

MINUTES OF MEETING

BOARD OF SELECTMEN

SEPTEMBER 4, 2012

Present: Joseph P. Norton, Chairman; John F. Danehey, Shawn Harris,
Richard W. Murray, Anthony V. Vegnani

Patricia A. Vinchesi, Town Administrator
James Toomey, Town Counsel

Press: Patriot Ledger, Scituate Mariner, WATD

1. The meeting was called to order at 6:47 PM.

2. ACCEPTANCE OF AGENDA

Mr. Harris made a MOTION that the Board of Selectmen VOTE to ACCEPT the AMENDED Agenda (addition of Item #12a – “Discussion/Vote/ Award Paving Contract”)for September 4, 2012. SECONDED by Mr. Vegnani. No discussion. Unanimous vote. (4-0) Mr. Danehey was not present for the vote.

3. EXECUTIVE SESSION: TO DISCUSS THE DISCIPLINE OR DISMISSAL OF, OR COMPLAINTS OR CHARGES BROUGHT AGAINST A PUBLIC OFFICER, EMPLOYEE, STAFF MEMBER OR INDIVIDUAL ON THE SCITUATE HOUSING AUTHORITY

Mr. Norton announced that the Board of Selectmen would enter Executive Session to discuss the discipline or dismissal of, or complaints or charges brought against a public officer, employee, staff member or individual on the Scituate Housing Authority. Mr. Norton announced that the Board would be returning to Regular Session and he asked the Executive Assistant to take “roll call”.

The Board of Selectmen entered into Executive Session via roll call at 6:50 PM to discuss the discipline or dismissal of, or complaints or charges brought against a public officer, employee, staff member or individual on the Scituate Housing Authority with Joseph P. Norton, Shawn Harris, Richard W. Murray and Anthony V. Vegnani all answering “yes”.

Ms. Patricia Vinchesi, Town Administrator, and Mr. James Toomey, Town Counsel, remained in the hearing room with the Board of Selectmen for the Executive Session.

The Board of Selectmen exited Executive Session via roll call at 7:07 PM with Joseph P. Norton, Shawn Harris, Richard W. Murray and Anthony V. Vegnani all answering “yes”.

4. REGULAR SESSION CALLED BACK TO ORDER/ WALK-IN PERIOD

Mr. Danehey entered the meeting at 7:08 PM.

Mr. Norton thanked the people attending tonight's meeting for their patience while the Board met in Executive Session. He made the following statement: A tentative resolution has been reached between Maryann Lewis, Housing Authority member, and the Board of Selectmen. The subject of the resolution is being finalized and the Selectmen will attempt to have a public statement on this matter for the media, and otherwise, as soon as possible.

There were no walk-ins this evening.

5. ACCEPT RESIGNATIONS/ Animal Control Board, Cable Television Committee

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to ACCEPT the resignation of Joan Hopkins from the Animal Control Board and the resignation of Kathleen Meeker from the Cable Television Committee and further that the Board thank Ms. Hopkins and Ms. Meeker for volunteering their time and expertise to these groups. SECONDED by Mr. Danehey. No discussion. Unanimous vote. (5-0)

6. MEET APPLICANTS/ Cable Television Committee/ Water Resource Committee/ Library Board of Trustees

Peter Struzziero – Cable Television candidate – stated that with Ms. Meeker, stepping down, he would like to volunteer his time and keep a Library person on the Committee. He moved to Scituate six months ago and would like to be more active in the community. Mr. Struzziero's involvement in the Methuen Cable Access Television was noted by Mr. Murray.

Mark Curran – Water Resource Committee – has been a Scituate resident for twenty and has served on this Committee and the Conservation Commission in past years. Mr. Murray thanked him for his interest in re-joining the Committee.

Nancy Gorman Verseckes – stated that she had served on the Library Board of Trustees from 1999 to 2008. Now that a position has opened up, she looks forward to serving again and seeing what had been spoken of four years ago "coming to fruition".

Mr. Vegnani read Ms. Alise Fandel's letter of resignation from the Library Board of Trustees effective July 28, 2012.

7. JOINT VOTE/ Board of Selectmen & Library Board of Trustees Appoint New Member

Ms. Mary Ellen Gaziano NOMINATED Nancy Gorman Verseckes for the unexpired term on the Library Board of Trustees. SECONDED by Mr. Kevin Carleton. Roll call vote - Lee Vickers, Kevin Carleton, Carol Sullivan-Hanley, Chris Mirarchi and Mary Ellen Gaziano all answering "yes". Richard Murray, John Danehey, Joseph Norton, Anthony Vegnani and Shawn Harris all answering "yes". (10-0)

By unanimous, roll call vote of the Board of Selectmen and the Library Board of Trustees, Ms. Nancy Gorman Verseckes was appointed to the unexpired term on the Library Board of Trustees.

8. DISCUSSION/ VOTE/ One Day Wine & Malt Beverages Licenses/ William Fuller/ Fundraiser at Inly School/ November 2 & 3, 2012/ Benefit for "Homes for Our Troops"

William Fuller, The Bartending Service of New England, LLC, will host and provide TIPS trained and insured bartenders for two evenings of fundraising in the form of a talent show at the Inley School. The fundraising will benefit "Homes for Our Troops". Mr. Fuller's company has been in business since 1992. Mr. Danehey asked if the company has had any liquor violations in the past three years. No.

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to GRANT One Day Wine & Malt Beverages Licenses to William Fuller/ The Bartending Service of New England, LLC for a fundraising event taking place at the Inly School, 45 Watch Hill Drive, Scituate on Friday, November 2nd and Saturday, November 3rd, 2012 from 6 PM to 10 PM each evening. SECONDED by Mr. Murray. NO discussion. Unanimous vote. (5-0)

12. DISCUSSION/ VOTE/ Road Betterment/ Old Mouth Road Subdivision Maintenance Fund/ A. Bangert

Mr. Bangert and Humarock residents Kathy Joyce and Ginny Newcomb were present. Mr. Bangert explained that this is the start of a program voted at the fall 2011 Special Town Meeting whereby residents living on private roads may institute a "private way repair program" in concert with the Department of Public Works (DPW) via betterment payments. This is an alternative program that allows residents to keep their ways private properly maintained. The DPW will "manage" the contractor chosen to do the work. Residents of Old Mouth Road will pay \$125/year for the next five(5) years for a contractor to grade and re-dress their road four(4) times a year. Mr. Bangert noted that Ms. Joyce and Ms. Newcomb worked very hard to get 65% of the residents on their road to sign the "petition" to move forward with this maintenance plan. Mr. Vegnani remembers the Special Town Meeting articles as being more of a "road fix" rather than a maintenance

program. This road will never be paved due to its particular location near the River. He noted that State Law allows residents of a private way to maintain their own way, but this program provides some oversight by the DPW. He further noted that there is a “roadway committee” that insures the DPW is keeping up with their “end of the bargain”. Ms. Joyce noted that the group had applied for and received an Order of Conditions and a DEP number is posted on a pole by the roadway. The Town will issue the betterment to the residents, collect the betterment checks and the contractor doing the work will bill the Town.

Mr. Danehey asked about the remaining percentage of residents on Old Mouth Road who are not “on board” with this plan. Ms. Joyce stated that over the years there has been a “consistently small group that wants the road maintained, but refuses to pay”. Discussion continued on bringing this type of road maintenance “in house” in future years. Ms. Newcomb spoke about the good work the current contractor is doing and that they have not had to bring in any new material for the roadway. DEP is very happy about that. She also noted the erosion of the bank along the River front.

Mr. Murray made a MOTION that the Board of Selectmen VOTE to ADOPT orders, plans and estimates for the assessment of betterments for the purpose of making annual repairs to Old Mouth Road, Ocean Front Street, Court Street, Dream Way, Caesar Way and a section of River Street from Alden to Old Mouth not to exceed \$22,000 over five (5) years. SECONDED by Mr. Danehey. No discussion. Unanimous vote. (5-0)

11. 7:30 PM/ INTERVIEWS/ Treasurer/ Collector’s Position

Pamela Avitabile – is the Assistant Town Accountant in Duxbury and has served in the position for approximately one year. She worked in the Norwell Town offices prior to that time. She has a background in accounting, has done a fair amount of collections and is now learning about bonding in Duxbury. Ms. Avitabile spoke about her work in the private sector as a comptroller, where she managed twenty employees, and her education at Bentley University where she is just a couple of courses “shy” of her PhD. She left her work in the private sector to stay at home with her son. She has completed two years of a three-year program for Treasurer certification. Once completed, she will begin the program for the Collector certification. Mr. Danehey asked how many persons she manages in Duxbury? Ms. Avitabile answered “one in Duxbury and two when I worked in Norwell”. She spoke about being highly motivated and that she learns very quickly. She noted that Duxbury’s current Treasurer/Collector “is not thrilled” that she might be leaving. Mr. Vegnani asked if someone can be a Treasurer/Collector without the certification? Ms. Vinchesi answered that they can, but it is important that Ms. Avitabile is currently going through the certification process. Mr. Harris asked how many hours Ms. Avitabile anticipates putting

into the new position? Ms. Avitabile answered that she usually works from 7 AM to 6 PM, five days a week. She noted that she is at a time in her life where she can give a job all the time it needs. Ms. Avitabile has looked at the Town's Capital Plan and noted many similarities between Scituate and Duxbury, i.e. beach stickers, shellfish permits, moorings, etc. She noted that Duxbury just received a triple "A" bond rating.

Paula Linhares – is currently the Treasurer/Collector in Bridgewater. She was previously in the private sector in an information systems business with her husband. Ms. Linhares has done a lot of work with numbers and general ledgers and enjoys the challenges of that type of work. Ms. Linhares noted that Scituate is "more stable, with more experienced staff which will allow more room to grow as a Treasurer/Collector". She has completed the three years of classes for Treasurer certification and will take the exam next August. She has taken ten classes for Collector certification. Mr. Vegnani noted that Ms. Linhares is an elected Treasurer/Collector in Bridgewater. Ms. Linhares stated that the position is now appointed and she "has it by default, waiting for a new Town Manager" to be named. She has some background in bonding and is learning about enterprise funds. She manages three people in her office and became involved in municipal government in 2010. Ms. Linhares stated that she had not viewed Scituate's capital plan, but had reviewed the Town Charter. She spoke about the Bridgewater School district, borrowing, financial forecasting and long range planning. Mr. Murray asked if Ms. Linhares had thought of any ways in which Scituate could "do better". Ms. Linhares did not know of anything specific, "but there is always room for improvement". She spoke about software designed to improve customer service. She spoke about her interest in being a full time Treasurer/Collector in Scituate and again of her interest in long range planning.

9. PRESENTATION/ DISCUSSION/ Route 3A Roundabout/ Landscape Plan/ Kennedy Country Gardens/ Representative James Cantwell

Mr. Al Bangert, Director, Department of Public Works thanked Representative Jim Cantwell for working with the Town, Kennedy's Country Gardens and Mass Highway to facilitate a way in which Kennedy's can landscape our roundabout. Mr. Chris Kennedy has had a business in Scituate for fifty-two years and he and his family would like to have the roundabout under their name. They feel this would inspire people to shop locally and it would be a chance to beautify this area for many years to come. Kennedy's will donate the materials (loam and low maintenance plants) and labor. He spoke about a similar island design Kennedy's did for Marshfield. The mowing area will be reduced. Representative Cantwell complimented Kennedy's for their initiative and spoke about the process by which the arrangement came to fruition through the cooperation of all involved parties. The Selectmen thanked Mr. Kennedy, Representative Cantwell and Mr. Bangert for their considerable efforts in what will be a "collective partnership".

Mr. Murray made a MOTION that the Board of Selectmen VOTE to ACCEPT the offer of Kennedy's Country Gardens to plant and maintain landscaping in the center of the Greenbush roundabout. SECONDED by Mr. Danehey. No discussion. Unanimous vote. (5-0)

12a. DISCUSSION/VOTE/ AWARD PAVING CONTRACT/ A. Bangert

Mr. Bangert explained that the contractor who was awarded the paving contract some months ago has been somewhat "unresponsive". The Department of Public Works would like to have two paving contractors "on call" in order to have our roads paved in a timely manner. The Town Administrator has reviewed the contract with Mr. Bangert and the award of another contract to a bidder who was not the lowest bidder, is allowed. Mr. Harris asked who is responsible for raising the "structures" in the roadway? Mr. Bangert answered "the contractor". Discussion continued on the optimal schedule for paving in a calendar year. Paving will be ongoing until the cold weather sets in.

Mr. Vignani made a MOTION that the Board of Selectmen VOTE to SIGN the contract for asphalt paving with T. L. Edwards of Avon, Massachusetts at the prices quoted in their response to the request for bids issued by the South Shore Regional Services Consortium through June 2013 with the option to extend for an additional one (1) or two (2) years at the Town's sole discretion. SECONDED by Mr. Danehey. No discussion. Unanimous vote. (5-0)

Short break taken from 8:23 PM to 8:29 PM.

13. DISCUSSION/ VOTE/ Water Resource Protection District/ Zoning By-Law Article

Planning Board Chairman, Bill Limbacher, and Town Planner, Laura Harbottle, were present. Ms. Harbottle stated that this Article needs to be considered at the Special Town Meeting in the ongoing effort to meet DEP's requirement for the Town's water withdrawal permit. She went on to summarize the "subtle differences" in the amended version and that the new language separates things into new subdistricts. The Water Resource Committee has been involved in review process, as well. Mr. Danehey complimented everyone involved with the map and asked about the well located near Hollett Street and Country Way. Ms. Harbottle believes the changes in this zoning by-law affects the actively pumping wells only. Mr. Murray added that the Water Resource Committee has insured that the wording corresponds accurately with the map. He "applauded" everyone's work on a by-law which will strengthen protection of our water resources. Public meetings will be held on this zoning by-law article. Discussion continued on the "swimming and boating" in the reservoir piece and over-

sight of these activities via signage. Mr. Vegnani noted that the current water level in the reservoir is low. Mr. Bangert stated that the Water Division is monitoring the reservoir and the cooler weather should stabilize the water level.

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to REFER Zoning By-Law changes (Water Resource Protection District) to the Planning Board for their review and recommendation and further that space be reserved on the Special Town Meeting warrant for these articles. SECONDED by Mr. Harris. No discussion. Unanimous vote. (5-0)

14. DISCUSSION/ VOTE/ Correspondence/ Board and Town Administrator
- Humarock Response Letter (8/12), Response Letter to Patriot Ledger (8/12)

Mr. Norton read a statement into the record (attached) entitled "Statement by the Chairman of the Scituate Board of Selectmen Relative to a Letter to the Editor of the Patriot Ledger (attached) and a Letter to Humarock Residents" .

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to ENDORSE the "Statement of the Chairman of the Board of Selectmen relative to a letter to the editor of the Patriot Ledger and a letter to Humarock residents". SECONDED by Mr. Harris. Discussion – Mr. Murray asked that the entire motion (above) be read into the record. Mr. Vegnani read the entire motion. No further discussion. Voted favorably. (4-0) Vegnani, Harris, Norton and Murray. Mr. Danehey was not present for the meeting at which this topic was originally discussed and therefore did not vote on the motion.

Mr. Vegnani noted that the Board had received a petition from some Humarock residents which contained some "untrue statements". When the Board received more information and clarification of the events of July 3, 2012, it sent a letter to all Humarock residents with an accurate account of that evening(attached). Mr. Murray thanked residents who contacted the Selectmen and thanked them for sending out this letter.

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to SUPPORT the letter sent to the Editor of the Patriot Ledger(August 2012) and the letter sent to Humarock residents (August 2012). SECONDED by Mr. Murray. No discussion. Voted favorably. (4-0) Vegnani, Harris, Norton and Murray. Mr. Danehey was not present for the meeting at which this topic was originally discussed and therefore did not vote on the motion.

15. DISCUSSION/ VOTE/ Acceptance of Land Policy/ Consideration of 2 properties/
Chittenden and Hatherly Roads/ T. Administrator

Ms. Vinchesi suggested that the Selectmen adopt a policy on the “acceptance of land” which would give the Board a way in which to consistently evaluate such requests. She reminded that such gifts of land come off the tax rolls. Although the Selectmen will not be finalizing a policy tonight, the two(2) parcels being considered this evening should go forward because they have been “in the queue” for a long time. Discussion continued on whether the Selectmen could simply accept them on the Town’s behalf rather than strictly for Conservation. Ms. McDermott, Chittenden Road property, stated that her parcel is non-buildable and abuts Conservation land. Mr. Danehey noted that it also abuts the High School football field and the Cushing School. Ms. McDermott stated that she would be “fine” with the property simply going to the Town.

Mr. Murray made a MOTION that the Board of Selectmen VOTE to ACCEPT a donation of land (parcel #32-1-14-F-R/ McDermott) on the behalf of the Town of Scituate. SECONDED by Mr. Harris. No discussion. Unanimous vote. (5-0)

Mr. Danehey made a MOTION that the Board of Selectmen VOTE to ACCEPT a donation of land (Parcel #21-3-2-0-R/Laverty on the behalf of the Town of Scituate. SECONDED by Mr. Harris. Discussion – this property is marshland located off of Hatherly Road. The Board concurred that the property owner should be approached as to whether they are interested in this being strictly conservation land or could it simply be accepted by the Town. Mr. Danehey WITHDREW his motion. Mr. Harris withdrew his SECOND.

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to POSTPONE action on the Laverty parcel of land until a future meeting. SECONDED by Mr. Murray. No discussion. Unanimous vote. (5-0)

Mr. Norton asked Ms. Vinchesi to draft a policy on the land donations.

16. DISCUSSION/ VOTE/ Steering Committee for Building Master Plan/ T. Administrator

Ms. Vinchesi presented a “Proposed Charge / Public Facilities Master Plan Steering Committee”. An appropriation for this project was made at the April 2012 Town Meeting and she and the Selectmen met with the “stakeholders” on June 18, 2012. The “charge”(attached) was read by Ms. Vinchesi. Mr. Norton stated that it would be a fifteen(15) member committee, unless the Board chose to appoint more members, and he read the list of recommended groups from which members would be appointed.

Some of the membership parameters were changed by the Board, i.e. one member from Council on Aging, add a public safety member and more “at large” members (5). The Board of Selectmen will not have a member “sit” on this Committee. The facilities manager will be an “ex-officio” member.

Mr. Murray made a MOTION that the Board of Selectmen VOTE to ENDORSE the revised “Charge” for the Public Facilities Master Plan Steering Committee. SECONDED by Mr. Harris. Discussion – unidentified person from the back of the room asked if the Gates School group would be represented? Mr. Vegnani stated that perhaps the School Committee could recommend someone from the group to serve as one of the School representatives. Mr. Murray stated that although the group would not be represented by name, they would be “in spirit”. **No further discussion. Unanimous vote. (5-0)**

17. DISCUSSION/ VOTE/ Set Special Town Meeting Date & Preliminary Review of Articles/ Town Administrator

The Special Town Meeting will be held on Tuesday, November 13, 2012. The Warrant will be posted on October 29, 2012.

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to SET the date for the Special Town Meeting as Tuesday, November 13, 2012. SECONDED by Mr. Harris. No discussion. Unanimous vote. (5-0)

Ms. Vinchesi presented a list of Articles to the Board of Selectmen and the Board reviewed and shortened the list because some Articles were thought to be more appropriate for the Annual Town Meeting.

18. APPOINTMENTS

Mr. Murray made a MOTION that the Board of Selectmen VOTE to APPOINT Peter Struzziero to the Cable Television Committee. SECONDED by Mr. Harris. No discussion. Unanimous vote. (5-0)

Mr. Murray made a MOTION that the Board of Selectmen VOTE to APPOINT Mark Curran to the Water Resource Committee. SECONDED by Mr. Danehey. No discussion. Unanimous vote. (5-0)

Mr. Danehey made a MOTION that the Board of Selectmen VOTE to APPOINT Pamela Avitabile to the position of Treasurer/Collector pending successful salary negotiations. SECONDED by Mr. Harris. Discussion – The Selectmen spoke about the excellent qualifications of both candidates and that Ms. Avitabile has more

experience in municipal work, currently works for a coastal community and comes very highly recommended. **No further discussion. Unanimous vote. (5-0)**

19. REPORT/ Town Administrator & Vote Policy Regarding Communications

Ms. Vinchesi spoke about the high number of Special Events in the Town especially during the fall months where there are one to two events each weekend. This type of volume is causing traffic disruptions and some inconvenience to residents. Mr. Vegnani agreed and noted that a lot of the events are not Scituate related. He did note that the application for "Fall for Scituate" slated for early October in North Scituate is a family event. Mr. Danehey recused himself from this discussion at 9:42 PM because the event is sponsored by the Chamber of Commerce and he serves on that Board. Ms. Ann Burbine, 10 Pennycress Road, is a North Scituate businessperson and she knows nothing about this event. It was suggested that this Special Event application be placed on a future agenda and that in the future all applications should be received by the Town offices two to three months prior to the event.

Ms. Vinchesi read the following proposed policy into the record: "In order for there to be no future confusion or ambiguity relative to the Board's communications in light of its review of the Open Meeting Law Guidelines, it is recommended that the Board approve the following policy: That the Chairman of the Board of Selectmen and the Town Administrator are authorized to respond to, and communicate with residents, businesses and/or media on behalf of the Board as necessary or warranted."

Mr. Vegnani noted that the Board may not have any electronic forum discussion and further, that many cities and towns have this type of policy in place.

Mr. Murray made a MOTION that the Board of Selectmen VOTE that the Chairman of the Board of Selectmen and the Town Administrator are authorized to respond to and communicate with residents, businesses and/or the media on behalf of the Board of Selectmen as necessary or warranted. SECONDED by Mr. Vegnani. Discussion – Mr. Danehey asked if this policy pertains to general inquiries only? Ms. Vinchesi answered "yes". No further discussion. Unanimous vote. (5-0)

20. OTHER BUSINESS

Mr. Norton thanked Ms. Kelly Rathje, 4 Harborview Road, Scituate for her recent Letter to the Editor in the Scituate Mariner. The Selectmen concurred that Ms. Rathje should be written a "thank you" note. Mr. Danehey thanked the Police and Fire Departments for their participation in the popular Sand Hills Labor Day Parade. "It was a festive, family event that epitomizes the Town." Mr. Vegnani recently attended

recently attended a Coastal Coalition meeting with Mr. Harris, which was a “candid and productive meeting”. Mr. Harris spoke about local beach associations canvassing neighborhoods to get information about residents who live on the coast and have special needs, are elderly, etc. In addition, emergency packets are being distributed by the beach associations to all residents along the coastline. The Coastal Coalition is a proactive group and also works with the SANDS. Mr. Norton noted the hundreds of children who recently enjoyed the DPW “Touch a Truck/ Equipment” event which took place in front of Town Hall.

(a) Re-Vote/ DPW Contracts from July 10, 2012 meeting / T. Administrator

(1) Mr. Vegnani made a MOTION that the Board of Selectmen RESCIND the two(2) votes taken at a July 10, 2012 meeting regarding contract #12-HW-41 Salt Shed structure and #12-HW-45 – Gasoline Fuel Dispensing System. SECONDED by Mr. Danehey. Discussion – This is due to a housekeeping error in the document’s date. No further discussion. Unanimous vote. (5-0)

(2) Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to AWARD the contract for the replacement of the Salt Shed, contract #12-HW-41, to Clear Span Fabric Structures of Windsor, Connecticut for a total bid price of \$71,169.98 with payment to be made at the unit prices and/or lump sum prices pending receipt of a certificate of insurance, 100% performance and 100% labor and materials bond. SECONDED by Mr. Harris. No discussion. Unanimous vote. (5-0)

(3) Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to AWARD the contract for the installation of a gasoline-fuel dispenser at the Highway Garage, contract #12-HW-45, to Northeast Petroleum Service and Supply, Incorporated of Jamaica Plain, MA for a total bid price of \$59,887.78 with payment to be made at the unit prices and/or lump sum prices pending receipt of a certificate of insurance, 100% performance and 100% labor and materials bond. SECONDED by Mr. Murray. No discussion. Vegnani, Norton, Danehey and Murray voted in favor of the motion. Mr. Harris did not vote. The vote carries. (4-0)

(4) Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to ACCEPT the Regular Session Minutes for August 21, 2012. SECONDED by Mr. Danehey. No discussion. Vegnani, Danehey, Norton and Harris voted in favor of the motion. Mr. Murray did not vote. The vote carries. (4-0)

21. ADJOURNMENT & SIGNING OF DOCUMENTS

Mr. Murray made a MOTION that the Board of Selectmen VOTE to ADJOURN the



Statement by the Chairman of the Scituate Board of Selectmen Relative to a Letter to the Editor of the Patriot Ledger and a Letter to Humarock Residents

As many are aware, the Board of Selectmen has a pending action at the Attorney General's Office for an alleged violation of the Open Meeting Law (OML) relative to the approval of contracts in Executive Session that should have been voted in open session once negotiations were completed. The Attorney General's Office took over jurisdiction of open meeting law complaints in 2010 and since then has been issuing new guidelines and rulings that in some cases differ from previous practices. Although the Board's action was based on guidance from Town Counsel, the Board nevertheless takes such allegations seriously and immediately corrected that oversight by revoting in open session. Our additional reviews in responding to the Attorney General indicate that the Board's action, while not intentional, also revealed that the Board needed to tighten up in other areas such as providing more subject matter specificity in posting Executive Sessions instead of the prior brief description. We have employed this greater detail since learning of it in April.

Most recently the Board sent out two letters on important town matters that we have since discovered do not comport with the requirements of the open meeting law. Specifically:

On August 17 the Board mailed to all residents and homeowners in Humarock a letter responding to allegations raised about the Town's bonfire ban outlined in an August 2 letter. The Town Administrator was directed by the Board chair to draft the letter. She consulted with the fire and police chiefs and then emailed it to Board members and town counsel, for corrections/ approval. In reviewing the OML guidelines the Board has learned that such a letter could not be sent under the Board's name unless the Board, convening at a duly posted meeting, discussed the letter and directed the Town Administrator to send it.

On August 24, the Board emailed to the editor of the Patriot Ledger a letter responding to an editorial that appeared August 23 implying that the Board acted inappropriately in a hearing regarding the potential removal of a Scituate Housing Authority member. The Town Administrator recommended in an email that the Board respond to the reporting errors via a Letter to the Editor. She was asked to draft a letter as soon as possible for timeliness reasons, and again emailed it to Board members for approval. As with the above scenario, the Board could not do this absent a public meeting.

The Board, as the Town's chief executive officers, and the Town Administrator, as its chief administrative officer, are faced with many requirements, mandates, statutes and regulations. Not only we, but Town staff work hard to insure compliance. However, we are not perfect and on those hopefully rare occasions when we discover practices that are not in compliance with the full intent of the law, we are committed to making it right. Such is the case here. In recent weeks we have provided every board

and committee with the 2012 OML Guidelines prepared by the Attorney General's Office. We have created a webpage on the Town's website with direct links to OML guidelines and FAQ's. By providing this information both we and our residents can have the rules readily available.

In any event, we want residents to know we take these guidelines seriously, endeavor to do better, and regret the error.

Finally, the Board in accordance with our greater understanding of OML requirements will now discuss and vote on the two letters, such discussion occurring at a public meeting and to be fully considered again by the Board.

I would now ask for a motion and vote of the full Board to endorse this statement.

August 17, 2012

Patriot Ledger
400 Crown Colony Drive
Quincy, MA 02169

To the Editor:

The August 15 editorial in the Patriot Ledger, "Second Shot for Scituate Selectmen to Get it Right," illustrates how much the press and the public can misunderstand and misinterpret the requirements of the Open Meeting Law. The newspaper was hasty to accuse the Scituate Selectmen of skirting the Open Meeting Law but apparently didn't bother to check with state or local offices to see if that was indeed the case. It is not. Five minutes of reading Massachusetts General Laws Chapter 30A, Section 21 (a) (1), "Meeting of Public Body in Executive Session" would clearly show that the rights of individuals must be observed and that unless the individual requests a hearing in open session it is held in executive session. Mrs. Lewis was advised of this in the notice she received for the hearing. She was asked specifically at the hearing (and it needs to be noted in the minutes) if she was in agreement that the hearing be held in executive session and she agreed. The Scituate Mariner reported Mrs. Lewis confirmed this in its August 9 publication. The Ledger apparently has its own unique interpretation of the law. However, that misguided view does not negate the obligation of town officials to provide affected town officers and employees with their due process rights.

As they should, our state laws provide specific and narrow reasons for when any public body may enter into executive session. Section 21 of MGL 30A, further outlines the permissible reasons to enter into Executive Session: (1)"... *to discuss the discipline or dismissal of, or complaints or charges brought against a public officer, employee, staff member or individual.*" The Board did not determine whether the meeting was open or closed. Mrs. Lewis did. And she knew it, was made aware that her representative could remain present, and could also request that some attendees be excluded from the hearing.

What is particularly troubling is the implication that the Board tried to pull a fast one on state officials by suspending Mrs. Lewis. In point of fact, the Board was trying to respect Mrs. Lewis's position on the entire matter on signing the Housing Authority certifications that would allow her to continue to serve and not remove her. The Department of Housing and Community Development said no. How fairness and consideration of her position got boomeranged into trying to get away with something is a disservice to her, has absolutely no basis in fact, and any responsible journalist would have spelled out how the Open Meeting Law in this instance was applied to safeguard an individual's rights. But, no one contacted the Board about any of this, other than to ask repeatedly, why did you go into Executive Session? The law is there for all to read and posted on www.mass.gov. Perhaps the Ledger's editorial board should read it before making other baseless claims.

TOWN OF SCITUATE
BOARD OF SELECTMEN

Joseph P. Norton, Chairman

Anthony V. Vegnani, Vice-Chairman

Shawn Harris, Clerk

John F. Danehey, Member

Richard W. Murray, Member

DO >
WAD
8/12

August 2012

To Residents and Homeowners of Humarock:

The Scituate Board of Selectmen has reviewed the letter of July 31 signed by numerous individuals who expressed concerns about the events of July 3 in Humarock. In the weeks since, we have heard from residents and homeowners who are upset about the prohibition of bonfires and also frustrated by delayed response from this board. This letter is intended to respond to those concerns and also clarify the events of July 3, many of which have been misrepresented, exaggerated and reported inaccurately.

Before the board could respond to media reports and inquiries from the public, it was necessary to obtain information, verify statements, meet with those involved, uphold the privacy rights of individuals and comply with the laws of the Commonwealth. The rush to judgment by so many has resulted in abundant distortions and inaccuracies about what transpired in the weeks prior to the board's June 19 vote to prohibit bonfires and on the night of July 3. That is unfortunate not only for those involved but for all of the citizens whom we serve.

The June 19 vote to enforce a bonfire ban was not made in a vacuum. The decision was based on genuine concern for the public safety of residents and visitors and rooted in state law. While some critics of the town's stance have asserted that history and tradition should prevail, that position ignores a simple fact: Bonfires are illegal. Under Massachusetts General Laws Chapter 111, Section 142 I, bonfires are not allowable between July 2 and July 6 except by a permit granted at the discretion of the fire chief to a *civic organization*.

Further, the Town has no open burning bylaw so this activity is also prohibited. While camping and cooking fires are permitted, they have very specific requirements. Such fires must be "reasonable" and "shut-in," meaning that they must be enclosed within rocks, metal or other nonflammable material. Under no circumstances would wooden pallets qualify as allowable fuel. Bringing combustible material onto the beach is also prohibited by town conservation regulations.

The tragically devastating March 4 house fires in Humarock were a stark reminder of the vulnerability of that densely developed section of town and the key reason for the board's vote. While we recognize that fires can be caused in many ways, the consequences are all the same. Over the years, the bonfires have escalated in both size and number. Large blazes built of stockpiled pallets and other wood, often fueled by accelerants, became common and were often accompanied by increased numbers of holiday visitors, widespread drinking and commercial grade fireworks. These factors posed an unacceptable risk to public safety and the remains of the bonfires, including nails from scrap wood, presented a hazard to beachgoers long after the fires were out.

At the June 19 Board meeting, the police and fire chiefs presented their plans to the Board. Their proposals were based in part on the debriefings held each year's Independence Day observances, where staff reviewed what worked and identified areas for improvement. With the recommendation of the chiefs, town officials agreed to enforce the no bonfire rules. This was not a haphazard plan nor hastily implemented and we strongly disagree that actions by the police were "unilateral with total disregard for the safety and welfare of those on the beach," as the residents' letter stated.

More than 10,000 people frequent Humarock during the Fourth of July holiday. If a tragic event like the March 4 fires occurred during this period, the public would have demanded to know why their leaders had not taken action to address this behavior sooner. If an ambulance could not get to a home during an emergency because of the scores of people walking in the street, then the responsibility would be the Board's. While the decision may not have been well received by all the Board acted, and will continue to act, in the best interest of all its citizens.

Some have expressed concern that two weeks notice about the bonfire prohibition was insufficient. Given the short timeline, the town made every effort to convey the policy. Public safety personnel sent out flyers, met with beach associations, knocked on doors, sent out reverse 911 informational calls and email blasts, placed a banner on the Town's homepage, employed message boards and used other methods to inform all residents of the ban. Chief Judge also met personally with some concerned citizens.

Some residents expressed concern that they had paid to truck in wooded pallets and would have to pay to remove and dispose of them, so the Town had the DPW remove them at no cost. Some residents on Alden Street declined this offer even when approached.

It has been stated that the Town wasted resources by having so many public safety personnel involved. In fact, the same numbers of personnel have been used the past three years. The Town did not "staff-up" as was reported. Forty-five uniformed personnel from the Scituate Police Department, Plymouth County Sheriff's Office, Cohasset Police Department and State Police were on staff July 3. Ten additional fire personnel were also called in. Three DPW staff were on call from 6 p.m. to 1:30 a.m. Marshfield Police also assisted.

The Board has received some feedback that the Scituate Police Department acceded control of the enforcement ban to the State Police. The six State Police assigned to Scituate were the same contingent assigned for the past 10 years as part of the State Fire Marshal's unit for dealing with commercial-grade fireworks. Disposal of confiscated fireworks can only be handled by a license shooter. The Sheriff's Office personnel have been assigned to work in Scituate on the holiday for almost three decades. The Scituate DPW is always on standby during the holiday

On the evening of July 3, 112 incidents were logged and there were 12 medical transports. Scituate Fire responded to 16 "bonfire/smoke" calls. On July 4, there were 10 medical transports. Almost all of these incidents were called into the SPD by our residents, who were concerned

about fireworks, fires, noise and disruptive behavior. On July 3 there were 12 arrests and 5 persons placed in protective custody. Three of the 12 arrested were Scituate residents. In all, total calls from 8 p.m. on July 3 to midnight on July 4 were 159. There was a total of 17 arrests and five persons taken into protective custody.

For comparative purposes, the Town of Nantucket arrested 150 persons and approximately 50 were taken into custody in the Town of Plymouth. However, our officers, firefighters and public safety staff were in some cases subjected to verbal abuse and rock-throwing. It is important to note that most of people involved in these confrontations were not Scituate residents. Although not reported, we have received numerous calls and feedback from residents in support of the bonfire decision. The credit for making the holiday safe and enjoyable goes to the majority of our residents who understood the reasons for the ban and complied with the law.

Prior to deployment, all personnel were briefed extensively on how the ban was to be executed and that the safety of the public was paramount. Reports from officers indicate that great care was taken to enforce the ban without posing any risk to the public. Radio transmissions confirm the degree of restraint exercised by police. Even those arrested were minimally charged and could have been charged for much more serious offenses.

Overall, our fire and police chiefs reported approximately 90-95 percent compliance with the bonfire ban on July 3 and 100 percent compliance on July 4. However, there were two incidents where public safety officers intervened where bonfire materials (wooden pallets) were being assembled or placed directly on fires. In both instances, the individuals involved, who had been warned earlier in the week, were again informed by public safety personnel of the bonfire ban. In both cases, police, fire and public works staff acted to enforce the ban and prevent illegal burning. Despite some media and other reports, these incidents did not involve small cooking or campfires and there is evidence of this. No fire was extinguished without the direction or approval of the Scituate Fire Department.

State police, Plymouth County or Scituate Police did not have "riot gear" or carry Tasers and *none* employ Tasers. The Cohasset Police officers assigned on July 3 were in the motorcycle division. Their helmets were most likely mistaken for riot gear and many folks made this assumption. Neither the Town nor the State Police detailed a helicopter or horses to the Humarock area on or before July 3 as has also been reported. The Town's two Humvees were not there to transport throngs of arrested persons, but were used to transport public safety personnel assigned to foot patrol. These vehicles never left the fire station once the personnel deployed.

The Board has been subjected to particular criticism for not allowing individuals to speak during its July 10 meeting. Many of those who attended wished to discuss the actions of the police department. The Board was prohibited from discussing the details of any of the arrests made until court proceedings were concluded. That is still the case. Police and ambulance run reports are not public documents and cannot be viewed or released by town officials. This is to safeguard

the privacy rights of individuals. The Board was fully prepared to present a report about the events of July 3 but town counsel advised against such action since much of the information could not be discussed publicly with residents during the walk-in session. Contrary to the July 31 letter, there was no threat of "arrest" at this meeting.

There have been questions about the rights of public safety personnel to enter and take action on private property. Under the law, "exigent circumstances" permit any law enforcement officer to enter private property to ensure public safety. Private property cannot be a sanctuary for illegal activity, activity that affects a public place or is intended to cause public inconvenience, annoyance or alarm or recklessly create a risk that is illegal.

Whenever a new policy is implemented there will be challenges. There has been widespread criticism about the use of a front-end loader to remove pallets. The loader was used two years ago on Minot Beach to remove pallets and was stationed at the Humarock Fire Station last year in case it was needed for the same purpose. The soft sand encountered by the loader when it was brought on to the beach was not anticipated and created difficulties; it will not be used again. However, on-scene personnel exercised extreme caution and at no time were persons in danger from the front-end loader and this is supported by videotapes made by numerous people of the action.

On August 1, the Board chair and vice-chair met with five Humarock residents. The Town Administrator, Fire Chief and Chief of Police were in attendance as well as the Sergeant in charge of the Humarock patrol for the past 18 years. This was a candid exchange and much was learned on both sides with a very positive outcome. A few things of note:

1. Bonfires will be banned and the ban enforced
2. Specific requirements for proper cooking fires and campfires will be distributed next year
3. Another type of equipment will be used to remove any illegal materials brought on to the beach
4. Starting in April 2013, town officials will again meet with beach associations and work cooperatively with a representative group of residents to educate and inform residents and visitors about the ban

The Board trusts that this response addressed the concerns raised in your letter and apologizes for the lengthy of response. We remain disappointed in the lack of research and confirming information that has widely been reported by certain media outlets and publications. We call upon them to present these facts in fairness to all concerned as well as the public we serve.

Sincerely,

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Board of Selectmen – Minutes of Meeting – 9/4/12

meeting at 10:04 PM. SECONDED by Mr. Danehey. No discussion. Unanimous vote. (5-0)

BOARD OF SELECTMEN



Joseph P. Norton, Chairman




John F. Danehey



Shawn Harris



Richard W. Murray



Anthony V. Vegnani

Respectfully submitted,



Kimberley A. Donovan
Executive Assistant

TOWN OF SCITUATE



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PATRICIA A. VINCHESI
Town Administrator

Proposed Charge Public Facilities Master Plan Steering Committee

The Public Facilities Master Plan Steering Committee shall initially consist of those members who constitute stakeholders either through direct service or benefits from the contemplated Public Facilities Master Plan regarding proposed changes to town and school facilities. The initial membership shall not exceed fifteen (15). Eight members shall be appointed by the Board of Selectmen, two members by the School Committee, two members by the Council on Aging, one member by the Library Board of Trustees, one member appointed by the Recreation Commission, one member appointed at large from the general public. The Board's appointments shall include a member of the Economic Development Commission and Planning Board. A member representing the Town's business community will also be appointed. The Board will appoint the chair and vice chair of the committee. The Facilities Director will serve as an ex-officio member of the committee. The Public Building Commission will also appoint a liaison to the Steering Committee.

The Committee shall serve as an advisory body to the Board of Selectmen to provide feedback, input, and comments as well as function as a conduit for town officials to communicate developments on the progress of the Public Facilities Master Plan.

The Board of Selectmen may appoint any additional members at its discretion and reserves the right to release members and appoint new members at any time as necessary or warranted.

The Board of Selectmen will recognize and accommodate in its appointments those individuals who may possess a particular expertise in a specific area as it relates to the needs of the Town.

In the event of a vacancy, said vacancy shall be filled in the manner of the original appointment.

The Public Facilities Master Plan Steering Committee is created in an effort to insure all stakeholders in this major development/redevelopment process have a venue in which to provide input before any decisions are finalized by town officials. The Committee is solely advisory in its capacity and in no way shall supersede or take the place of the Board of Selectmen and School Committee to determine ultimate courses of action. It is expressly understood that the Scituate Public Building Commission and any building committees required by the Commonwealth's Massachusetts School Building Authority (MSBA) will have primary jurisdiction over any approved building and construction project. The Steering Committee shall provide input and suggestions for recommended uses for a variety of current and foreseeable community, civic, and municipal activities and operations.

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Read

The Committee shall meet with the Board of Selectmen after its formation to discuss suggestions and guidelines developed by the Board. The Steering Committee shall work closely with the general public, business community and others to insure all citizens have input into proposed projects.

The purpose of the Committee is not to revisit decisions once made by officials about public facilities but to work with the various entities to bring any approved plan to fruition and be reflective of the needs of all affected constituent groups. The Committee shall serve as an information source for residents and constituent groups about the progress of public facility plans.

The Committee shall have available to it data, information and reports available that have already been undertaken by the Town for various municipal needs and facilities.

The Committee shall be responsible for other issues as defined by the Board of Selectmen.

The Committee shall serve until disbanded by the Board.