

Approved May 14, 2019.

**Work Meeting
Wellfleet Selectboard Meeting
Tuesday, March 21, 2019, at 12:30 p.m.
Wellfleet Town Hall, 300 Main Street, Wellfleet MA 02667**

Selectboard Members Present: Chair Janet Reinhart – Chair, Helen Miranda Wilson – Vice Chair, Justina Carlson – Clerk, Kathleen Bacon, Jerry Houk.

Also Present: Dan Hoort - Town Administrator, Joseph Powers – Assistant Town Administrator, Courtney Butler – Executive Assistant, and Jennifer Congel – Assistant Town Clerk.

There was a full audience.

Reinhart called the meeting to order at 12:30 pm.

I. Announcements, Open Session and Public Comment.

There were no announcements or comments.

**II. Discussion of the possible purchase of Map 34, Lot 17 from the HDYLTA Trust.
Decision on inserting the ballot question and possible warrant article.**

Carlson disclosed her relationship with a grant owner and said that her disclosure form is in the Office of the Town Clerk.

Reinhart said there would not be much discussion on this and it would go into further discussion on Tuesday at their regular meeting. Hoort said he was looking to have the Board insert the ballot articles.

Wilson had provided the Board with a memorandum with certain known facts about the property. She said she did a lot of research on this. She said she and the trustee of HDYLTA Trust, Todd Mindrebo, had made contact so as to get to first terms and spoke of having signed a purchase-and-sale agreement prior to placing this article on the Warrant, with contingencies. Wilson said this is not impossible even though we have only a month. She noted that if this does not get in the Warrant or pass at the ballot box, all deals are off. Wilson recommended getting this on the Warrant today and proceeding to carry on discussions later, given that it is time-sensitive.

Reinhart and Wilson discussed exactly what Wilson was looking for from this meeting. Wilson said she would like the article to be placed, with the language provided to them, in the Warrant.

Bacon said that both questions being looked at today will have significant impact on residents. She said “nothing on the Town Meeting Warrant is so directly linked to the Town’s economic vitality than these two articles. I do wish the Warrant wasn’t such a heavy financial lift. Can we do another year without a ladder truck, front-end loader, or streetsweeper? I cannot answer that question. But the approval of these two articles at Town Meeting and ultimately in the ballot box would give some assurance to the next generation of Wellfleet residents that we care.”

Carlson noted Shellfish Constable Nancy Civetta’s letter in support of the purchase of the property. The letter concludes with saying “the Town has an opportunity to ensure that small family farms will be the future of Wellfleet and that large out-of-town enterprises will not be able to monopolize Wellfleet’s productive shellfish bottom.” Carlson said the letter is eloquent and stated the issues clearly.

Hoort said a copy of the memorandum will be on the Town’s website under 2019 Annual Town Meeting. Wilson said the other information the Board is looking at would be on the website as well.

Wilson said she worked with Civetta, Assessor Nancy Vail, and a number of other people to research the proposal. She said the 219.53 acres being offered to the Town at \$3.4million, comes out to about \$15,000/acre. She noted that two existing grants have already been sold, one of them for \$20,000/acre, and those owners now own to the bottom they farm on. Wilson said the Town would also get over a mile of beach, contiguous with Burton Baker Beach, which has a public landing there. She said about 1/3 of the aquaculture acreage in Wellfleet is located within the HDYLTA Trust land. There is no black mayonnaise. She also noted that the entire lot was useful, including dragging in the deep-water parts, because wild harvest can occur there.

Audience member John Wolf said that he was not necessarily opposed to this article and noted that the Harbor dredging will be expensive. He also said that he was not clear on what happens if this is not purchased and asked that question.

Reinhart said that if these two articles go through, the tax impact, for a Median ~~Income~~ ~~Family~~ Single Family Home in Year 1, will be \$442 per year for all the proposed appropriations. HDYLTA would be \$81.62 of that, dredging is about \$26295. She agreed with Wolf’s question, about what happens if the Trust is not purchased, and asked him to keep it in mind.

Wilson said there are a number of people who have grants in the HDYLTA area who would like to buy them. She said if you own the bottom you can charge rent to anyone who has a license from the Town to farm, and to give permission to farm it. She said the taxes on the property are about to go up, because the appraisal ~~has~~ will go up due to the recent sales. Wilson said she would like to protect the people with less money who are farming in that area. Wilson said she believed every part of the harbor was a commons,

at the heart of the Town used for the economic well-being of community. She said we should at least ask people if they would like to spend the money by putting it on the Warrant.

Audience member Bob Wallace said that, it seemed to him, that if there was a purchase-in-sale agreement it puts the Town in a weaker position. He suggested everything that was non-shellfishable be given to the Conservation Trust and the Town negotiate a price for the rest of the land. He noted the owners would have to pay Capital Gains Tax, so donating half would be beneficial to them.

Reinhart asked if the land would still be drivable if donated to the Trust. Wallace said stipulations could be made. Wilson said the purchase-in-sale agreement protects the Town, and if it is not passed at Town Meeting then the Town does not have to pay it. Bacon said it ties our hands. Wilson said that it was a reasonable thought, that the HDYLTA Trust might donate some of the land but did not know whether the Conservation Trust would agree or not to allow driving and ~~picking in the wild~~ aquaculture. She said this was something that could be worked out after this.

Reinhart asked where the value of \$3.5 million, now down to \$3.4 million came from. Wilson said Mindrebo gave her the price after ~~considering the prices of the grants~~ conferring with the other Trust members and considering the sales price of what had already been sold. Reinhart asked if there were any comparable lots in New England being sold that this number was based on. Wilson said she felt it was a fair price ~~but did not answer Reinhart's question~~ given the large amounts of money that changes hands in other places.

Houk said Wallace had a good idea, but that the Board should speak with Town Counsel to find out their legal obligations. He also said the Finance Committee and Conservation Commission need to meet on this. Houk said he supported protection of the grants owned by the Trust, but this article will need to be pushed to residents who are not in the shellfish community. Wilson clarified that she did not expect that we would agree to a purchase.

Carlson asked Hoort if they could look at purchasing the land at \$3 million and then explore amortizing it over ~~40~~ 30 years and accessing a betterment to grant holders. Hoort said it could be structured any way, but if it is being rented there is a certain price. He said the State would have to be petitioned to raise what the Town charges.

Audience member Janet Morrissey said she is in favor of protecting the community, but she is stunned at the price. She said the assessor's database shows that the property is currently valued at \$250,000.

Audience member Damien Parkington asked where MA State Law addresses the continuum grants but asked about wild harvesting. He said he believed the public still

had access to wild harvest areas. Parkington said if it is established under a DMF grant, then the land enters protection through DMF law. He also agreed that the price for the land was inflated.

Carlson said to the audience that there is a bill to privatize grants in front of the MA State Legislature. She said to take into account that the price is what the market will bear, and the owners have already sold a couple of lots.

Wilson addressed Parkington, saying the access issue is not for wild harvesting, it is the access for aquaculture grants that is worth owning. She said the Conservation Commission (ConsCom) would sign off the driving over the resource, not the Conservation Trust. She spoke again about the amount of money, often a lot of money when transfers occur.

Audience member John Morrissey said he hopes we go through a deliberative and thorough process before Town Meeting. He said he read in the newspaper that Civetta was quoted as saying there are 24 grants on the land now, 6 being operated by the HDYLTA Trust owners and two others. He clarified that there are 18 people with grants on the land, but who do not own it. Wilson said that it wasn't how many grants were within the property; it was that 75.38 acres were under cultivation. Over 1/3 of the Town's aquaculture acres.

Reinhart asked how many people would benefit, and how much money does each grant produce that makes the \$3.5 million cost effective. Wilson said there are a number of factors that determine the revenue for a grant, but a 1 acre grant could make anywhere from zero to \$70,000 depending on weather/cost stays, number of employees, etc.

Morrissey asked how many grants were on the land currently, Wilson said 24. He asked Wilson how many of those 24 grants were formed by the HDYLTA Trust owners. Wilson said 4, and added that 7 people would own land in the HDYLTA area if the Town purchased it. Morrissey clarified that 17 grants are on the 250 acres the Town is looking at. Morrissey said this number would be valuable if we are going to purchase this land.

Audience member Mike DeVasto said yes, there are around 17 licensed sites that contain multiple acres worked by a various number of people. DeVasto said Civetta could probably provide the exact number. Civetta was unable to attend today because she and other staff are at a MA Shellfish Constable meeting.

DeVasto said well over 10% of the Town is economically impacted by the industry, probably more than that when you look at the bigger picture. He said it is rare for a municipality to reclaim land that was once public land that has been privatized.

DeVasto noted that an owner could limit public access at any moment if they wanted to. He said there is a value to be put on the grants, but there is more at issue here, such as

public access. DeVasto said noted that he and a lot of other people are impacted by the shellfish industry's economy.

Audience member Brett "Chip" Morse said he attended a Mass Aquaculture Association (MAA) meeting and learned that there are big farms in other MA towns. He noted that there are very few wild fishermen left. He asked what was to keep a seafood company from buying the property and moving their employees here to farm it. Reinhart asked if the property owners present minded having their taxes going up.

Audience member Brad Morse thanked the Board for caring about the Shellfish community. He said the reason other people may not have bought the land yet is because the grants are only good if they have the Town license on them. He ~~had~~ ~~concerns~~ was skeptical about anyone besides the Town buying lots that have grant holders on them currently.

Audience member Fred McGee asked if there was a time frame within which an answer needed to be provided to the owners. He also asked if the Town was in fact in negotiations with the Trust.

Reinhart told the audience to send letters with any concerns to the Board. She said there has been little negotiation. McGee noted the acronym stands for "How Do You Like Them Apples". Reinhart asked Wilson to confirm that the Board was not in negotiations with HDYLTA. Wilson said negotiations could begin after this meeting and she said that both the Town and HDYLTA wanted some sort of commitment. Then both parties can begin to use their lawyers.

Parkington encouraged the Board to negotiate to a lower purchase price to bring to the voters. Bacon said to the audience that the question before the Board today is whether or not it gets inserted as a ballot question. She agreed with Houk to seek legal counsel. Bacon also said the Board needs to consider the price, and that the taxes will have a long life. She asked the audience if they supported the insertion of a ballot question or article on the Town Warrant. The audience, with the exception of a few, raised their hands.

Wallace said the acreage starts at the mean high water and the beach has been eroding greatly to the point where there is only beach at low tide. He said the HDYLTA Trust wants no more grants issued after the Town purchases it. Wilson said that most of the area is a productive wild fishery and cannot be used for grants. She said this contingency was discussed with Mindebro.

An audience member said it was pretty important to talk to Town Counsel and noted previous deeds to the property being "fuzzy" and asked if it could be subdivided. He asked if it created any ownership stake, and what the Town was actually buying. He

asked that HDYLTA commit to only be in discussion with the Town, not other possible buyers.

Chad Williams asked that the actual dimensions of the property be thoroughly assessed. He confirmed that there could be a land rush if the Town doesn't buy it. Berta Bruinooge asked about the tax implications. Reinhart clarified that it was \$442 for the entire Warrant. Bruinooge asked what the figure was based on. Hoort said it was based on a median single-family home which was about \$525,000 or \$535,000. Bruinooge said it was misleading to throw out this number, since everyone's taxes would be impacted different.

Reinhart welcomed the audience to come to the meeting on Tuesday. Reinhart asked for a motion. Powers noted the Scribner's error in the article and asked the Board to recognize it.

Wilson moved to place the article titled "Purchase of Parcel 17 of Map 34 of the Wellfleet Town Assessor's Map" on the 2019 Annual Town Meeting Warrant with the recognized Scribner's error.

Bacon seconded, and the motion failed 3-1-1, with Houk opposed and Carlson abstaining. The vote requires 2/3, which would require approval by 4 members.

Houk opposed because he wanted to wait until the meeting on Tuesday night, when he thought this was going to be discussed, and to hear from Town Counsel.

Bacon moved to insert the Purchase of Parcel 17 on Map 34 into the 2019 Election Warrant as printed in the packet.

Wilson seconded, and the motion carried 4-0-1, with Carlson abstaining.

Morrissey asked if there was a price listed in the article the Board just moved to insert into the Election Ballot. Reinhart said it noted the sum of \$3.4 million. Powers noted that the Warrant includes all necessary information pursuant to MA Department of Revenue policy.

Audience member Ed Miller asked if the owners, if the Town doesn't buy it, could put a restriction on the sale that could require the accessing of various shellfishing in perpetuity. Reinhart and Bacon said yes. Miller asked if the Board would be willing to ask the members of the Trust if they'd be willing to make such a stipulation. Reinhart said no, because they are not prepared to discuss this yet.

Hoort discussed the process going forward, now that the article has been inserted into the Election Ballot. That insertion provides the Town with funding, the article at Town Meeting provides for permission to do so. Hoort said he hasn't seen anything regarding a purchase-in-sale-agreement, and the only thing that has gone to Counsel was the Warrant Article and the Ballot Question to make sure they were in accordance.

When the purchase-in-sale-agreement was first brought up, it was to avoid what happened with 3 Kendrick Avenue. The agreement would assure that discussions of sale are only between HDYLTA and the Town.

III. Discussion of Dredging article for Town meeting. Decision on inserting the ballot question and possible warrant article.

Reinhart said the Town received notice that the President's budget for 2020 includes \$5 million for dredging the federal channel through the Army Corps of Engineers. She said there are three sections that needed to be dredged – the federal channel, the state channel, and the local channel. This article is for funding dredging of the state channel.

Reinhart said the state channel will cost \$10 million, and the State will only pay half. The Town is asking for \$7.5 million from voters. She said \$5 million will be to have ready to go when the State is ready to go, she noted the short seasonal window for dredging. The \$2.5 million is to show that the Town can afford to maintain it after the dredge. Reinhart believed the dredging could begin as early as October 2019, but October 2020 was more realistic.

Hoort then noted that dredging companies are reserved three years out and it is important for us to commit. For the state channel, the earliest a company could come is 2021. He said it is also important to secure this money because we will most likely receive match funding from the state.

Morrissey asked when the money would be borrowed and when the bonds would go until. Hoort said if it was done in the Fall of 2021, the money is expended in the Fall of 2021 (fiscal year 2022), borrowing the money around May 2022, and taxes will increase in October in 2022.

Parkington asked if this plan was the same as the one considered last year. Reinhart said yes but it is asking the company to have their own equipment. She said Dennis Murphy has looked into the cost of renting the equipment. Hoort said the County has made mention that they may purchase a dredge.

Audience member John Wolf said an offer was made to purchase used suction dredging equipment for Wellfleet from Mark Blasch and the spoiling could be dumped on his property. Reinhart said this was not the case. Wilson said there is an issue of the Conservation Commission denying the application for revetment. Bacon said a suction dredge cannot be used. The Town needs a mechanical dredge that has the necessary hydraulic output and there isn't this type of machine available. Reinhart said the dredging material may not be suitable to put on their beach property anyway.

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Parkington asked if the amount of money in the article could change. Reinhart said yes.

Carlson moved to place the article Wellfleet Harbor Dredging on the 2019 Annual Town Meeting Warrant.

Bacon seconded, and the motion carried 5-0.

Houk said he spoke to Mike Flanagan who spoke with a dredging company who could dredge the local channel for \$2 million.

IV. Adjournment

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

Meeting was adjourned at 2:15 pm.

Public Records Available as of 3/21/2019:

1. Wilson 3/20/19 memorandum re: HDYLTA Trust Purchase
2. Shellfish Constable's 3/21/19 memo re: HDYLTA Trust Purchase