

Board of Selectmen, March 19, 2013

MINUTES OF MEETING

BOARD OF SELECTMEN

MARCH 19, 2013

Present: Joseph P. Norton, Chairman; Shawn Harris, Anthony V. Vegnani

Patricia A. Vinchesi, Town Administrator

Press: Scituate Mariner

7. PRESENTATION/ "VIEWPOINTS" VIDEO OF THE TOWN OF SCITUATE – was shown to the Selectmen and the audience. This is a video about Scituate that will be aired in 26 markets nationwide. The Town owns the rights to it and it is a great way to advertise our community.

1. The meeting was called to order at 7:20 PM.

2.ACCEPTANCE OF AGENDA

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to ACCEPT the Agenda and move Agenda #5 Liquor License Public Hearing up in the agenda's order. SECONDED by Mr. Harris. No discussion. Unanimous vote. (3-0)

5. 7:10 PM/ DISCUSSION/ VOTE/ PUBLIC HEARING/ Liquor License Transfer/ Phin's / 95 Front Street & Change in Hours & Common Victualler's License

Mr. Vegnani read the published, public hearing legal advertisement.

Attorney Walter Sullivan, representing owners Brian Houlihan and Erica White, stated that his clients want to purchase the business at 95 Front Street, known as Phin's restaurant. They currently own restaurants in Norwell and Cohasset and have been actively looking for a spot in Scituate. They are residents of Scituate and Mr. Houlihan was previously a chef at the Four Seasons and The Harvard Club. Mr. Houlihan stated that he looks forward to "getting back in the kitchen" at the new restaurant. He has worked with the Norwell Police Department on a program called "Stay Sober for Drivers". His restaurants offer free non-alcoholic drinks to designated drivers and all "front of the house" employees are TIPS certified. He would like to change hours to a 1 AM closing time, same as area restaurants, rather than the current 11 PM. Mr. Vegnani stated that the Selectmen act strongly on alcohol violations. Mr. Houlihan stated that responsible alcohol service is foremost in his restaurants. Bill Schmidt, 33 Egypt Beach Road, has known the applicants for 10 years and has high regard for their operations.

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Mr. Harris made a MOTION that the Board of Selectmen VOTE to GRANT the Transfer of the Common Victualler's All Kinds of Alcoholic Beverages License held by 95 Front Street LLC d/b/a Phin's to Green Eyed Lady, Inc. d/b/a Galley for the premises located at 95 Front Street, Scituate, described as a 2,000 square foot, one floor restaurant consisting of a dining room, bar area, kitchen, wait staff station, one front entry/ egress and one rear egress and office area on the second floor. SECONDED by

Mr. Vegnani. No discussion. Unanimous vote. (3-0)

Mr. Harris made a MOTION that the Board of Selectmen VOTE to GRANT the request for a Change in Hours by Green Eyed Lady, Inc. d/b/a Galley from the current 11 AM to 11 PM Monday through Sunday to 10 AM to 1 AM Monday through Saturday and Sundays 11 AM to 1 AM. SECONDED by Mr. Vegnani. No discussion. Unanimous vote. (3-0)

Mr. Harris made a MOTION that the Board of Selectmen VOTE to GRANT a Common Victualler's License to Green Eyed Lady, Inc. d/b/a Galley, 95 Front Street. SECONDED by Mr. Vegnani. No discussion. Unanimous vote. (3-0)

WALK-INS – None

3. DISCUSSION/ VOTE/ CHANGE ORDER/ Musquashicut Pond Sewer Exp. (1)/ K. Cafferty

Kevin Cafferty, Engineering Supervisor/ Department of Public Works, explained that there was a unit cost overrun on the Musquashicut Pond Sewer project. The amount is \$57,000 (1.7%) due to "different alignments, additional homes and services and drainage issues – 18 items in all". The Selectmen expressed their displeasure over Change Orders, in general, and noted that the contractor should have been aware of these items when they bid on the job. Mr. Cafferty stated that these items came up as the work progressed and noted that those residents paying sewer betterments in this area will pay for this overrun, not the Town. Mr. Harris believes it is unfortunate that Musquashicut Pond residents will bear the brunt of this – "we need to be conscious of how much these residents will have to spend. Mr. Vegnani asked for further detail on the 18 item list.

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to APPROVE the Change Order for contract overruns for Musquashicut Pond Sewer Contract 10-SS-22 in the amount of \$57,000 to Albanese Bros., Inc. This Change Order shall be funded by Article 4C.6.4 from the 2009 Town Meeting. SECONDED by Mr. Harris. No discussion. Unanimous vote. (3-0)

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3a. DISCUSSION/ VOTE/ CHANGE ORDER/ Musquashicut Pond Sewer Exp. (2)/ K. Cafferty

Mr. Cafferty stated that the contractor on this project submitted a change order for \$300,000 when the sewer project was 85% done because they thought there were "condition changes" on site. The Town denied the change order because test "borings" were done in the area. The contractor then threatened a lawsuit. Town Counsel reviewed all the information and advised that the change in conditions might be difficult to defend and could cost upwards of \$50,000 to \$60,000 in legal fees. Mr. Cafferty has negotiated the number down to \$175,000 with the contractor. Mr. Harris believes there is "no surprise here" with the soil being primarily clay. He wonders if Weston and Sampson, engineering consultant that conducted the test borings, is responsible. Discussions continued on the geological complexities of the Musquashicut Pond area and whether similar situations were encountered in the previous two sewer expansion areas. Mr. Harris feels that the contractor won the low bid on this project and they are now making up the money on "extras". Al Bangert, Director/ DPW, stated that it is the contractor's responsibility to look at the borings. He and Mr. Cafferty are in support of the \$175,000 settlement. Ms. Vinchesi stated that it was partially the Town's responsibility as to how many soil boring samples were done. "In hindsight, more should have been done. Case law does not support towns going to court on matters such as this." She said that "going forward" much more engineering will be done on all Town projects.

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to APPROVE the Change Order for

unsuitable materials for Musquashicut Pond Sewer Contract 10-SS-22 in the amount of \$175,000 to Albanese Bros., Inc. This Change Order shall be funded by Article 4C.6.4 from the 2009 Town Meeting. SECONDED by Mr. Harris. No discussion. Unanimous vote. (3-0)

4. DISCUSSION/ VOTE/ SPECIAL EVENT PERMIT/ Scituate Antique & Classic Boat Show/ July 6, 2013/ Mark Patterson

Harbormaster Patterson proposed having a boat show in the Harbor on July 6, 2013 from 10 AM to 3 PM (rate date - July 13th) in an effort to “bring people to the water’s edge”. A number of boats will be able to viewed and boarded in the area of the Cole Parkway, Town Pier and Maritime Center. Narrated tours of the Harbor will also be available. The Harbor merchants enthusiastically support this idea.

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to GRANT a Special Permit for the Scituate Antique & Classic Boat Show on Saturday, July 6, 2013 from 8 AM to 5 PM (provides for set up and take down time) in Scituate Harbor and the bandstand area of Cole Parkway and in accordance with all conditions set by the
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Town Administrator and Town Departments. SECONDED by Mr. Harris. No discussion. Unanimous vote. (3-0)

6.7:30 PM/ DISCUSSION/ VOTE/ AMENDMENT TO SOLAR CONTRACTS / A. Bangert

Mr. Bangert stated that the solar array project is moving forward. Tonight’s vote and signing of amendments allow for a time extension to the original contract and the associated easements. He noted that at the end of May, the Town will start collecting money daily from the contractor until the array is built. He believes Brightfields, the contractor, is totally committed to the project due to the monies they have already invested. DEP is totally in favor of the project, as well.

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to ACCEPT the amendments to the Lease and Power Purchase Agreements with Scituate Solar LLC and AUTHORIZE the requested easements. SECONDED by Mr. Harris. No discussion. Unanimous vote. (3-0)

9. DISCUSSION/ VOTE/ CELL TOWER BIDS

Ms. Vinchesi stated that a Request for Proposal (RFP) to place a cell tower on the corner of the Wampatuck School property was generated in November 2012. Verizon (high bidder) and AT & T submitted bids. The Selectmen recently took a 2-2 vote, which failed to place the lease of land for the cell tower at the Wampatuck site on the Town Meeting warrant. Because it is a “formal bid” the Selectmen now need to “award” or “reject” the bid on the project. The Board can either accept the bid, in which case it could go to another Town Meeting, or reject the bids.

Mr. Harris made a MOTION that the Board of Selectmen VOTE to REJECT the bid submitted by Verizon Wireless because it is in the best interest of the Town to do so. SECONDED by Mr. Norton. Discussion – Mr. Vegnani noted that the Town’s earnings from the lease would be a total of \$500,000 over a ten period - “that is a lot of money”. He noted that if this tower is installed on private property just down the street – that the homeowner will be realizing the same type of income. Unidentified residents of the area spoke about alternative technologies for cellular service, Tilden Road being a “scenic roadway” and the fact that Town Meeting passed the Wampatuck site “overwhelmingly” two years ago. Jane Tooker, 397 Tilden Road, asked if placing a pole on private property would then make that same property “commercial”. No. Steven Tooker, 397 Tilden Road, spoke in favor of alternative technology and Carla Breitenstein, 20A Marshall Avenue, noted that many people did not understand that #266 Tilden Road was the street address of Wampatuck School this time around. Bill

Schmidt, 33 Egypt Beach Road, encouraged the Board to put out an RFP on the DAS cellular communication system. No further discussion. Harris and Norton voted “yes” and Mr. Vegnani voted “no”. The vote carries. (2-1)

8. DURKEE BROWN PRESENTATION/ Gates Intermediate School

Representatives from Durkee Brown architects stated that tonight they would like to gather some additional information as they move forward under their Scope of Services regarding the “re-use” of the Gates Intermediate School. The Board suggested they visit the Hingham Town Hall (formerly a school). Discussions continued on the amount of space needed for various “pieces” in the building - community center (6,200 sq. ft.), parking, auditorium, senior center (11,000 sq. ft.). Additional discussions took place on whether or not to retain the one story “C” wing, as well as a total or partial “gut” of the building. Durkee Brown stated that after tonight’s discussions they would return to the Board with some cost estimates.

10. DISCUSSION/ VOTE/ FY14 BUDGETS & ARTICLES

It was noted that Article 26 – Seawalls will most probably be indefinitely postponed at Town Meeting by the petitioners, however they would still like to speak to the issue.

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE NOT TO SUPPORT Article 26 – Seawalls. SECONDED by Mr. Harris. No discussion. Unanimous vote. (3-0)

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to POSTPONE a vote on Article 29 – Petition to Congress until Town Meeting floor. SECONDED by Mr. Harris. No discussion. Unanimous vote. (3-0)

11. REPORT/ Town Administrator – No report this evening.

12. OTHER BUSINESS – Correspondence, Regular Session Minutes – 5/18/12

Mr. Norton announced that Mr. Murray has requested a future agenda item to address long term coastal issues. Mr. Norton is interested in forming a committee to explore how to fund the “grand plan”. Ms. Vinchesi will provide the Board with some updated information on Verizon Fios. Mr. Vegnani noted the excellence of a recent High School drama production. The St. Patrick’s Day Parade went well last Sunday.

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to ACCEPT the Regular Session Minutes of May 8, 2012. SECONDED by Mr. Harris. No discussion. Unanimous vote. (3-0)

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