

Board of Selectmen, July 10, 2012
TOWN OF SCITUATE MASSACHUSETTS

MINUTES OF MEETING

BOARD OF SELECTMEN

JULY 10, 2012

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

Patricia A. Vinchesi, Town Administrator

Press: Patriot Ledger, Scituate Mariner

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

2. ACCEPTANCE OF AGENDA/ WALK-IN PERIOD

Mr. Murray made a MOTION that the Board of Selectmen VOTE to ACCEPT the Agenda for July 10, 2012. SECONDED by Mr. Danehey. No discussion. Unanimous vote. (5-0)

Walk-Ins – Joe Gibbons, 223 Gannett Road, stated that the Board of Selectmen violated the Open Meeting Law in terms of the posting of tonight's agenda less than forty-eight (48) hours in advance of the meeting. Ms. Vinchesi stated that Mr. Gibbons was uninformed and she would be glad to answer this query during Town Hall office hours tomorrow. Mr. Gibbons responded that he would take his complaint to the Attorney General's office. John Boujoulian, 28 Oliver Street, spoke about "police behavior" on the evening of July 3, 2012. Mr. Norton read the following statement into the record: "Per the advice of Counsel, I will not entertain any discussion regarding the bonfires on Humarock Beach. These issues are before the court and they must be resolved there." Mr. Boujoulian stated that his Fourth Amendment rights were being violated and asked how to have an item placed on a future agenda. Mr. Norton asked him to contact the Selectmen's office regarding the procedure for making a request. Mike Graffeo, 5 Oliver Street, stated that he had concerns about July 3rd. Mr. Norton read the statement again. Ron Robertson, 14 Buttermilk Circle, stated that the Selectmen would listen to what he had to say. Mr. Norton called a recess at 7:07 PM. The meeting re-convened at 7:08 PM.

3. INTERVIEW – TREASURER/COLLECTOR

Mr. Norton gave an overview of the application process. He noted that Ms. Meg LaMay, Town Accountant, and Mr. Steve Jarzembowski, Director of Assessing, were on the interviewing panel along with Ms. Vinchesi. Mr. Norton welcomed applicant finalist, David Leary, who he has known for ten to fifteen years. He noted Mr. Leary's work in Weymouth, Mashpee and Raynham. He also noted Mr. Leary's consulting business and the Board's expectation that the Scituate Treasurer/ Collector's position would be full time. Mr. Leary

stated that the Mashpee contract had expired and the Bridgewater/ Raynham School District commitments will be dependent on whether an offer is made by Scituate. He understands that Scituate would be a full time commitment. Mr. Danehey asked if the School contract expires this year? Yes. Mr. Vegnani asked about Mr. Leary's time commitment to each community. Mr. Leary stated that he spends three days in Mashpee and two days at Bridgewater/Raynham. Mr. Murray reassured Mr. Leary that the Selectmen are not questioning his credentials, only his five day a week commitment to Scituate. Mr. Leary stated that if he were offered the position in Scituate, he would not be working at the other two jobs. Mr. Harris confirmed that Mr. Leary lives in Weymouth. Yes.

Mr. Danehey asked that the Board wait a week to make this appointment. Mr. Norton stated that the Town

Administrator and Mr. Leary would enter into negotiations with the intent to make this appointment at the Selectmen's meeting on July 17, 2012. Mr. Joe Gibbons, 223 Gannett Road, asked Mr. Leary if he has experience in tax takings and foreclosure sales? Mr. Leary answered that he has worked with attorneys in other towns on foreclosures as well as the selling of tax liens. Mr. Vegnani noted that Scituate's former Treasurer/Collector also worked with an attorney on these matters. Ms. Vinchesi concurred and noted the former Treasurer/Collector's hard work and success in this regard. Mr. Danehey reassured that the Town does not "just take properties – we want to work with people". Mr. Leary agreed. This matter will be continued to the July 17, 2012 meeting.

4. DISCUSSION/ VOTE/ OUTDOOR ENTERTAINMENT PERMITS/ Scituate Harbor Yacht Club/ 84 Jericho Road

Mr. Murray recused himself from this agenda item. Mr. Tim Feeney, Club Manager for the Scituate Harbor Yacht Club, and Mr. Roy Coates, Commodore, were present at tonight's meeting. The following are four(4) events at the Yacht Club at which outdoor entertainment is being requested.

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to GRANT Outdoor Entertainment Permits for the following four(4) events at the Scituate Harbor Yacht Club:

- (1)Friday, July 20, 2012, 7 PM to 12 AM for an Adult Pool Social with a disc jockey,
 - (2)Wednesday, August 1, 2012, 6 PM to 11 PM for a Fashion Show with a disc jockey,
 - (3)Friday, August 3, 2012, 5 PM to 11 PM/ Luminaria/ family night with a disc jockey,
 - (4)Saturday, September 1, 2012, 5 PM to 11 PM, Labor Day Dance with a band. SECONDED by Mr. Harris.
- No discussion. Unanimous vote. (4-0) Mr. Murray did not vote.

Mr. Murray re-entered the meeting at 7:24 PM.

5. DISCUSSION/ VOTE/ Permission to Use Cole Parkway/ Community Supported Fisheries/ Jay Silva

This item was withdrawn.

6.DISCUSSION/ VOTE/ REQUESTS FOR LAND GRANTS (2) (Crosbie & Higgins-MacAllister)

Laura Harbottle/ Town Planner

Ms. Harbottle explained that these grants will supplement Community Preservation Act (CPA) money to purchase the Crosbie and Higgins-MacAllister properties. According to the Community Preservation Act Committee Interim Chairman, Ms. Lisa Fenton, there are some inconsistencies on the Higgins-MacAllister property appraisals. She recommends only moving forward on the Crosbie property at this time. Ms. Harbottle explained that it would be unlikely for the Town to receive two grants at one time. The Crosbie property "paperwork" is "in order", it is at the "top of the waiting list" and was approved at the 2011 Annual Town Meeting.

Mr. Murray made a MOTION that the Board of Selectmen VOTE to AUTHORIZE and APPROVE the submission of an application for a LAND grant for \$381,510.00 for the purchase of the Crosbie property, and designate Frank Snow, Chairman of the Conservation Commission, as the project manager for the grant. SECONDED Mr. Danehey. No discussion. Unanimous vote. (5-0)

7.7:30 PM/ PUBLIC HEARING/ Revised Sewer Regulations/ A. Bangert

Mr. Al Bangert, Director/ Department of Public Works, Mr. Bob Rowland, Supervisor/ Sewer Division, Ms. Jennifer Sullivan, Director of Public Health, and Mr. Steve Pedersen, Weston & Sampson, were present at tonight's meeting. Mr. Bangert stated that the original sewer regulations were adopted by the Selectmen in 1997 and then revised in 2005. The 2012 revision brings the Town in to compliance with recent Federal

and State standards. (1) language relating to illegal sump pumps emptying into the sewer line has been added along with a \$50.00/ month fine for this offense. This fine is "in line" with what other communities charge. Illegal pumps are detected by monitoring the flow levels in the sewer mains. (2) Updated Board of Health language regarding a "fats, oil and grease program". An effective grease collection system is mandatory for businesses dealing in "extensive" food preparation. Ms. Sullivan explained that the Board of Health drafted these regulations and held a public hearing, as well. Compliance is being handled on a "phased" approach and there is also a process to handle variances. Some of the larger restaurants will be examined first. Ms. Sullivan spoke about the need for restaurants to check grease traps on a monthly basis. This updated program went into effect on January 1st and certain businesses have been notified that they need to comply. (3) Privilege Fee – Mr. Bangert stated that the current sewer connection fee is \$5,000. This new language brings connections closer to what is charged for an actual sewer betterment. The privilege fee

is approximately 75% of a sewer betterment or \$13,302 (based on the most recent betterments). Mr. Bangert spoke about some old and rare, "legacy" connections where a betterment was paid back in the 1970's, but the owner never tied into sewer. "By law, those betterments stand. This has been verified by Town Counsel and Weston & Sampson. If a betterment had never been paid, 75% of the current betterment price will be charged." Mr. Murray supports this overall, but is not certain about indexing to the most recent betterment charge – a flat rate based on overall betterments might be better. For example - \$15,000.00. Mr. Harris concurred that \$15,000.00 might be correct when taking the most recently sewered areas into account. Discussion continued on how connections to "spaghetti" lines would be handled. Mr. Bangert noted that in the past, those connecting to a "spaghetti" line paid a \$5,000 connection fee. In the future, if sewer comes into a "spaghetti" line area – the homeowner will receive a \$5,000 credit on their betterment assessment. Mr. Danehey noted Board of Health Chairman, Frank Lynch's, letter which cites case law on the "cost to connect". Mr. Bangert stated that the betterments will be going into the Sewer Enterprise Fund and are collected as a "fee" to maintain the sewer operation. Mr. Lynch asked if the charge compensates the Town for costs incurred by the Town associated with those specific emergency sewer connections? The sewer plant and its infrastructure are already paid for. The cost to the Town is the Board of Health and Department of Public Works review for the possibility of a connection being an "emergency". If there are no additional costs incurred and the Town raises the cost over the \$5,000 mark – then it is not proper. This directly relates to the "Denver" case he (Lynch) cites in his letter. Mr. Lynch said "a resident is connecting to a sewer for which a plant and infrastructure has already been built. It should not just be money to raise revenues."

Mr. Jeff Martell, 44 Beaver Dam Road, expressed concern about the raising the fee for a sewer tie-in. His small area of Town was never sewered. He feels the Town would be "raising fees to raise revenues". Mr. Vegnani stated that whether the fee is \$5,000 or \$13,000 – there is going to be a problem. "We don't want an unfair situation in which the first group of people pay the price and the second group of people do not." Mr. Pedersen recommends obtaining a legal opinion on this matter. It is his understanding that the intent is as follows: the people who have paid betterments have paid for the sewers. Privilege fees require others to pay their fair share for pipes in the roadway, etc. "This is the way it is done in most communities." The Board decided to continue this public hearing to August 7, 2012.

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to continue the moratorium on all new sewer "hook ups" not already in "the pipeline" until this matter (revised sewer regulations) is settled. SECONDED by Mr. Danehey. No discussion. Unanimous vote. (5-0)

12. DISCUSSION/ VOTE/ FY2012 Line Item Transfers/ T. Administrator & T. Accountant

Ms. Meg LaMay, Town Accountant, and members of the Advisory Committee were present at tonight's meeting. Ms. Vinchesi summarized the need for additional FY12 year-end transfers. The Town Accountant and Advisory Committee support these transfers.

Ms. Vinchesi noted that this will be the second year in a row that there is a surplus in the Reserve Fund. Ms. Vinchesi commended Chief Judge for working on Fire Department overtime with the Town Accountant.

Mr. Vegnani noted that no department went “over in totality”. The transfers move around money within the departments.

Mr. Vegnani made a MOTION that the Board of Selectmen APPROVE #1 Line Item Transfer for \$5,158.00 from Fire Equipment to Fire Salaries. SECONDED by Mr. Harris. No discussion. Unanimous vote. (5-0)

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to APPROVE #2 Line Item Transfer for \$22,170.00 from DPW Materials & Supplies & DPW Capital Outlay to DPW Salaries. SECONDED by Mr. Murray. No discussion. Unanimous vote. (5-0)

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to APPROVE #3 Line Item Transfer for \$3,300.00 from Golf Supplies to Golf Salaries. SECONDED by Mr. Danehey. No discussion. Unanimous vote. (5-0)

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to APPROVE #4 Line Item Transfer for \$3,028.80 from Transfer Station Materials & Supplies to Transfer Station Salaries. SECONDED by Mr. Danehey. No discussion. Unanimous vote. (5-0)

The Advisory Committee has added two new members: Bob Nelson (not present) and Mike Westort(present).

9.DISCUSSION/ VOTE/ Beach Seaweed Removal Policy

Ms. Jennifer Vitelli, Director/ Recreation Department, and Mr. Bill O’Connell, Conservation Agent, Ms. Jennifer Sullivan and Mr. Al Bangert were present for this discussion. Mr. Norton thanked the assembled group of Department heads for carefully examining seaweed on our beaches. Mr. Bangert noted the impact on recreational use and the impact on beach habitat. He stated that the “beach, sea and seaweed are there first and we, secondarily, want to be able to use the beach for recreation. The Policy relates to (1) where seaweed will be removed from – only the public swimming areas (those areas overseen by lifeguards) and (2) when – during the summer swimming season only. This policy does not extend to other beach areas or to other times of the year. When a problem

is identified by the Recreation and Health Directors, the Conservation agent will be notified who, in turn will notify the Department of Public Works who will remove the seaweed. The DPW must file with Conservation for the removal of seaweed. If sand is removed, it must be replaced. The removal will be funded by the Beach Revolving Fund and will cost approximately \$10,000 per event, which includes removal and disposal (transport to Bourne facility). Composting was not seen as a viable option mostly due to the high sand content in the seaweed. Mr. Harris asked about placing the seaweed on a barge and dumping it far out in the ocean. Mr. O’Connell stated that the EPA and Army Corps of Engineers would need to be contacted about that. He noted that seaweed is a primary food source for shore birds, it provides nutrients to beach and dune vegetation and it also brings sand up onto the beaches. He does understand that there are certain occasions where it can become a health hazard and some of it must be removed.

Mr. John O’Brien, 136 Jericho Road, spoke a new, invasive, odiferous species of seaweed from Japan that appears to be sitting on our mudflats. Mr. O’Connell has not encountered this species yet, but understands many communities are dealing with invasive species of seaweed. Removal of seaweed from private beaches requires the resident filing a Notice of Intent (NOI) with the Conservation Commission. Mr. Murray stated that the seaweed’s high sulfur content causes the unpleasant odor. Seaweed should not be removed after every storm event. Discussion continued on the burning of seaweed. Ms. Carol Walsh, 133 Jericho Road, believes this may be a “red tide” event because the color and smell is the same as what she has experienced in Florida during the “red tide”. Mr. Murray stated that this is not a “red tide” event. “Any decaying matter has the same chemical elements and will have a similar smell.”

Mr. Vegnani stated that the beaches are one of Scituate's greatest assets. He believes they should be clean for the weekends when they experience the heaviest usage. The Board decided to amend the Seaweed Removal Policy to include a "weekend timeliness" piece.

Mr. Murray made a MOTION that the Board of Selectmen VOTE to ADOPT the recommended Public Beach Seaweed Removal Policy as discussed and amended to include under page two, "Beach Cleaning Policy", Section 4, after the word "activity" "keeping weekend timeliness (in mind)". SECONDED by Mr. Vegnani. No discussion. Unanimous vote. (5-0)

10. DISCUSSION/ VOTE/ Amendment Letter re: Solar Power Purchase Agreement/ A. Bangert

Mr. Bangert explained that this amendment will extend the solar array deadline for four months until June 15, 2013. This appears to be a reasonable request.

Mr. Murray made a MOTION that the Board of Selectmen VOTE to ACCEPT the amendments to the Lease and Power Purchase agreements with Scituate Solar LLC. SECONDED by Mr. Harris. No discussion. Unanimous vote. (5-0)

11. DISCUSSION/ VOTE/ DPW Contracts/ Bangert & Cafferty

Salt Shed – The new shed will be made of fabric. The current structure is wood, which is three times as expensive as the fabric material. The State will also be using fabric for future salt storage.

Mr. Vegnani made a MOTION that the Board of Selectmen VOTE to AWARD the contract for the replacement of the salt shed, contract #12-SS-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)

Beech Tree Farm Road Construction - Mr. Bangert stated that the street is being re-built through betterments as part of the street acceptance program.

Mr. Murray made a MOTION that the board of Selectmen VOTE to AWARD the contract for the roadway improvements for Beech Tree Farm Road, contract #12-SA-09 to T & K Asphalt Services of Whitman, Massachusetts for a total bid price of \$39,399.80 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. Danehey. No discussion. Unanimous vote. (5-0)

Seawall Repair – Mr. Cafferty stated that two contractors submitted bids. The project will be funded under the Capital Plan (\$500,000) and the Town received a grant for \$50,000, as well. The seawall at Turner Road and Oceanside Drive will be repaired.

Mr. Danehey made a MOTION that the Board of Selectmen VOTE to AWARD the contract for the Oceanside Drive and Turner Road seawall, contract #12-SW-03, to Robert B. Our, Inc. of Harwich, Massachusetts for a total bid price of \$406,000.00 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. Unanimous vote. (5-0)

Gasoline Dispenser – Mr. Bangert explained that the dispenser will be available to police, fire and DPW vehicles. Currently, these departments depend on getting fuel when local

stations are open. This will alleviate that problem. This will be funded by the departmental surpluses be each of the departments utilizing the dispenser.

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. Danehey. No discussion. Vegnani, Murray, Norton and Danehey voted. Mr. Harris did not vote. (4-0)

Discussion continued on the savings the Town will realize by utilizing the dispenser and security measures.

13. DISCUSSION/ VOTE/ Gates Intermediate School Addendum

Mr. Murray made a MOTION that the Board of Selectmen VOTE to APPROVE the contract addendum between the Town of Scituate and Durkee, Brown, Veiveiros & Werenfels Architects to include a full existing conditions assessment of the remaining portions of the Gates Middle School for an additional cost of \$14,039.00. SECONDED by Mr. Harris. No discussion. Unanimous vote. (5-0)

14. APPOINTMENTS – Affordable Housing Trust

Mr. Harris made a MOTION that the Board of Selectmen VOTE to RE-APPOINT Paul Lemieux to the Affordable Housing Trust. SECONDED by Mr. Danehey. No discussion. Unanimous vote. (5-0)

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

16. OTHER BUSINESS

Correspondence – None

Documents for signature were presented to the Selectmen.

17. ADJOURNMENT

Mr. Murray made a MOTION that the Board of Selectmen VOTE to ADJOURN the meeting after the signing of the documents (approximately 10:30 PM). SECONDED by Mr. Harris. 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