



**Wellfleet Board of Selectmen
Minutes of May 16, 2017
Wellfleet Senior Center**

Present: Selectmen Dennis Murphy, Chair, Janet Reinhart, Kathleen Bacon, Helen Miranda Wilson and Jerry Houk; Town Administrator Dan Hoort, Assistant Town Administrator Brian Carlson;

Chairman Murphy called the meeting to order at 7:02 PM.

Announcements, Open Session and Public Comments

- ☐ Murphy went over the protocol of the meeting. He said this meeting will be a work session where public comments will be allowed only in the beginning, and then it will become a work session among the Selectmen, Attorney John Giorgio and Cape Light Compact representative Austin Brandt.
- ☐ Wilson announced that the pollen season has begun.
- ☐ Lilli Green updated the Board on 1. The recent order by President Trump's Administration to suspend all activities of the Cape Cod National Seashore Advisory Commission; 2. The Assembly of Delegates has passed the Cape Cod Commission budget with changes and had reinstated the Cape Cod Water Protection Collaborative; 3. There will be a public hearing about the re-organization of the Cape Light Compact on May 17.

Business: Discussion of and consideration to join Cape Light Compact Joint Powers Entity (JPE) and sign the Cape Light Compact Joint Powers Agreement (JPA)

Dick Elkin explained the Joint Powers Agreement and the responsibilities, obligations and powers of the new Joint Powers Entity. He said that the JPE will have the same programs and the same mission as the inter-governmental agreement; Mr. Elkin stated that the Board members will be essentially the same, with the one difference being that the administrative functions of the JPE will no longer be performed by Barnstable County and will function independently under the Department of Public Utilities. He said that 17 towns have already joined the JPE and signed the JPA. The cutoff date to join is July 1, 2017.

Lilli Green urged the Selectmen to wait until the end of June to make their decision. She expressed concerns of transparency and fiscal responsibility of the Cape Light Compact (CLC). She had prepared seven pages of questions that were not answered by the CLC. Ms. Green gave her opinion that it would be in the best interest of all participating members if CLC were to become a department of Barnstable County.

David Mead Fox, Alternate on the Energy Committee, Robert Shapiro, Energy Committee member and Cristiane Mason, alternate member on the CLC spoke in favor of the proposed restructuring.

Attorney John Giorgio of KP Law and CLC representative Austin Brandt answered the Selectmen's questions. Attorney Giorgio said that the new JPE will have more liabilities and the individual members will not be liable. The JPE will have the authority to hire its own employees. He explained that this transition is possible because of the Municipal Modernization Act. Giorgio addressed concerns about the weighted vote and explained that the intent of the JPA was to change as little as possible, therefore the weighted vote stayed as if it was in the old inter-governmental agreement. He said that there will be an independent business manager to oversee and assume all the authority of a Town Accountant. Mr. Giorgio stated that the financials of the JPE will be audited and are required to be filed with and approved by the DPU. Based on this, it was his opinion that there will be multiple layers of financial oversight. He confirmed that the Attorney General and the DPU have opened a public comments period, but the new entity has been formed, regardless of whether Wellfleet decides to join or not join. Wilson wanted to better understand what CLC does and if individuals must join. Brandt answered Wilson's question by explaining that the CLC is one of

the energy distributors that buys power in bulk and delivers competitively priced electric power. He said that every Eversource customer on Cape Cod is automatically enrolled, but can opt out and revert back to Eversource's pricing. Brandt also talked about the energy efficiency programs offered by CLC to residents, businesses and municipalities. Houk wanted to know if the restructuring will reduce the electric bill. Brandt answered that the JPE will not change the rates, but it will change how CLC runs its programs. Wilson wanted to better understand if Wellfleet would be impacted if the Town decided to not participate in specific programs that will impose a financial impact and what would happen in this case. Giorgio read the statute from the JPA in response to this question. Based on the JPA, there will be no liability to Wellfleet if the Town does not vote to accept the financial obligations. Elkin said that he has proposed an amendment on the financial obligation of individual towns, and this will be reviewed with the next substantial modification of the JPA. Lilli Green said that actually the CLC does not always offer the lowest rates. She brought the Emerson College Case to the attention of the Board. Murphy wanted to know what happened with the Ice Bearers air conditioning proposal. Brandt answered that based on DPU a modification has been filed a response is pending. Murphy had questions about financial oversight and fiscal responsibility, and wanted to know how a private entity can operate under the same benefits as a municipal entity. He asked how overhead will be handled. Brandt answered the question by explaining the programs and saying that if the offered programs are no longer cost effective, they will not be allowed under the state law. He also explained that the staffing budget is limited to be under \$1M. Murphy wanted to confirm that the CLC will be subject to the public procurement law. Giorgio confirmed that the Open Meeting Law, Public Procurement Law and Conflict of Interest Law will be governing the JPE. At the end of the discussion Wilson wanted to postpone voting on this, because she wanted to review the answers provided by Giorgio to questions posed by Hoort in an email exchange earlier that day. Bacon and Reinhart were ready to vote. Houk could wait or vote. Murphy was also ready to vote and said that if Wellfleet would like to make a change, it should join and make the change from within.

MOTION 217-348: Reinhart moved and Bacon seconded that the Board of Selectmen vote, pursuant to General Laws chapter 40, section 4A ½, as follows:

- (1) to join the Cape Light Compact Joint Powers Entity (JPE);
- (2) to authorize Dennis Murphy, Chair of the Board of Selectmen¹ to execute the Joint Powers Agreement of the Cape Light Compact JPE subject to final review by Town Counsel;
- (3) to appoint Richard Elkin as the Town's Director and Cristiane Mason as the Town's Alternate Director to the Cape Light Compact Joint Powers Entity
- (4) to take any other action necessary or relative thereto. The motion passed 5-0.

Adjournment

MOTION 217-349: Wilson moved and Reinhart seconded to adjourn the meeting at 8:26 pm. The motion passed 5-0.

Respectfully submitted,

Michaela Miteva, Executive Assistant

Public Records Materials

¹ GPA. In accordance with G.L. c. 40, §4A ½, this is the chief executive officer of a city or town, or a board, committee or officer authorized by law to execute a contract in the name of the governmental unit.