

**Wellfleet Select Board Meeting**  
**Tuesday, July 10, 2018, at 7:00 p.m.**  
**Wellfleet Senior Center, 715 Old Kings Highway, Wellfleet MA 02667**

**Select Board 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 / Town Clerk, Radu Luca – Executive Assistant to the Town Administrator.

Chair Janet Reinhart called the meeting to order at 7:00 p.m.

**I. 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 thanked Steve Cooney and his wife ChristiAne Mason for their service to the Town on the Planning Board, Marina Advisory Committee and the Energy Committee, respectively.

Chris Roberts asked for clarification from the Board on the increase in day passes for parking at White Crest Beach. Bacon said our parking is scarce and at a premium. Reinhart said there would be a meeting soon to discuss this item. Bacon also mentioned that people could park at Marconi Beach and that the rationale for the increase in fees at White Crest Beach was to make it more accessible for our residents. Houk had said at the previous meeting that the fee should be discussed again and reevaluated. He thought that the \$40 fee is too much. Silverman asked whether the meeting on the WCB parking lot would be a public meeting. Reinhart said yes.

**II. Public Hearing(s)**

A. Grant 01-01 Ext. Transfer from Ralph Bassett, Laura Lambert and Kevin Cormier to Ralph Bassett, George Pierce III and Rodney Avery

The Shellish Constable and Bassett, Cormier and Pierce were present to support this application.

**I move to approve the shellfish grant 01-01 Ext. transfer from Ralph Bassett, Laura Lambert and Kevin Cormier to Ralph Bassett, George Pierce III and Rodney Avery.**

**Motion: Bacon**

**Second: Wilson**

**5-0-0. Motion carries.**

B. Grant 01-05 Transfer from Justin Lynch to Justin Lynch and Eben Kenny

The Shellish Constable and Lynch and Kenny were present to support this application. Bacon asked Kenny if he already has a grant. The answer was no.

**I move to approve the shellfish grant 01-05 transfer from Justin Lynch to Justin Lynch and Even Kenny.**

**Motion: Bacon**

**Second: Wilson**

**5-0-0. Motion carries.**

**III. Licenses - NONE**

**IV. Appointments/Reappointments**

A. Community Preservation Committee, Janis Plaue (three-year term)

**I move to reappoint Janis Plaue to the Community Preservation Committee for a three-year term expiring June 30, 2021.**

**Motion: Wilson**

**Second: Houk**

**5-0-0. Motion carries.**

Wilson said Plaue had been working tirelessly for the Town and we should thank her for her service.

B. Cable Advisory Committee, Deborah Magee (one-year term)

This item was already voted on at a previous meeting.

**V. Use of Town Property**

A. Sugar Surf Cape Cod, Katherine Weeks. White Crest Beach July-October

The Beach Administrator said that the lack of waves at White Crest Beach, as well as the increase of rates in parking fees, caused Weeks to withdraw her application for the use of Town-owned property. Bacon suggested Newcomb Hollow Beach as an alternative location. In response, Thomas said that NHB is not a viable option for Weeks because of its popularity among residents and visitors.

**VI. Business**

A. Approval of End of Year (EOY) Budget Transfers [Town Accountant]

Connie Boulos, the Town Accountant, said this is a housekeeping item and presented the materials included in the packet. Wilson said the that Town Accountant's page of clarifications included with the materials in the packet were very helpful.

**I move to approve the FY2018 year-end Budget Transfers as presented by the Town Accountant.**

**Motion: Bacon**

**Second: Wilson**

**5-0-0. Motion carries.**

B. Decision to revoke shellfish permit for Mike Kubiak as per the Town's Shellfishing Policy and Regulations Section 11.7 Revocation of Shellfishing Permits [Shellfish Constable]

The Shellfish Constable presented a synopsis of the supporting material she had submitted for inclusion in the Board's packet justifying her decision to revoke Kubiak's commercial shellfishing permit for the remainder of the year. Mike Kubiak and his family were present.

Civetta underlined the importance of the Department's right to inspect what is harvested as the foundation for their work for the Town. She said that the Shellfish Department had discussed Kubiak's "failure to display" when requested, and that they did not take it lightly. She conferred with both Michael Hickey from the Division of Marine Fisheries, and Lt. Kevin Clayton from the Environmental Police, who reaffirmed Civetta's interpretation of CMR 322 of this infraction. She underlined how crucial compliance is for food safety requirements.

The Constable stated that during the last year, only one person had refused to display his catch or had been confrontational when asked to do so. Permit holders are bound to comply with all related statutes and regulations. Displaying one's catch when asked by the Shellfish Department is considered to be routine. Accepting a permit requires the recipient to sign a statement confirming their knowledge of this, as well as all other shellfishing regulations.

Civetta stated that in the last three months, Kubiak had violated three regulations, demonstrating a pattern of abuse. She requested that his permit be revoked for the rest of the year.

Wilson asked Civetta for an exact date for the potential end of the revocation. Civetta said December 31, 2018.

Wilson said that in her opinion, these inspections are the enforcement tool in a situation that has to do with the safe handling of food. She said that the fishery is a collective activity and working well within it is really important; that intimidation or rudeness can make people feel scared; that professional civility from both the Shellfish Department and the shellfish community are essential. She added that under the State's CMR, an enforcement official cannot be harassed or intimidated while performing their duties.

Carlson disclosed that her partner, Lee Clark, has a shellfish grant and is directly involved in the business and that there is no financial or ethical problem with her participation in this matter. She then asked whether Kubiak would be allowed to present his case as well.

Mike Kubiak read out loud a letter addressed to the Town Administrator from Kubiak's attorney, Jamie Veara (who was not present) which requested a two-week extension for a decision on this matter, so that Kubiak's attorney could be present to present his case.

Houk said he read the whole packet in which Kubiak had mentioned he would speak with his attorney and now Kubiak is saying he only had one day to look for an attorney. Kubiak

said that after he received the packet he had only one day to look for an attorney from the moment he received the Selectboard packet the Friday night prior to the meeting, which included the agenda item pertaining to his license revocation. Houk added that the language, particularly the terms “bitch” and “cock,” used by Kubiak when addressing the Shellfish Constable are not acceptable. Bacon recommended that the Seletboard allow Kubiak a two-week extension so that his attorney could be present. Carlson concurred with Bacon, especially when someone’s livelihood is at stake. Wilson asked Kubiak if he refused to display his catch to the Shellfish Constable. Kubiak responded and said that allegation of him not allowing the Shellfish Constables to inspect the catch would be heard in the Orleans District Court and he would not like to address this issue for the time being. Wilson said that the refusal of an inspection is a good reason for revocation. Bacon reiterated that Kubiak should be given a chance to respond to the allegations when his layer was present. Houk concured with Wilson and would like to vote on the revocation of the permit. Civetta said that our regulations allow for an appeal to any decision within a 30-day period. Reinhart said that she thought the Board should support the Constable.

**I move to accept the Shellfish Constable’s recommendation to revoke the 2018 shellfishing permit for Mike Kubiak as per Wellfleet’s Shellfishing Policy and Regulations *Section 11.7 Revocation of Shellfishing Permits* until December 31, 2018.**  
**Motion: Wilson                      Second: Houk                      5-0-0. Motion carries.**

C. Decide fate or plan for making decision on old Shellfish Shack building [TA]

The TA said this agenda item had previously been discussed and included in the Selectboard’s goals in the past and asked the BOS to decide on this or to tell staff what they need to do at this point.

Reinhart gave a short presentation on the history of the shack. Wilson said that the Selectboard received a great amount of information from Town departments and Building Needs Committee (BNAC). They had it appraised and if wanted to do more than an a 50% renovation the building is assessed at \$0 and that there is a deed restriction on it that only allows it to be used for recreational purposes. Bacon added that they had already voted to demolish it and that the building is in the FEMA flood plain zone. Houk said both Dennis Murphy and Tom Flynn had said the building was solid and would like to consider ways to preserve our Town’s history, be it through structural changes, innovation or other means. Carlson agreed with Houk, but she also said that historic preservation is a more complex issue than simply renovating and addressing some of the issues that are wrong with the building but that it could be worth it. Bacon said that if we were to renovate 50%+ of the building, we’re required by FEMA regulations to raise the building 4 feet higher and to consider the damage that might be inherit in sea level rise. Carlson suggested that a renovation of less than 50% renovation. The building has a slab foundation and the costs associated with making 50%+ renovations on the building might be quite high. Civetta said she invited the Chatham shellfish constable to look at the shack and suggest changes that might make it useful for the Shellfish Department, such as housing an upweller to create a nursery which it could accommodate. A nursery requires a lot of electricity. Robert Costa said that people come here because of what we are and would hate to see us become more

like other towns / destinations. Brad Morris, grant holder, believes the building should be salvaged and turned into a structure for housing our own production of seed. Houk thought we should explore all options in regard to saving that building. Bacon agreed with Houk in that she is sentimental about the property, but we need to start getting realistic about our environmental and financial options and wants to vote on the fate of this dilapidated building tonight. Wilson asked Civetta about raising the building and restated that the appraisal was \$0. So any renovation would require jumping through permit hoops. And that we not put any money into a building in the flood plain, in the world as it is.

**I move to not demolish the shellfish shack for the time being and that we ought to look at a plan to save it.**

**Motion: Houk**

**Second: Carlson**

**3-2-0. Motion carries.**

Houk instructed the TA to speak with DPW and have the building looked over and for the DPW to work on what renovations they can address to make it presentable and to secure. Wilson said that first the Building Inspector to give us to give the Building Inspector more exact information as to what we can do without triggering FEMA restrictions. The TA said there was money to do a feasibility study and that we would proceed with caution and keep the Selectboard in the loop.

#### D. Discussion of Town Hall Trees Care Plan [G. Parker, C. Cole, R. Costa]

Ginny Parker, Chuck Cole and Robert Costa did a presentation on the Town of Wellfleet Elder Spruce Care Plan to save the two trees in front of Town Hall.

Parker gave a detailed account of the trees condition and their plan of action. And that the work would be 100% by private sources. In response to the packet materials, It was determined that the DPW was the Town's tree Warden. Wilson said that it was a generous offer but that the proponents should be done with full knowledge that nevertheless at some point in the future the trees could still be cut down. She pointed out that according to our Environmental Bylaws, so the arborist is not allowed to use a fungicide on the trees. She is not sure whether the trees need watering. She would like to see the ivy and the maple tree taken out and would like to see the trees pruned, as proposed. Carlson would like to commend the group for taking on the initiative to do right by these trees, especially after the vote at ATM. Cole asked the Selectboard if they could stage a concert on the Town Hall lawn after July 18 to benefit the trees. Bacon asked who would be doing the actual work. She said that if the group hired the certified arborist we should ask for a certificate of liability insurance indemnifying the Town for at least \$1 mil. Costa said that these trees have been neglected for a long time and that they provide a public service. "Those trees are residents too."

He is in favor of little change and preservation of resources because that's what makes this town special for everyone. Costa also suggested that the DPW removed the lights so that maintenance could be done. Wilson offered the thought of using laser lights which didn't need to be attached to the trees.

**I move to authorize Ginny Parker, Chuck Cole, Robert Costa and Roger Putnam to implement a care plan for the two evergreen trees in front of the Wellfleet Town Hall through privately raised funds.**

**Motion: Houk**

**Second: Wilson**

**5-0-0. Motion carries.**

E. Consider Eversource insecticide spraying ban [Houk]

Wilson made note of the email she had send to the Selectboard prior to the meeting about a drafting a letter to the State in support of an bill that is now in committee about the rights of municipalities to regulate the use of pesticides, She said that municipalities in of Massachusetts can't do this now, but if this piece of legislation passed, we could. Bacon would like to wait on this until a decision has been made at State level.

Wilson said she would like to work with the TA on a draft letter of support to our State legislators and representatives in support of this legislation.

F. Select date for Special Town Meeting [TA]

The TA's and ATA's recommendation is to hold a Special Town Meeting on September 24, 2018. The Town Moderator was also consulted before making this recommendation to the Selectboard. Houk thinks a September date might generate a low turnout. Silverman didn't think we would have a problem getting a quorum.

**I move to call a Wellfleet Special Town Meeting on Monday, September 24, 2018 at 7 pm.**

**Motion: Carlson**

**Second: Wilson**

**5-0-0. Motion carries.**

G. Selectboard FY 2019 Goals [Chair]

TA included a draft list of Selectboard goals in tonight's packet for the board to look over and approve at their July 24 meeting. Wilson said it's important to see everyone's goals listed so that we can see where we all stand and what our (mutual) goals are.

## **VII. Town Administrator's Report**

Wilson inquired about some of the items on the TA's report and the meetings he had with various individual parties and organizations. Houk inquired about the meeting with the lower cape towns. TA responded and said these meetings and agreements between towns are not commitments per se, but the emphasis is on cooperation and mutual use and sharing of resources.

## **VIII. Topics for Future Discussion**

Houk asked whether we have any regulations pertaining to smoking at the beaches. Bacon responded and said that smoking is prohibited at all National Seashore beaches, but is unsure about the Town-owned beaches.

Bacon addressed the alcohol drinking, deployment of fireworks, disposal of garbage and lighting of trees at the beaches over July 4<sup>th</sup> celebrations and the lack of Police presence.

Wilson talked about the disposal of garbage at White Crest Beach Parking Lot over July 4<sup>th</sup> and she said that Nantucket addressed the issue by having heavy police detail patrolling.

Bacon would like to invite Martha Craig and the Friends of the Herring River Group to share their thoughts on the proposed Truro-Wellfleet MOU. She said that the Friends of the Herring River don't think they receive the support they need from the Board. Houk said that the Selectboard has been fully supporting the project all along. Bacon said that the board should have been made aware of the award the State made to the project and been invited to the presentation ceremony.

Wilson said that the HRRC would be meeting this coming Thursday to discuss Truro. She also said that the Bike and Walkways Committee hasn't met in a while and we need to revitalize that committee after all the resignations. Wilson would like to have an update on the new bike trail.

Houk would like to discuss the News Dealer building at a future meeting.

Wilson would like to discuss the beachside property behind the shellfishing shack.

#### **IX. Correspondence and Vacancy Report**

#### **X. Minutes BOS 6/14/18 (MassDOT), BOS 06/20/18 (Vision for Wellfleet), BOS 6.26.18**

**I move to approve the minutes of 6.14.2018 as presented.**

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

**I move to approve the minutes of 6.20.2018 as presented.**

**Motion: Wilson                      Second: Bacon                      4-0-1. Motion carries. Wilson abstained because she didn't have the chance to read them.**

**I move to approve the minutes of 6.26.2018 as amended.**

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

#### **XI. Adjournment**

The meeting was adjourned at 9:05 pm.

Respectfully submitted,

Radu D. Luca,  
Executive Assistant to the Town Administrator

**Public Records Materials of 7/10/18**

1. Memo – shellfish license transfer #01-01 (June 28)
2. Memo – shellfish license transfer #01-05 (June 29)
3. Application – Use of Town Property – Sugar Surf Cape Cod (June 21)
4. Memo – EOY Budget Transfers (June 28)
5. Memo – commercial shellfishing permit revocation (July 5)
6. Memo – Correspondence and Vacancy Report (July 5)
7. Minutes – Draft BOS June 20 and June 26