

**MEETING MINUTES  
BOARD OF SELECTMEN  
August 2, 2016**

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

Patricia Vinchesi, Town Administrator

The Meeting was called to order at 6:02 p.m.

**Acceptance of Agenda**

**Mr. Danehey made a MOTION to accept the agenda for August 2, 2016 Second by Ms. Curran, all in favor. Unanimous vote (5-0).**

**Move that the Board of Selectmen go into Executive Session to consider the purchase, exchange, lease or value of real property to discuss the Ellis Property, 800 Chief Justice Cushing Highway and reconvene in open session. Motion by Mr. Danehey Second by Mr. Vegnani**

**Roll Call Vote**

**Mr. O'Toole yes**

**Mr. Vegnani yes**

**Mr. Danehey yes**

**Mr. Harris yes**

**Ms. Curran yes**

The Board reconvened its open meeting at 7:25 p.m. and the following members were present: Martin J. O'Toole, Chairman, Anthony V. Vegnani, Maura Curran, Shawn Harris, John Danehey

Also present was Patricia Vinchesi, Town Administrator

**WALK INS** – There were no walk ins.

**REPORT OF THE TOWN ADMINISTRATOR**

1. Library

Library is on track. Color schemes were decided. Photo submissions are being accepted by the library to decorate the library.

2. Public Safety Complex

The project is going well with the good weather and is moving along quite nicely.

Ms. Curran asked if the 7 a.m. start time was discussed with the OPM. Ms. Vinchesi said yes the OPM is on board.

3. Go Green Fire

The town used between 15,000-20,000 gallons of water this week to put out the fire. We did have a consultant go out and inspect the property. Mr. Toomey said an environmental consultant was brought in and we saw no violations. Some improvements were suggested. Ms. Vinchesi said we have billed Mr. Lopes in the past and will bill him for the fire response.

Flood insurance workshop will be held at St. Mary's in the near future. The Hazard Mitigation plan was accepted in record time.

Mr. O'Toole said the Board of Selectmen has prepared a statement regarding the Ellis property.

**Motion to accept the statement on the Ellis property by the Board of Selectmen.  
Motion by Mr. Vegnani second by Ms. Curran Unanimous Vote (5-0)**

Mr. O'Toole read the statement prepared by the Board of Selectmen.

Earlier this evening the Board had a meeting in executive session with Town Counsel to discuss issues relative to the Ellis Estate. This discussion was precipitated by recent activities by a small group of individuals who contacted the Office of the Attorney General regarding the Town's Public Safety Complex on land formerly under the care and custody of the School Committee. Evidently, these individuals contend that the transfer was either not proper or the Town acted inconsistently with state statute relative to this parcel. While we have and will continue to discuss this legal matter in Executive Session we feel it is important to discuss facts with the public in open session.

First, some history - In 1969 Scituate residents at Town Meeting appropriated \$146,000 in funds for the purchase of 101 acres of land from the Ellis Estate. The land was deeded to the Town to be managed and controlled by the Conservation Commission. Shortly following that, the Conservation Commission voted, as required by state statute, to transfer a portion of that land (40 acres) to the care and custody of the School Committee. The transfer was approved by Scituate residents at the 1970 town meeting. In 1994, 16 acres was transferred back to conservation. The remaining acreage has been under School Committee control since then despite two subsequent town meetings that endeavored to retransfer the land back into conservation. Over the years, this property has been considered for public uses other than conservation. In December of 2014, after being voted by the School Committee in 2013, Town Meeting approved the transfer of six acres on the Ellis parcel for the construction of the Public Safety Complex.

The location of the Public Safety Complex on the Route 3A site was determined as the best site after a feasibility study was undertaken by Dore and Whittier on three sites. Prior to this, a public forum was held in June of 2012 at the Scituate Harbor Community Building, informing residents of the Town's intent and specifically mentioning the Ellis parcel. Since 2012, and

leading up to the December 2014 Town Meeting, there were multiple public meetings and presentations on this project in addition to an educational campaign prior to the ballot question approving the project. Each time the project went before voters it was approved. It is important for you, the residents of Scituate, to know that over the past four decades, each and every time any discussion went before voters about the use of this parcel it was reviewed by the Town's legal counsel. There is a legal opinion from 1977 from Town Counsel Edward Ryan, laying out the proper process for transfer and the Town's appropriate actions. There is a legal opinion from 1994 from the Town Counsel, Barbara St. Andre, reaffirming the Town's actions, and there was review and guidance from Town Counsel Jim Toomey for the transactions at the April 2013 and December 2014 Town Meetings.

The Board would like to clarify inaccurate statements by a small number of individuals that there was confusion over the project and what the Town was asking voters to approve. Two separate ballot questions, one for the school and one for the Public Safety Complex were presented before town voters, both completely independent of the other. The vote in December of 2014 was the culmination of three years of work at regularly posted public meetings, viewable on cable and anytime on YouTube, and a comprehensive independent educational campaign by the Yes for SMS/Yes for Public Safety organization. While the Board understands not every resident supported the project, the Board made every opportunity for the public to be informed and participate about the project.

We are further dismayed that the information circulated with a proposed warrant article for the coming Fall Special Town Meeting which states that the Town submitted documents to the Attorney General and "(the Town) maintains that because local taxpayer money only was used to purchase the property, the Town has the right to transfer the land in and out of conservation at any time." In point of fact, no such representation was made.

We have provided a significant amount of information to the Attorney General's Office culminating in a meeting with the Assistant Attorney General on June 28, 2016. The meeting was held with Town Counsel Jim Toomey, Selectman John Danehey and Town Administrator Patricia Vinchesi, along with Assistant Attorney General's Carol Iancu and Alicia Pradas-Monne.

At the June 28, 2016 meeting Assistant Attorney General Carol Iancu indicated her office was of the opinion that legislative approval should have been obtained before the six acre parcel was committed for the Public Safety Complex. The Town representatives strongly disagreed with that assessment based on the legal opinions of our current Town Counsel and prior Town Counsels in 1994 and 1977 as well as case law. In an effort to be conciliatory, the parties agreed to temporarily put aside their legal disagreements to explore how the impasse might be resolved. The Assistant Attorney General Iancu suggested a resolution of placing additional land under conservation restrictions. At the present time the Town of Scituate has 940 acres of land in conservation. This represents 14% of the Town's total acreage of 6,715.

After this review the Board feels that the Town has complied with the letter and spirit of the law, that all Town actions leading to the construction of the Public Safety Complex comply with all legal requirements and it is hopeful that upon receipt of additional information recently supplied to the Assistant Attorney General, the Assistant Attorney General will agree with that position.

The *Mariner* editorial in the July 28, 2016 paper, stated in part: *“It’s easy to go on line and post comments that spew hate, over festivals, ideas, people, whatever. We see a lot of comments from people who clearly aren’t going to meetings, reading articles or otherwise getting sourced information before they post.”*

This Board will continue to provide correct information to the public and will continue to work with the cooperatively with the Assistant Attorney General to address her concerns.

Mr. Vegnani asked if there were any questions from the audience. Phyllis Karlberg, 26 Hughes Road, said she attended five of the sessions for the school and four for the public safety complex. To her knowledge she does not remember anything about a land swap for the Ellis property. Mr. O’Toole said in 2013 the school committee voted to turn the land over to the Town of Scituate. It was not a land swap. Ms. Curran said if the Town did not move forward with the plan then it would revert back. Elise Kline, 675 Chief Justice Cushing Highway said someone wanted to put an ice skating rink there and that was not what the purpose of the property was for. Ms. Kline said the Selectmen are certainly not keeping space green. Mr. Danehey said when they sold the land to the Town he said the family felt that the forest across the street should be part of the Town’s future. He said the owner of the land where the Public Safety Complex is being built could be developed into a park, fields, or a hospital. It was only deeded into the conservation commission in 1969 and there is no restriction or covenant. It was not this board that made these decisions. The decisions were made by legal counsel and the Selectmen at the time. The remaining 14 acres are owned by the School Committee. There is a lot of innuendo and personal opinions out there that are incorrect. This board has been clear with the public about this all along. The board approved over 500 acres of land in conservation. The only plan for this space is the Public Safety Complex. Patricia Lambert, 14 Alexander Place wants the other fourteen acres turned into conservation space from the school committee. Mr. Danehey said he respects Ms. Lambert’s position. Mr. Vegnani said a picture was painted that this was done indigenously and now the course will take what it takes based on the opinion of the Attorney General. Ms. Lambert has read the master plan and it says the board is committed to keeping the green space on route 3A. Keith Walo, 300 Country Way asked if there is any legal mitigation going on right now between the town and the attorney general. The Town’s position is we have done nothing wrong. We are not at the legal stage at this point. Pete Sweeney 208 Mann Lot Road asked if there was any speculation when we would hear back from the state. Mr. Danehey said he would expect sometime this fall.

## **SCHEDULED ITEMS:**

### **New Board & Committee Applicants**

- Scituate Cultural Council

Sue Gallagher discussed the opening on the Scituate Cultural Council. She is an artist and has experience with grant writing.

### **Outdoor Entertainment Permits**

1. Empower HER event, Bulman Marina, Jericho Road, 9/22/16 7-11 p.m. for DJ, Cara Belvin, Anne Vegnani

Susan Dailey and Anne Vegnani are co-chairs of the event attended the meeting tonight and Cara Belvin was unable to make it. Ms. Dailey said that EmpowerHer is a non-profit for young girls who have lost their Mom's. Ms. Dailey is a mentor for a girl in Weymouth. This event is being held to help with the mentor program. Mr. O'Toole said he is concerned with the 11 p.m. late end time. He suggested that the music stop at 10 p.m. since it is a school and work night.

**Move to grant an outdoor entertainment permit to EmpowerHer Cara Belvin for an upcoming fundraising event on 9/22/16 at Bulman Marina from 7-10 p.m. Motion by Mr. Danehey Second by Ms. Curran Mr. Vegnani recused himself Vote in favor Ms. Curran, Mr. Harris, Mr. O'Toole and Mr. Danehey Unanimous Vote (4-0)**

2. Family Gathering Torsney Family, 98 Humarock Beach Road, 8/12/16 6-8:30 p.m., Richard and Joe Torsney

Mr. Torsney said he owns two properties in Humarock at 10 Marshfield Avenue and 98 Humarock Beach Road. He has notified the abutters.

**Move to grant an outdoor entertainment permit to Richard and Joe Torsney for an upcoming family and friends gathering on 8/12/16 at their property on 10 Marshfield Avenue from 5-8:30 p.m. Motion by Mr. Danehey second by Mr. Harris Unanimous Vote (5-0)**

### **International Overdose Awareness Day, Annmarie Galvin, FACTS Coordinator**

Annmarie Galvin submitted a special event permit to hold a gathering on International Overdose Awareness day. There will be some acoustic music and it will be a very simple respectful service for 30-45 minutes. Pins were purchased for Town Employees through the grant.

**Motion to approve International Overdose Awareness Day gathering on Wednesday, August 31, 2016 from 5:00 a.m. to 8:00 a.m. at Scituate Lighthouse. Motion by Mr. Danehey second by Mr. Harris Unanimous Vote (5-0)**

**Total Outdoor Water Ban**, Kevin Cafferty, DPW Director, Sean Anderson, Water Superintendent

Mr. Cafferty said it is very dry out and the reservoir is going down. We are getting down to 28% in the reservoir which is very low. The water department is very concerned. Mr. Anderson, Water Superintendent, said we have capacity for 30-45 days in the reservoir and it is dropping ½ - 1” per day. If a business has a need they can contact the Water Department. The use did go down after the last restriction but since then the plant has seen a heavy increase after 5 p.m. The past 3-4 days we’ve been down again since the tickets were issued. We were this low last September but not this early in the season. Mr. Anderson said after a total water ban the next step would be to reach out to other towns. We have a connection with Cohasset and Norwell. If Norwell and Cohasset do not have the water supply, we could also pay Marshfield to run the water through Norwell to Scituate. Mr. Cafferty said they will start reaching out to other towns to see what their capacity is and develop a backup plan. Other options are being explored. Mr. Harris asked if private wells have to adhere to these restrictions. Mr. Cafferty said they do not have restrictions. Mr. Clarkeson said the private wells are under the purview of the Board of Health. One day a week would be sufficient to water with a private well. Ms. Curran asked if we could put together guidelines for private well owners as well. Mr. Danehey asked about our wells and Mr. Cafferty said the wells are still pumping. Mr. Anderson said we have seen some depletion with the wells also. The wells are running 24 X 7 and the yield has dropped. Mr. Harris asked what harm there would be to take out some of the stumps and boulders. Mr. Cafferty said they have to get a lot of DEP permits to take out the stumps and boulders. This would be a capital project. Mr. Danehey asked about boats. Mr. Cafferty said he would recommend a quick rinse. Mr. Vegnani asked Mr. Anderson to put together information regarding the wells. John Clarkeson, Chairman of the Water Resources Commission said he wanted to thank the community for their water conservation and following the restrictions. For those that are not, he asked residents to follow the guidelines. Mr. Danehey asked if the water department was going out to ticket. Ms. Vinchesi said the police department snaps a picture and puts it in a log which is sent to the water department to issue tickets. Ms. Elise Kline, 675 Chief Justice Cushing Highway asked how much it would cost to truck in water. Mr. Vegnani said the next steps would be to pump in water.

**Move that the Board of Selectmen allow the Department of Public Works to implement a full outdoor water use ban when the level of the Reservoir reaches 34 feet. The Ban will be lifted when the elevation of the reservoir restores to elevation 35 feet (39% Full) Motion by Ms. Curran second by Mr. Danehey Unanimous Vote (5-0)**

**Middle School Project**, Shane Nolan, OPM Daedalus

Mr. Nolan is here tonight to provide an update on the Middle School project. Mr. Nolan was accompanied by the Superintendent of Schools, Mr. John McCarthy. Mr. Nolan provided a copy of the Daedalus Progress report for the Scituate Middle School project dated August 2, 2016.

Mr. Nolan reviewed the progress to date including construction and site work. Anticipated project progress was reviewed for the high school, auditorium, utility building, middle school and site work. The project schedule, costs, project issues and current discussions were reviewed with the Selectmen. A complete copy of the report is included in the meeting backup. Mr. Danehey asked what is going on with parking in the back of the school with football and the walking area to the basketball courts. Mr. Nolan said there will be provisions made for football season and parking near the stadium won't be open until the end of August. Mr. Vegnani asked if they could put a roadway in for emergency access to the basketball court. Superintendent McCarthy said the fire department has keys to the gate. They will bring access for emergency vehicles up at their meeting tomorrow to discuss. The Selectmen asked why the additional contingency funds were being requested. Mr. Nolan said it was brought up by the School Building Committee as a safety net so there would be no requirement to go to the MSBA for additional funds in the future. The Selectmen do not vote on this but are concerned with the increase and feel it is not necessary. Mr. Nolan said that the MSBA has been coming out for site visits and they have issued some reimbursements to the town.

### **NEW BUSINESS:**

#### **1. One Day Wine & Malt Licenses**

a. The Silent Chef @ SMC 8/7/16 1-5 p.m. for graduation party

**Move that the Board of Selectmen approve a One Day Wine & Malt license to the Silent Chef for an event taking place at the Scituate Maritime Center on 8/7/16 starting at 1:00 to 5:00 p.m. for a graduation party. Motion by Mr. Danehey second by Ms. Curran Unanimous Vote (5-0)**

b. The Silent Chef @ SMC 8/12/16 5:30-9:30 p.m. for rehearsal dinner

**Move that the Board of Selectmen approve a One Day Wine & Malt license to the Silent Chef for an event taking place at the Scituate Maritime Center on 8/12/16 starting at 5:30 to 9:30 p.m. for a rehearsal dinner. Motion by Mr. Danehey second by Mr. Vegnani Unanimous Vote (5-0)**

c. Hospitable Hostess @ SMC 8/11/16 6-10 p.m. for library foundation fundraiser

**Move that the Board of Selectmen approve a One Day Wine & Malt license to Hospitable Hostess for an event taking place at the Scituate Maritime Center on 8/11/16 starting at 6:00 to 10 p.m. for a Scituate Library Foundation fundraiser. Motion by Mr. Danehey second by Ms. Curran Unanimous Vote (5-0)**

d. Ellen MacKenzie @ SMC 8/6/16 5-11 p.m. for private event

**Move that the Board of Selectmen approve a One Day Wine & Malt license to Ellen MacKenzie for an event taking place at the Scituate Maritime Center on 8/6/16 starting at 5:00 to 11:00 p.m. Motion by Mr. Danehey second by Mr. Harris Unanimous Vote (5-0)**

2. Board & Committee Appointments

- Scituate Cultural Council

**Move to appoint Susan Scavo-Gallagher to the Scituate Cultural Council for a term of three years or until a successor is named. Motion by Ms. Curran second by Mr. Harris Unanimous Vote (5-0)**

- Recreation Commission

**Move to appoint Dave Smith to the Recreation Commission for a term of three years or until a successor is named. Motion by Mr. Harris second by Mr. Vegnani Unanimous Vote (5-0)**

3. **Contract Award Harbormasters Boat**, Stephen Mone, Harbormaster

Harbormaster Mone is here this evening to ask for approval for the new harbormasters boat. This replaces unit 1, the old Boston Whaler that is damaged. Mr. Harris asked if this has single or twin engines. Mr. Mone said twin engines. The boat will be delivered in 90-120 days. Mr. Danehey asked if the old engine could be sold. Mr. Mone will be working with the Town Administrator regarding the disposition of the old boat and engine. Mr. Mone said he looked at these boats when he was down in Florida and they are the boat of choice.

**Move to award the contract to Brunswick Commercial and Government Products for the purchase of a new Harbormaster vessel authorized in Article 4N of the ATM 04/2016 for an amount not to exceed \$148,766.00 through the Government Services Administration Small Craft and Marine Equipment contract #GS-07F-0011J. Motion by Ms. Curran second by Mr. Harris Unanimous Vote (5-0)**

4. State Primary Poll Hours

**Move that the State Primary Poll Hours for Thursday, September 8, 2016 be set from 7:00 a.m. to 8:00 p.m. at the Scituate High School Gymnasium, 606 Chief Justice Cushing Highway, Scituate, MA. Motion by Mr. Harris second by Mr. Vegnani Unanimous Vote (5-0)**

5. Annual Board Retreat

9/23-9/30 Ms. Vinchesi is out at a conference, the beginning of October is not good for Mr. Danehey. September 17<sup>th</sup> was offered as an alternative with a backup of October 10th. The Selectmen will check their schedules and get back to Ms. Vinchesi.

**OTHER BUSINESS:**

**Correspondence**

A letter was received from FEMA stating the maps will become effective on November 4, 2016. Ms. Curran said this will be a town meeting topic.



FOSS Thank you Letter was sent and thanked the Selectmen for sponsoring the golf event. Mr. O'Toole said they raised \$9,000 with that event.

Seawall thank you card was received from Paula and Don Jacobs for resurfacing the seawall. The Selectmen and DPW appreciated the thoughtful card.

**Approval of Meeting Minutes**

**Move that the Board of Selectmen approve the meeting minutes for the July 5, 2016 and July 19, 2016 Board of Selectmen Meetings. Motion by Mr. Harris second by Mr. Vegnani Unanimous Vote (5-0)**

**Adjournment and Signing of Documents**

**There being no other business, motion by Mr. Vegnani to adjourn the meeting at 9:11 p.m. second by Mr. Danehey.**

Respectfully Submitted,

Lorraine Devin  
Recorder

## **LIST OF DOCUMENTS FOR BOARD OF SELECTMEN MEETING AUGUST 2, 2016**

- Agenda
- Upcoming Meetings & Events
- Statement read by the Board of Selectmen Ellis Property
- Board & Committee applicants
- Outdoor Entertainment Permit Applications
  - EmpowerHer non profit
  - Richard & Joe Torsney
- Special Event Permit International Overdose Awareness Day
- Full Water Ban request and backup
- Daedalus Middle School project report date August 2, 2016 and backup
- One Day Wine & Malt License applications
  - The Silent Chef for an event taking place at the Scituate Maritime Center on 8/7/16 starting at 1:00pm to 5:00pm for a graduation party.
  - The Silent Chef for an event taking place at the Scituate Maritime Center on 8/12/16 starting at 5:30pm to 9:30pm for a rehearsal dinner.
  - The Hospitable Hostess for an event taking place at the Scituate Maritime Center on 8/11/16 starting at 6:00pm to 10pm for a Scituate Library Foundation fundraiser.
  - Ellen MacKenzie for an event taking place at the Scituate Maritime Center on 8/6/16 starting at 5:00pm to 11:00pm.
- New Harbormaster Vessel request and backup
- Vote on poll hours for State Primary
- Correspondence
  - Friends of Scituate Seniors thank you letter
  - FEMA letter Flood Insurance Study and Flood Insurance Rate Map effective November 4, 2016
  - Resident thank you card for repairing sea wall
- Board of Selectmen meeting minutes for approval 7/5/16 and 7/19/16

Board of Selectmen Meeting Minutes for August 2, 2016

BOARD OF SELECTMEN

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Martin J. O'Toole, Chairman

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Anthony V. Vegnani, Vice Chairman

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Maura C. Curran, Clerk

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John F. Danehey

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Shawn Harris