

Wellfleet Board of Selectmen
Minutes of the Meeting of March 27, 2018
Wellfleet Senior Center, 6:00 p.m.

BOS Members Present: Dennis Murphy – Chair, Janet Reinhart – Vice Chair, Jerry Houk, Helen Miranda Wilson, Kathleen Bacon – Clerk.

BOS Members Absent: none.

Staff: Dan Hoort - Town Administrator, Radu Luca – Executive Assistant to the Town Administrator, Joseph Powers – Town Clerk

The meeting was called to order at 6:00 p.m. by Dennis Murphy.

Since a Public Hearing was scheduled for 7 pm, some agenda items were taken out of order and discussed in the beginning of the meeting. These were: Business items D, E, F, G, Town Administrator's Report, Topics for Future Discussion, Correspondence and Vacancy Report, Minutes.

- **Announcements, Open Session and Public Comment**

Note: Public comments must be brief. The Board will not deliberate or vote on any matter raised solely during Announcements & Public Comment.

Wilson said she was seeking reelection to the Board and reminded the audience about the April 12 Candidates' Nights and that there are five people seeking election / reelection.

Dan Hoort announced that the guidelines for slide presentations at the 2018 Town Meeting are on the Town's Website.

Chief Fisette said April is Autism Awareness Month and the Police Station would be lit in blue.

Amy Wolf said she thought there would be discussion on the dispensary at Old Wharf's Road on the agenda for tonight's meeting. Hoort said this issue might be addressed at the first meeting in May.

Wayne Clough asked if the BOS was going to address the White Crest Beach parking lot article in the Warrant.

Wilson said that at the last meeting, the Board considered asking Atlantic Medicinal Partners to come back or to at least write them a letter to see whether they would consider another location for their dispensary.

Houk said he thought the AMP topic would be addressed tonight as well, but it is not on the agenda for discussion.

I. Public Hearing(s) – 7 pm
A. Shellfish Grant Renewal:

The BOS reconvened at 7 pm for the public hearing.

Chair Murphy opened the public hearing at 7:00 pm.

Shellfish Constable Civetta asked the audience in the room to take a moment of silence for Carl Barrio who died today.

Civetta went through the applications for lease renewals one-by-one, as listed in the memo included in the BOS packet for the meeting. She addressed the applications that had been marked as reserved for recommendation in the BOS packet. In each case, she had met with the applicants and been able to arrive at a three-year plan with each of them so as to be able to recommend them for renewal.

Civetta stated that the Department was striving for accuracy in reporting from the growers. In Meeting with the renewal applicants, evidence of interest in the grant, effort on the grant, and a plan for the grant were reviewed. People who have non-contiguous grants will do separate reports for each location.

Bud Paine explained that he hasn't been paying as much attention as he should to his grants but is now able to do more leases, now that he's not the primary care-taker for his father, which he has been, for last 8-10 years. Also, he is hoping to have a smooth transition from the family's owning and managing the Paines' campground.

Civetta said that she did not recommend the renewal of Tim Hughes and Rick Merrill and why: both lessees wish to give it up. It was clarified that the grant would be returned to the Town and would now be available for assignment through a lottery for qualifying applicants, under Section 7.2 of the Shellfishing Regulations. A vote *not to renew* would start the clock ticking on the 30-day window of opportunity to apply for it.

I move to reject the license for renewal of #01-05 for Richard Merrill and Tim Hughes.

Motion: Wilson

Second: Bacon

5-0-0. Motion carries

I move to approve the following shellfish lease renewals:

- **Andrew Jacob**
- **Robert, Nicole and Allison Paine**
- **Evan Bruinooge and Ian Holmes**
- **Richard Goldberg**
- **William Young, Jr**
- **Shea Murphy**

- Robert Hussey
- Paul Bonanno
- Robert and Barbara Olson
- Joseph Gray and Rachel Finn
- Irving, Holly, Jake and Marshall Puffer.

Motion: Bacon

Second: Reinhart

5-0-0. Motion carries.

Civetta asked the Board to address the application for a transfer from Irving, Holly, Jake and

Marshall Puffer, to just Irving and Jake. It was not on the agenda. This was an oversight. Murphy apologized.

Wilson asked that it be on the next agenda.

Civetta referred to the fact that each licensee has to pay \$25. per acre.

Chair Murphy closed the public hearing section at 7:15 pm.

III. Licenses

B. Common Victualler:

The Fox and Crow Café

Trudy Vermehren presented the changes taking place at the venue to turn it into a coffee shop rather than a pizza operation. She's planning on staying open 6 am to 1 pm for the time being, on a seasonal basis, mid-May through Labor Day. The hours may be extended later in the season.

Bacon asked about the seating capacity. Trudy answered and said there are thirty-two seats inside and some outside. Trudy might reduce slightly the inside seating capacity.

Houk said Trudy and her staff have been working very hard and is happy to have a coffee shop open in the neighborhood.

I move to approve the following common victualler business license for the Fox and Crow Café.

Motion: Wilson

Second: Reinhart

5-0-0. Motion carries.

The Wellfleet Bechcomber

Todd LeBart was present for the renewal of the business license. The issue of who should provide enough portapotties for the location was raised. LeBart said the parking lot at Cahoon Hollow Beach might be put out for lease and he thinks that whoever wins the bid should provide the portapotties as well.

Suzanne Thomas said the recommendation for additional portapotties at the Beachcomber was put out in October 2017.

Wilson said we need to have an appropriate amount of portapotties at that location.

Hoort said the Town would not operate that location as a parking lot. The Town would provide access to the beach, and life guards. Thomas said there might be about 20-22 parking spaces available.

Houk said portapotties are not the issue before the BOS tonight and the board should proceed and vote on the common victualler business license approval.

I move to approve the common victualler business license for the Wellfleet Beachcomber.

Motion: Reinhart Second: Wilson

5-0-0. Motion carries.

Janet Drohan would like the BOS to consider the condition and health of the dune and if it's worth it, to lease out that portion of the parking lot.

C. Seasonal Liquor License Renewals:

I move to approve the following seasonal liquor license renewals:

- **Wellfleet Beachcomber**
- **Winslow's Tavern**
- **The Lighthouse Restaurant**
- **Bocce's Italian Grill**
- **Wellfleet Motel & Lodge**
- **V.R.'s**
- **Maurice's Campground**
- **Wellfleet Marketplace**
- **Chequessett Yacht & Country Club**
- **Flying Fish Café**
- **Wellfleet Flea Market**
- **Catch of the Day**
- **Mac's Shack**
- **Pearl Restaurant**
- **Harbor Stage Company**
- **Bob's Sub n' Cone**
- **Ceraldi**
- **Chequessett Yacht & Country Club Boat House**
- **Liquor 'N More.**

Motion: Houk

Second: Reinhart

5-0-0. Motion carries.

II. Appointments/Reappointments

- **Police Department** – Full-time Officer Jeremiah Valli (Chief Fisette)

Chief Fisette presented Jeremiah Valli to the Board and recommended his appointment as a full-time police officer to the WPD.

I move to approve Officer Jeremiah Valli as a full-time police officer to the Wellfleet Police Department.

Motion: Reinhart Second: Bacon 5-0-0. Motion carries,

B. Cape Cod Commission – Roger Putnam

Roger Putnam said it's been his pleasure to serve the Town on the Cape Cod Commission.

Wilson thanked Roger for his service on the Commission.

I move to reappoint Roger Putnam as the Wellfleet Representative on the Cape Cod Commission.

Motion: Wilson Second: Bacon 5-0-0. Motion carries.

C. Cable Advisory Committee – Deborah Magee

Tom Cole, as Chair of the COC, spoke in favor for Deborah Magee's appointment to the CAC.

Wilson said she's glad Deborah is volunteering to be on the CAC.

I move to appoint Deborah Magee to the Cable Advisory Committee for a one-year term ending June 30, 2019.

Motion: Bacon Second: Wilson 5-0-0. Motion carries.

III. Business

A. WPD Recommendation for 111-F Designation Status [Chief Fisette]

Chief Fisette stated that Donna Holway was injured in the line of duty and should be credited back for her sick days.

I move to approve the 111-F designation for Off. Donna Holway per the Police Chief's recommendation.

Motion: Wilson Second: Bacon 5-0-0. Motion carries.

B. Approval of the State's Department of Conservation and Recreation's request to exercise the power of eminent domain to acquire Paine's Campground, pursuant to G.L. c. 132 A §3A. [Shaun Provencher]

Reinhart recused herself from acting, in her official capacity, on this agenda item, as required under MA GL c 268A, the Conflict of Interest Law, Section 88-01. As an elected official, she cannot act on this matter although acting on her own behalf, in her personal capacity, was allowable. She left the table to sit in the audience and did not choose to participate in any way.

Provencher said that the possibility of the designation of this property had been discussed since 2012.

Bacon said she's glad the bike trail would be completed at that site and asked about the tax on the assessed land value after the eminent domain takeover. Provencher responded and said that the Town, like any town where the State owns property, would receive "pilot payments", payments in lieu of taxes.

Wilson said that it was good that there would be no change of use and that the campground would continue to serve as a place to rent in the area for vacationers who couldn't otherwise afford it, as well as for residents who rented out their homes in the summer-to add to their income.

Provencher said the number of the sites would go down slightly for better maintenance purposes, that the rates would be comparable to other DCR campgrounds (about half that of privately -owned campgrounds), and that reservations could be made through ReserveAmerica.com.

I move to approve the exercise of the power of eminent domain by the Commissioner of the Department of Conservation and Recreation, acting pursuant to and in accordance with Sections 3 and 3A of Chapter 132A of the General Laws, to acquire in fee a parcel of land located at 180 Old King's Highway in the Town of Wellfleet, containing twenty-seven and seven hundred and fifty-seven thousandths (27.757) acres, more or less, and shown on Exhibit A attached hereto.

Motion: Bacon

Second: Wilson

4-0-0. Motion carries.

Reinhart recused herself from the vote.

Reinhart returns to the table.

C. Review of 2018 Annual Town Meeting Warrant articles and close the Warrant

Hoort said article 44 was removed by the Planning Board.
Article 47 is a petitioned zoning bylaw article.

I move to reconsider the recommendation on Article 44.

Motion: Wilson

Second: Bacon

5-0-0. Motion carries.

I move to not place Article 44 on the 2018 Town Meeting Warrant.

Motion: Wilson

Second: Reinhart

5-0-0. Motion carries.

I move to place and reserve recommendation on articles 45, 46 and 47 on the 2018 Annual Town Meeting Warrant.**Motion: Bacon****Second: Wilson****5-0-0. Motion carries.**

Curt Felix recommended that the BOS place Article 47 before 45 and 46, because it is broader and includes the previous two articles. If it passes, the other two would be out of the picture. Denny O'Connell said that the Town Moderator had said that if articles are different versions of the same thing, he would allow discussion on all of them at the same time.

I move to switch the order of articles 45 and 47.

Denny O'Connell would like the order to be kept as is as per the recommendation from the Planning Board.

Motion: Houk**Second: Reinhart****3-2-0. Motion carries.**

Chair Murphy asked the Board to revisit and reconsider Article 27 – White Crest Beach Parking Lot.

Bacon read Article 27 out loud.

I move to reconsider Article 27**Motion: Houk****Second: Wilson****5-0-0. Motion carries.**

Houk doesn't know what kind of money we're talking about. actual price tag associated with this article and that down the road we'd have to think about having the DPW do a lot of this work. Let's make it simple. We need to think about this more, before we spend \$1,000,000. Bacon thinks we need to do more due-diligence with replacement parking, we don't know what we have out there at the four ocean beaches until DPW removes the sand from this winter. She hopes we can get through the summer season without too much difficulty. Bacon would like us to look at all available Town land and consider what would result in the greater good with regard to parking.

Murphy said the BOS voted to place and recommend the article at a previous meeting. Hoort clarified that the price tag of \$1.6 mil was initially mentioned but not included in the first version of the Warrant the BOS looked at, because he couldn't receive final confirmation of that number from Coastal Engineering at that time. Murphy said he believes that \$1.6 million was a lot of money, that the amount seemed "puffy" and that it might make a problem when we went out to bid by setting a ceiling. He reminded the Board that after a vote by Town Meeting, the Town had entered into a contract with Coastal Engineering on December 6, 2016, for \$48,000. He thinks we don't have enough information to answer at least some of questions that have been asked, let alone further costs. He read out loud the three tasks CE agreed to accomplish in that contract. We have reached Task Two: permitting plans with definitive plans (\$29,300.). This project started in 2013, but Murphy doesn't see the rush of moving forward before these three tasks have been accomplished. Wilson said that this information had changed her perspective. She thought we were further along in the three tasks and even though it is dangerous out there on Ocean View Drive, is willing to change her vote. Murphy offered to work with

Wilson also asked whether we would need to go out to bid to accept pro bono services that Murphy had offered to cover, to perform some of the work that needs to be done. Hoort responded and said no. Bacon asked if, after all three tasks have been accomplished, we could also look at other possible locations for beach parking in town. the DPW to do some of the work, pro bono. Murphy responded and said that the idea of remote parking had been researched before. We can foresee the Town having no beach parking and even Ocean View Drive, due to erosion. However, there is limited available acreage. Not to mention the distance from the beaches of other sites. Murphy thanked Hoort for his work on the article and project and Bacon commended Suzanne Grout Thomas for her work at Cahoon Hollow Beach parking lot.

I move not to place Article 27 on the 2018 Town Meeting Warrant.

Motion: Reinhart Second: Houk 5-0-0. Motion carries.

Murphy said this vote doesn't mean we're not considering parking. We will consider parking in the future to address our needs.

Wilson asked the Board whether they would like to reconsider their vote on the articles pertaining to the Animal Control issues.

I move to reconsider articles 36 and 37.

Motion: Wilson Second: Reinhart 5-0-0. Motion carries.

I move to consider and recommend article 36.

Motion: Wilson Second: Bacon 5-0-0. Motion carries.

Wilson said the BOS received correspondence from the Town Clerk regarding the petitioned article number 37 and asked him to clarify the difference between the two. Powers explained the difference between the two and said that Article 36 passed at Town Meeting he would continue to license dogs, and if Article 37 passed he would then license other many animals besides dogs as well. The bylaw change the Town Clerk proposes provides a timeline in licensing. He explained that the Ag recommends that if the Town objects to a petitioned article, that a "companion article" be offered. Also, the petitioned article runs the risk of being rejected by the AG because it goes far beyond the State's laws. Houk asked whether Powers discussed article 36. Powers said he had not, but the least restrictive article would be addressed first. Wilson commended Powers for his work on this article, particularly the time limit on having a dog licensed. Curt Felix said the petitioned article has several restrictions associated with it and that it's meant to provide consistency in time frames for the different parts of Town, creating a clear enforcement framework. He also supported a more relaxed leash law. Wilson the Shellfish Advisory Board had been asked by the Board of selectmen in years past to address this issue. They spent a lot of meetings researching how other Towns did and consulting with the Beach Department, the Park and the Police Department. Felix also said the petitioned article 37 is more restrictive than other bylaws already in place in Truro and Provincetown. Houk believes we ought to license cats because they could be more damaging than dogs when on the loose.

I move not to recommend the petitioned article 37.

Motion: Wilson**Second: Bacon****5-0-0. Motion carries.**

Reinhart said there should be consistent timings on all the water areas and that the petitioner and the Town Clerk should have talked about their articles prior to the meeting. Wilson said that we had issues before with people not picking up after their dogs the harbor and after the SAB had worked on this issue, for about a year, having dogs allowed on the harbor was included in the Beach Regulations, impossible. Large fines could be imposed. But the enforcement was impossible. It was easier to ban dogs altogether in the harbor area than to catch a dog in the act of defecating. So it was changed back to no dogs around the harbor. Felix said there's already a large amount of fecal matter in the harbor already, coming from a slew of wild animals. Bacon says she's a dog owner and has never seen any enforcement on owners who don't pick up after their dogs. Hoort said the Town is not required or allowed to amend a petitioned article and that's why the Town Clerk drafted a separate article. Reinhart asked whether the petitioner and the Town Clerk couldn't get together on Town Meeting floor and provide amendments to the petitioned article. Powers said Town Clerks, as per State Law, shall not respond to a citizen petition with any drafting suggestions, and that the only way to respond to a citizen petition so as to correct it, is through a companion article.

Discussion of the petitioned article 26

Curt Felix said that the \$150,000-dollar figure provided for the BWC Water Resources Director article is a ceiling for the overall costs associated with that department and not just a salary amount for that director position and that there's no capacity at Town Hall and in town to deal with waste water and a waste water strategy. Wilson said other committees like the Board of Health has the obligation to educate themselves to deal with these issues, but adding another employee is not the solution. Reinhart said that she is for the new position and thinks we need a qualified person in the job, but it should be defined better and have more information on the duties. We should address it in the future because water is very important to the town.

Wayne Clough said that the forum on the BWC position was informative and encourages the board and townspeople to watch it. Clough thanked the BOS for reconsidering and not placing Article 27.

Houk said that when we hired the Assistant DPW Director years ago, it was in his job description to get a license and address some of the water issues. Felix said that it's been outsourced to Whitewater. Felix said that there was no capacity for dealing with wastewater. Wilson said it was the obligation of the Board of Health to deal with such matters and that she had been present when, in the past, that board had done that. Reinhart said that she was in support of article

Murphy brought up a question asked by Janet Lowenstein about petitioned article 26, regarding the lot on which the old COA is located and whether it would have to be subdivided. Houk confirmed that if any part of the lot was used for housing, that the ball field would remain in place. The Board's vote not to recommend this article wasn't changed.

I move to close the 2018 Annual Town Meeting Warrant.

Motion: Houk

Second: Reinhart

5-0-0. Motion carries.

D. Pleasant Point Purchase and Sale

I move to approve the Pleasant Point Purchase and sale agreement.

Motion: Bacon

Second: Reinhart

5-0-0. Motion carries.

Hoort presented an update on this project and agreement. There is a bulkhead in question that the Town has not been maintaining and the abutters would like to purchase the bulkhead from the Town and maintain in. The Town received a bid from the current abutters, the only bid, and the price is \$22,000, which includes the land behind the bulkhead as well.

Wilson had read the purchase and sale agreement. Town counsel had vetted it. The public will continue to have access to the beach at the foot of the scarp/revetment. is covered and the public will have access to it.

Bacon asked when the party purchasing the bulkhead would make the restoration. Hoort said as soon as possible.

E. Herring River Restoration Project-Extension Agreement – DRI Public Hearing Period

Herring River Restoration Project-Extension Agreement – DRI Public Hearing Period

Chair Murphy recused himself from participating in the discussion.

I move to approve Cape Cod Commission third extension agreement of the Development of Regional Impact (DRI) public hearing period to April 5, 2019.

Motion: Bacon

Second: Wilson

4-0-0. Motion carries. Murphy

recused himself from this vote.

F. Approve petition by Eversource Energy to install 40 feet of conduit / cable to provide service to costumer at 805 Long Pond Road

I move to Approve the Eversource Energy petition to install approximately 40 feet of cable/conduit in the public way in Long Pond Road to provide service to costumer at 805 Long Pond Road in Wellfleet.

Motion: Bacon

Second:

5-0-0. Motion carries.

G. Approval of a drawing for five combination beach/transfer station stickers at the end of the Annual Town Meeting [TA]

I move to approve the drawing for five combination beach/transfer station stickers at the end of the 2018 Annual Town Meeting.

Motion: Reinhart

Second: Wilson

5-0-0. Motion carries.

IV. Town Administrator's Report

V. Topics for Future Discussion

Bacon would like to address at a future meeting to increase the daily beach fees from \$20 to \$40. Reinhart agrees with Bacon and would like to have this placed on the next agenda. Bacon said the only fee increase we can discuss now is the use of our beaches for a yoga class, etc. All other fees have already been set.

Wilson asked when the Shellfish Shack would be removed. Chair Murphy said there would be a meeting with the TA and Shellfish Constable at 1 pm on Wednesday to consider the site for an upweller. Wilson reminded the Board that there are mold problems and because of that, use of the building presents is a liability. Chair Murphy is looking for more information on this item. Bacon asked Chair Murphy for a report on this meeting.

Houk would like to have an executive session to discuss the Harbormaster's grievance.

Wilson asked that all members have a copy of the Teamsters' contract for that meeting.

She also requested that the Board at least approve, if not release, executive session minutes for previous meetings, before we all forgot what went on in them.

VI. Correspondence and Vacancy Report

Bacon addressed the handwritten letter in regard to the location of the marijuana dispensary in the Town of Wellfleet.

VII. Minutes (3.20.2017)

Wilson presented one more edit to the March 20th, 2018. minutes

Bacon said her comment during the March 20th, 2018 pertained to the role of the Commission on the Herring River Restoration Project and offered that as an amendment.

I move to approve the minutes of March 20th, 2018 as amended at the meeting.

Motion: Reinhart

Second: Bacon

5-0-0. Motion carries.

VIII. Adjournment

I move to adjourn.

Motion: Reinhart

Second: Houk

5-0-0. Motion carries.

The meeting was adjourned at 9:04 pm.

Respectfully submitted,

Radu D. Luca

Executive Assistant to the Town Administrator

Public Records Material for the Meeting of 3/27/18

1. Memo – Shellfish Constable – Wellfleet Shellfish Grant Renewals 2018 – March 22
2. Memo – Principal Clerk – Seasonal Liquor License Renewals – March 23
3. Memo – Chief Fiset – Full-time police officer appointment – March 19
4. Application – Deborah Magee – Cable Advisory Committee – March 16
5. Memo – Chief Fiset – Recommendation for 111-F Designation – March 8
6. Memo – Department of Conservation and Recreation – Request for Eminent Domain Approval – March 21
7. Correspondence – Robert “Bud” Paine – Letter of Support for DCR’s Request for Eminent Domain Approval Request – March 22
8. DRAFT – 2018 Annual Town Meeting Warrant – March 27
9. Memo – Cape Cod Commission – 3rd Extension Agreement – DRI Public Hearing Period – March 27
10. Memo – Principal Clerk – Eversource Energy Cable/Conduit Hearing Notice at 805 Long Pond Road in Wellfleet – March 23
11. Request – Town Moderator – Approval of a drawing for five combination beach/transfer station stickers at Annual Town Meeting – March 21
12. DRAFT – BOS Meeting Minutes – March 20
13. Disclosure – Janet Reinhart – MA General Law, c 268A, Conflict of Interest Law, Sect 88-01 – March 27