense of safety when attending school. "Constructing a cell tower at the school sends the wrong message. Let's not contradict the right messages the schools send." Mr. Harris noted that almost every child now has a cell phone. He wonders what those cell phones are emitting compared to these towers. He continued by saying that a better look may be taken at Niles Terrace – "if there is a way to do that". Mr. Pare stated that tower emissions are regulated by the FCC and "we do maintain compliance with FCC standards". Ms. Crone stated that the FCC standards are based on a 6 foot adult male. Mr. Danehey stated that the Board of Selectmen and the Zoning Board of Appeals are listening to everything and everyone. The Niles Terrace site might simply "kick (the tower) down the road". "If there are health and safety issues, the tower should not be near anyone. Unless you have creditable evidence – then we have to do what is best for the Town." The Selectmen thanked the audience for their comments this evening and stated that this is a very difficult decision.

Mr. Danehey made a MOTION that the Board of Selectmen VOTE to REQUEST that the Town of Scituate issue a Request for Proposal (RFP) to site a cell tower at the Wampatuck School. No Second to the motion.

The ZBA process will continue on the cell tower site matter.

6. DISCUSSION/ VOTE/ LIBRARY PROJECT/ Scituate Library Foundation

Jessi Finnie, Library Director, and Karen Canfield and Les Ball, Scituate Library Foundation, were present at tonight's meeting. Ms. Finnie summarized by stating that the Library will receive \$5 million in a State grant for Library renovations if the town puts in \$12 million. To date, the Library Foundation has fundraised \$600,000. The average taxpayer will pay approximately \$46/year over a twenty year time period for these renovations. She also spoke about renovation/repair estimates forwarded by Kevin Kelly, Facilities Manager. The Selectmen collectively stated that there are so many important Town projects right now that a decision of this magnitude should really go to the residents. Ms. Canfield stated that they have been working on this concept since

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2005 and that this is a "unique opportunity that will go away". Les Ball gave an update on fundraising with special emphasis on the popular "fish" activity, which raised over \$40,000. He also spoke about the Schools and Library working cooperatively on "getting out the vote".

Mr. Danehey made a MOTION that the Board of Selectmen SUPPORT placing an Article on the 2013 Fall Special Town Meeting warrant regarding the Public Library Renovation project. SECONDED by Mr. O'Toole.

Discussion - Mr. Vegnani stated that an override question will also need to go on the warrant. No further discussion. Unanimous vote. (4-0)

7. DISCUSSION/ VOTE/ FILE SPECIAL LEGISLATION/ 44 Jericho Road Use Restriction

The Harbor Community Building, formerly known as Pier 44, was purchased with MBTA mitigation funds. The MBTA imposed certain “use restrictions” on the property when it was purchased by the Town. The Board is interested in having our State Representative file special legislation which would “open up” how the property could be used.

Mr. O'Toole made a MOTION that the Board of Selectmen VOTE to REQUEST that our elected Representative in the Massachusetts Legislature file legislation on the Town's behalf to remove the use restriction placed on the property at 44 Jericho Road as part of the MBTA's approval of mitigation funds to acquire such property. SECONDED by Mr. Vegnani. No discussion. Unanimous vote. (4-0)

8. ACCEPT RESIGNATIONS/ Public Facilities Master Plan Steering Committee

Mr. Danehey made a MOTION that the Board of Selectmen VOTE to ACCEPT the resignations of Maura Glancy, Jeffrey Dougan and Victor Milligan from the Public Facilities Master Plan Steering Committee. SECONDED by Mr. Vegnani. No discussion. Unanimous vote. (4-0)

9. APPOINTMENTS – Council on Aging, Public Facilities Master Plan Steering Committee, Waterways Commission

Mr. Danehey made a MOTION that the Board of Selectmen APPOINT Deborah Young to the Council on Aging. SECONDED by Mr. Vegnani. No discussion. Unanimous vote. (4-0)

Mr. Vegnani made a MOTION that the Board of Selectmen APPOINT Ann Burbine as an “at large” member and Anne Breen (Commission on Disabilities member) to the Public Facilities Master Plan Steering Committee. SECONDED by Mr. O'Toole. No discussion. Unanimous vote. (4-0)

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Mr. Danehey made a MOTION that the Board of Selectmen RE-APPOINT Peter Toppan and David Glancy to the Waterways Commission. SECONDED by Mr. O'Toole. No discussion. Unanimous vote. (4-0)

10.REPORT/ Town Administrator & “the week ahead” - No report this evening.

11.OTHER BUSINESS – Correspondence, Regular Session Minutes – March 12, 2013 & August 6, 2013

Mr. Danehey made a MOTION that the Board of Selectmen VOTE to ACCEPT the Regular Session minutes of March 12, 2013. SECONDED by Mr. Vegnani. No discussion. Unanimous vote. (3-0) Danehey, Vegnani and Harris voting.

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to ACCEPT the Regular Session Minutes of August 6, 2013. SECONDED by Mr. O'Toole. No discussion. Unanimous vote. (4-0)

Other Business – Mr. Vegnani thanked the band, “The Gathering” for a wonderful Harbor concert last weekend. He also gave an update on the Police Chief search and the fact that there have been some very strong candidates. “The process has gone very well.” Mr. Danehey announced the Sand Hills parade and The Horribles parade (Humarock) over Labor Day weekend. The twelve year olds' baseball team is traveling to Cooperstown, New York this weekend. Mr. Harris attended the FEMA meeting in

Boston last week with the Town Administrator, Neil Duggan (Building Inspector/ Zoning Enforcement Officer), Laura Harbottle (Town Planner) and Pat Galivan (Conservation Agent). Representative Jim Cantwell, a representative from Congressman Lynch's office and Marshfield Town officials attended the meeting, as well. The next FEMA meeting, which is open to the public, will be held in Marshfield on September 4 at the Furnacebrook School.

12. ADJOURNMENT & SIGNING OF DOCUMENTS

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to ADJOURN the meeting and sign documents at 9:07 PM. SECONDED by Mr. Danehey. No discussion.
Unanimous vote. (4-0)

BOARD OF SELECTMEN

Shawn Harris, Chairman

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John F. Danehey

Martin J. O'Toole

Richard W. Murray

Anthony V. Vegnani

Respectfully submitted,

Kimberley A. Donovan
Executive Assistant