

*Approved on November 24, 2020 – A full audio recording of this virtual meeting can be found on the Town's website under Wellfleet Town Media.*

**Wellfleet Selectboard Meeting  
Tuesday, November 10, 2020 at 6pm  
Zoom Virtual Meeting**

**Selectboard Members Present:** Chair Michael DeVasto; Janet Reinhart; Helen Miranda Wilson; Justina Carlson; Ryan Curley

**Also Present:** Town Administrator Maria Broadbent; Assistant Town Administrator Mike Trovato; Executive Assistant Courtney Butler; Police Chief Michael Hurley; Fire Chief Rich Pauley; Shellfish Constable Nancy Civetta;

Chair DeVasto called the meeting to order at 6:00 p.m. This meeting was held via Zoom and the recording is available on the Town website.

**ANNOUNCEMENTS, OPEN SESSION AND PUBLIC COMMENT**

- Wilson: announced that on November 18, the Finance Committee will have a public hearing about the Capital Improvement Plan. Meeting information and Zoom link will be posted on the Town website.
- Lilli-Ann Green: announced that the BCAD voted to approve Resolution 20-07, a letter to the Governor asking to allow shellfishers to sell direct to consumers
- Chief Hurley: announced expected helicopter activity in Town, due to Eversource work in the area; the work is from 7-5, Monday through Saturday and helicopters will be landing by the substation on Gross Hill Road
- Lara Henry: announced, with regret, that the Chamber of Commerce has decided to postpone the annual Tree-Lighting and Sing-Along this year; Small-Biz Bingo is taking place however and you can find more information on the Chamber's website
- Civetta: reminded the audience of the approval of \$10,00 to be spent by the Shellfish Department for COVID relief program for oyster farmers, voted on and approved at the Town Meeting, and announced that the department received a \$10,000 matching grant – providing \$20,000 to support these farmers buy buying their oysters for resale.

**PUBLIC HEARINGS**

***To transfer shellfish grant licenses #85-C and 85-C-A from Margaret Jennings and Lee Clark to Margaret Jennings, Lee Clark and Nora Clark-Jennings***

DeVasto recused himself and asked Reinhart to Chair this discussion. Carlson also recused, due to a personal relationship. Civetta explained the request and the relationship between the grantees, being mother and daughter.

- Wilson moved to approve the transfer of shellfish grant licenses #85-C and #85-C-A from Margaret Jennings and Lee Clark to Margaret Jennings, Lee Clark, and Nora Clark-Jennings, as recommended by the Shellfish Constable.
- Curley seconded, and the motion carried 3-0, with DeVasto and Carlson recused.

**LICENSES**

***Request to Temporarily Close the Wicked Oyster from Ken Kozak***

Kozak was present and said that he was looking to close his business early in order to keep everyone safe, and to be in good shape to re-open in the Spring. Reinhart asked when the starting

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date was; Kozak said he hoped for the 15<sup>th</sup> to be his last day. Carlson and Wilson thanked Kozak for being safe.

- Wilson moved to approve the request from The Wicked Oyster, Ken Kozak, Manager, to temporarily close from Monday, November 16, 2020 to a date April 2021 to be determined.
- Reinhart seconded, and the motion carried 5-0.

***Review and Approval of Policies and Procedures, designed to mitigate any concerns and issues of neighbors for The Old Bank, LLC, "The Piping Plover", as required per the Host Community Agreement – Zachary Ment***

Ment was present and said he wished to make good on the Host Community Agreement, which asked the organization to present their Neighbor Policy and Security Plans approved by the Police Department. Ment detailed his policies and plans, his information is available as a public record for this meeting.

Carlson congratulated Ment on his work on restoring the property where The Piping Plover dispensary will be located and provided comments on his policy. Wilson asked if Town Counsel had reviewed the policies presented by Ment; Broadbent said no. DeVasto said that this was just for the Board to approve the policies, as the Board requested in the Host Community Agreement (HCA). Broadbent confirmed that this was only to discuss Section 6, not a review of the entire HCA. There was further discussion.

Chief Pauley said that he has reviewed the information provided and that Ment has been exceedingly responsive to Fire Department concerns, and provided support for Ment. Curley asked to abstain, as he was not present when the HCA was executed and prior discussions between Ment and the Board took place. He said he supported getting the business open, but wanted to make sure that previously expressed concerns of the Board have been met. DeVasto noted that this was the first time these materials had come before the Board, so Curley did not have to abstain, but that he was welcome to.

- Reinhart moved to approve the policies and procedures for the Old Bank, LLC, "The Piping Plover", as outlined by Zachary Ment, and in accordance with the Host Community Agreement.
- Carlson seconded, and the motion carried 4-0-1, with Curley abstained.

**BUSINESS**

***Discussion of Solar Array at Landfill – Right of Way and Response to Order to Show Cause, as presented by Town Counsel [Curley]***

Curley requested an update on this item, but noted that the documents provided indicated that the Town was awaiting a response from the Court. Curley asked if this was a matter of paperwork; Broadbent said yes, there was information that was not including in the body of the document that should have been – according to the Court. Town Counsel responded on behalf of the Town. No action taken.

***Accounting Update [Chair]***

DeVasto said he felt uneasy after the last meeting and asked for further clarification on the status of accounting in the Town. Broadbent said that the Tax Rate was approved, and the next step is to set up and mail tax bills. Broadbent discussed the assistance the Town is getting from Rich Bienvenue

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of Eastham and Lisa Souve, the former Accountant for Brewster. She noted that Bienvenue provided advice that the Town did not need to seek out a CPA or Forensic Audit at this time.

Carlson expressed concerns that Bienvenue could only provide so much support to the Town, pro-bono, as he has a full time job in Eastham. She asked Broadbent if she was still seeking a Request for Proposals from the Mark Abrahams Group; Broadbent said not at this time. Carlson also asked about cashflow, as was discussed at a previous meeting; Broadbent said that information could be provided when the Town Treasurer was back in the office. Carlson discussed emails received by the Board from former Treasurer/Clerk Dawn Rickman, where Rickman expressed concerns over Town finances and the need for a forensic audit.

Curley said that Broadbent called him after the last meeting to discuss the Town finances, noting that the Board asked Broadbent to write a report marked "confidential" to be placed in the Selectboard's office. He noted that this report has yet to be provided; Broadbent said that a report of the finances will come from the Bienvenue, who has been working to review the finances. Wilson said she felt that the Board just received their report and asked how much a forensic audit cost; DeVasto said he felt an internal audit, rather than forensic, would be more appropriate. There was further discussion about the possibility of conducting an audit.

- DeVasto moved that the Selectboard conduct an investigation into the Town's finances in accordance with Section 3-4-1 of the Town Charter.
- Carlson seconded, discussion:

Wilson asked DeVasto to read Section 3- 4- 1 Powers of Investigation: "The Board of Selectmen may conduct investigations and may authorized the Town Administrator or other agent to investigate the affairs of the Town and the conduct of any Town Department, Office, or Agency, including any doubtful claims against the Town, and for this purpose the Board may subpoena witnesses, administer oaths, take testimony and require the production of evidence. The report of such investigation shall be placed on file in the Office of the Town Clerk, and a report summarizing such investigation shall be printed in the next Town Report."

With regard to the ability for the Board to communicate with staff, DeVasto read Section 3- 7- 1 Prohibitions: "Except for the purpose of investigation authorized by this Charter, the Board of Selectmen or its members shall deal with Town officers and employees who are subject to the direction and supervision of the Town Administrator solely through the Town Administrator, and neither the Board nor its members shall give orders to any such officer or employee, either publicly or privately."

Reinhart asked DeVasto to clarify his intent with the motion; he said it was the Board's due diligence to look into Town finances and to talk to staff to get a full understanding of the scope of the problem. Reinhart said that she felt this has been being worked on, even though it is not solved yet which all parties agree on. DeVasto said this has been going on too long and that taxpayers and the Board deserve a clear understanding of how things got to where they are now. There was further discussion about the need and process for an investigation.

- Motion carries, 5-0.

The Board will meet next to decide the process of the investigation and expectations for outcomes. Curley recommended referring this to Town Counsel, to clarify any questions.

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***Review and Approve FY 2022 Annual Budget and 2021 Annual Town Meeting Schedule***

Curley asked about the dates on the schedule that have passed and asked Broadbent to clarify which tasks have been completed already. Broadbent indicated the items up to November 10 on the calendar that have been completed, which included sending information to Department Heads and providing the Capital Improvement Plan to the Finance Committee.

Carlson asked why the budget materials provided to Department Heads did not include FY20 actuals (expenditures); Broadbent said this was because the FY20 books were not closed yet. Curley asked if any deadlines might change and that the Board be updated if anything on the schedule changes. Carlson asked how uncomfortable Department Heads were with the lack of information about FY20; Broadbent said they were just as uncomfortable as she was and that she would keep the Board apprised of any changing deadlines. There was further discussion.

Chief Pauley noted that the information his department has been receiving from the Accounting department in recent years has not been as complete, but that he feels confident with his budget thanks to the work of Theresa Townsend, Administrative Assistant. Chief Hurley echoed these comments and appreciation for Ilene Davis, Administrative Assistant. Carlson was uncomfortable approving the schedule and committing staff to dates of submittal, without having all the information needed.

- Wilson moved to approve the FY2022 Annual Budget and 2021 Annual Town Meeting Schedule as presented in the packet.
- Reinhart seconded, and the motion carried 4-1, with Carlson opposed.
- Wilson moved to request that the Town Administrator check-in with departments as to their progress with meeting the deadline for budget submission this year.
- DeVasto seconded, and the motion carried 5-0.

***Review and Approve FY2022 Budget Policy***

Wilson made an amendment (bold) to the Enterprise Fund section of the FY2022 Budget Policy, asking it to read "The Town of Wellfleet should propose budgets for the Enterprise Funds **as self-supporting as possible**, without a property tax transfer and which shall also reasonably and accurately allocate indirect costs." There was further discussion about Enterprise Funds. DeVasto was not in support of Wilson's proposed amendment.

- Wilson moved to approve the approve the FY2022 Budget Policy as presented and amended in the packet.
- Reinhart seconded, and the motion failed 2-3, with Carlson, Curley, and DeVasto opposed.
- DeVasto moved to approve the approve the FY2022 Budget Policy as presented in the packet.
- Reinhart seconded, and the motion carried 4-1, with Wilson opposed.

***Review and Approve 2021 Selectboard Meeting Schedule***

Butler noted a correction, that the legal holiday will be December 24, 2021, as Christmas falls on a Saturday. DeVasto noted that the meetings for 2021 will continued to be held via Zoom.

- Reinhart moved to approve the 2021 Selectboard Meeting Schedule as amended in the packet.
- Wilson seconded, and the motion carried 5-0.

***Approval of Thank You Letter to Erika Meads for Organizing Trick-or-Treating in Wellfleet Center [Curley]***

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Wilson asked that the letter be signed on behalf of the Board by one member, citing COVID-19 concerns for going into Town Hall to sign documents. DeVasto asked Butler to obtain signature stamps for each member to use in place of a physical signature.

- Wilson moved to approve the thank you letter to Erika Meads for Organizing Trick-or-Treating in Wellfleet Center, as drafted and presented in the packet and delegate the Chair to sign it on behalf of the Board.
- Wilson seconded, and the motion carried 5-0.

#### ***Approval of Thank You Letter to Those Involved in The September 12, 2020 Ordinance Disposal [Curley]***

Reinhart provided amendments to the letter. Chief Pauley noted that the correct spelling is *ordinance*.

- Reinhart moved to approve the thank you letter to those involved in the September 12, 2020 ordinance disposal, as drafted and corrected in the packet and delegate the Chair to sign it on behalf of the Board.
- DeVasto seconded, and the motion carried 5-0.

#### **COVID-19 UPDATES AND RECOMMENDATIONS**

DeVasto read an email from the Health Agent, which confirmed that there are 3 active cases in Town currently and proper contact tracing has been conducted. Chief Pauley, noting that there were 0 cases for 6-8 weeks and then 3 within 2 weeks, asked the audience to be vigilant, especially going into flu season.

Wilson discussed the Governor's new orders, which mandate that masks always be worn, regardless of social distancing. There was further discussion of mandatory mask wearing in Town offices. DeVasto noted that the pandemic reached an all-time high for nationwide hospitalizations, at 60,000, saying the pandemic is not going away.

#### **SELECTBOARD REPORTS**

- Wilson: attended the MA Marine Fisheries Advisory meeting
- Wilson: attended the State of the Harbor Conference
- Wilson: attending the Herring River Technical Team meeting this week

#### **TOWN ADMINISTRATOR'S REPORT**

Broadbent said the Town has received \$14,000 in CARES Act Funding. Broadbent discussed the Comcast contract which will be coming up on the next meeting agenda. Broadbent discussed the Opioid Lawsuit, which the Town filed a few years ago with many towns across the nation; she said that one of the companies named to the suit has filed for bankruptcy. Wilson clarified that the Town did not incur expenses on this case; Broadbent confirmed.

This report is for the period October 24, 2020 through November 6, 2020.

##### **1. General**

- Town Hall remains closed to the public, except by appointment only, as precaution to the COVID-19 virus. Town staff is available by appointment.

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- The Health/Conservation Agent has updated the COVID-19 Mandatory Safety Standards and Workplace Training Manual based on guidance from the Commonwealth, and the Board of Health and feedback from the Selectboard.
- 2. Fiscal Matters
  - The Town Treasurer worked with worked closely with the Eastham Finance Director to finish up the tax rate filing. They are working to respond to feedback from the Department of Revenue.
  - The Town is receiving \$14,172 in CARES Act funding from the Commonwealth toward reimbursement for funds expended related to COVID-19 measures. Funding from FEMA will likely only be available for expenditures related to public safety.
  - Lisa Souve', the retired accountant from Brewster, has been brought on board to provide accounting services while the Town conducts a search for a permanent accountant.
- 3. Meetings – Most meetings are via conference call/Zoom
  - October 27-Lili Green, Energy Committee/Barnstable County Delegate
  - October 27-Energy & Climate Committee members re low-lying roads to be considered for future grant applications
  - October 28-FinComm FY22 CIP requests
- 4. Personnel Matters:
  - The Town Accountant position has been advertised on the Town website and with relative professional organizations.

#### **TOPICS FOR FUTURE DISCUSSION**

- Reinhart: Executive Session to go over all current cases in litigation
- Wilson: Cutler Bill regarding Chapter 130 (shellfish)
- Wilson: change of status regarding subdivision roads in Indian Neck Heights

#### **CORRESPONDENCE AND VACANCY REPORTS**

Wilson asked that correspondence sent to the Town Administrator to go to the Board in a timely manner.

#### **MINUTES**

*October 27, 2020*

- Reinhart moved to approve the draft minutes of October 27, 2020 as printed.
- DeVasto seconded, and the motion carried 4-0-1, with Wilson abstained.

#### **ADJOURNMENT**

- Wilson moved to adjourn.
- Reinhart seconded, and the motion carried 5-0.

The meeting adjourned at 9:00pm.

Respectfully submitted,

Courtney Butler,

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Secretary

Public Records Documents available as of 11/10/2020:

1. Memo from the Shellfish Constable, dated October 16, 2020, re: Shellfish Grant Transfer Request for Grants #85-C and #85-C-A from Margaret Jennings and Lee Clark to Margaret Jennings, Lee Clark, and Nora Clark-Jennings;
2. Application for Transfer of Shellfish Grant License from Margaret Jennings, Lee Clark, and Nora Clark-Jennings;
3. Signed statement from Nora Clark-Jennings, dated October 6, 2020, re: Agreement to Comply with Town of Wellfleet's Shellfishing Policy and Regulations;
4. Letter from Margaret Jennings, dated October 5, 2020, re: Support of Nora Clark-Jennings;
5. Application for Aquaculture Lease from Nora Clark-Jennings;
6. Letter from Ken Kozak dated November 4, 2020, re: Request to Temporarily Close the Wicked Oyster;
7. Police Documents for The Old Bank, LLC d/b/a The Piping Plover;
8. Order to Show Cause from Commonwealth of MA Land Court, dated September 24, 2020;
9. Response to Order to Show Cause from KP Law, dated October 14, 2020;
10. Draft FY 2022 and 2021 Annual Town Meeting Schedule;
11. Draft FY 2022 Budget Policy;
12. Draft 2021 Selectboard Meeting Schedule;
13. Draft letter from the Selectboard to Erika Meads, re: Thank You for Organizing Trick-or-Treating;
14. Draft letter from the Selectboard to Chief Pauley, re: Thank You for Assistance in Ordinance Disposal on September 12, 2020;
15. Town Administrator's Report;
16. Topics for Future Agendas;
17. Correspondence Report;
18. Vacancy Report;
19. Draft minutes of the October 27, 2020 meeting.