

**Wellfleet Select Board Meeting
Tuesday, July 24, 2018, at 6:30 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. Arrived at 6:50 pm: Kathleen Bacon, Jerry Houk.

Also Present: Dan Hoort - Town Administrator, Joe Powers – Assistant Town Administrator / Town Clerk, Radu Luca – Executive Assistant to the Town Administrator.

Chair Janet Reinhart called the meeting to order at 6:30 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.

Reinhart asked that some agenda items be taken out of order.

Hoort announced that Article 46 at ATM authorized the Town to sell the property at 0 West Main Street Street and that property was sold today.

Lilli Green said that Bill H2473 put forth by Rep. Sarah Peake would allow for the protection of the health of the citizens of the Commonwealth would be brought to the House and Senate floors for a vote and encouraged the audience to contact the House Chair Jeffrey Sanchez and Senate Chair Karen Spilka in support of this bill. It's now in the House Ways and Means Committee.

David Still, the Communications Coordinator for the Cape Cod Commission was present to invite the Selectboard and the members of the audience to the 5th Annual One Cape Summit to be held on August 16 and 17 at the Wequasset Resort in Harwich. Some of the issues covered will be: water quality, housing, and economic development.

Hoort said that there is a use-of-Tow- item not on tonight's agenda, due to a mistake by staff and the Selectboard can address it because this issue was not anticipated in a timely fashion by the Chair. Wilson stated that the application for the use of Town-owned property that Harriet Arnoldi had filed on July 10th, 2018. She paid the application fee and all the Town departments had signed off on it, at that time. Since this is a time-sensitive matter, with the event planned for August 4th, 2018, Wilson encouraged the Selectboard to act on this item at tonight's meeting. Bacon asked whether there would be a lot of trash.

I move to approve the use of Town owned property Art Peace Makers Dot Org; at the Mayo Beach tent on August 4th, 2018 from 2:30 pm to 6:30 pm, subject to the conditions, if any, listed in the application form.

Motion: Wilson Second: Bacon 4-0-0. Motion carries.
Carlson was not present for this vote.

II. Public Hearing(s)

A. Winslow Tavern – extension of seasonal liquor license to January 1, 2019

Bacon recused herself from this agenda item and left the room.

Tracey Hunt from Winslow Tavern was present to speak to the application. Houk said he would vote against this agenda item because it would affect some of the businesses who purchase a year-round license and struggle through the winter time. Houk also said there was a precedent for not granting extensions to seasonal licenses. Wilson asked Hunt whether there's the option to stay open year-round but staffing and housing are some of the major impediments for staying open year-round. Hunt said that the Principal Clerk advised her to apply for an extension of their seasonal license before they applied for a year-round liquor license. Reinhart said she'd been hearing how great it would be if more businesses were open longer into the season or year-round. The President of the Chamber of Commerce said there's a risk to staying open year-round and that it is his opinion the Selectboard should approve this agenda item. Wilson said the Selectboard is the Licensing Board on this matter and she doesn't think approving this extension would negatively impact other competing businesses.

I move to approve the extension of the seasonal liquor license for Winslow Tavern to January 1, 2019.

Motion: Wilson Second: Carlson 3-1-0. Motion carries. Bacon
was not present for this vote as she had previously recused herself.

B. Mike Kubiak – appeal of commercial shellfish permit revocation

Mike Kubiak and his representative, Attorney Jamie Veara, were present to discuss Kubiak's appeal. Veara went over the law and the basis for a Constable to inspect a permit holder's harvest. He presented the sequence of events, as they allegedly happened, on June 19, 2018. Veara said that Kubiak was not in violation of Wellfleet Shellfishing Regulations pertaining to being obligated to present the catch for inspection because the Shellfish Constable should have had a "reasonable cause" ~~doubt~~ that things were not as they should be, in order to require Kubiak to allow an inspection. ~~present the catch for inspection.~~ Veara said he has had his license revoked for two weeks in the height of the summer. Veara also said Kubiak is a young shellfisherman with a family and he deserves a second change and have his license reinstated. Bacon said Kubiak is trying to make a living here in town and hopes that the Selectboard gives Kubiak a second chance. Bacon also said that we all need to be on the same side here working together as a community. Wilson said our Shellfish Regulations are vetted and approved by the Division of Marine

Fisheries. Wilson also asked at what point Kubiak's cooler was opened and inspected and proved to be empty. Veara said that happened at the Police Station. Wilson also said there were a series of three, separate violations by Kubiak, all of them properly documented. Some, if not all, Wellfleet Shellfishing Regulations violations are also of State regulations violations and, in particular, there is a section that prohibits any intimidation or harassment of a Constable during an enforcement situation. Houk asked whether Kubiak understands the gravity of his actions and decisions. Veara responded and said he had been representing Kubiak for a few weeks and that he is a different person now than he was two weeks before. Carlson (disclosed that her partner has a shellfish grant, but that there is no financial gain from deliberating on the issue) said that maybe getting all these organizations involved in this process was a bit overzealous. Mike Kubiak said he had misinterpreted the rules and regulations pertaining to the "reasonable cause" for inspection and that he now understands how he was wrong. Reinhart stressed the importance of the respect for the law and law enforcement authorities. Bacon suggested that Kubiak apologize for his behavior to the Shellfish department and Sullivan who works for the marina and that the Board move on and allow Kubiak to keep his permit. Kubiak then did so. Jude Ahern, from the audience, was concerned about Kubiak's attitude, his "swagger", and that, given his background in law enforcement, Kubiak should understand the law and law enforcement. Ahern believes Kubiak is a risk to the other shellfishermen, to the law enforcement officers and to the town residents. Wilson said that she is concerned about the accruing of violations (town and state laws and regulations), especially the failure to present the catch for inspection and the intimidation of the constables. Houk asked Veara whether he had read the letter from the Harbormaster pertaining to Kubiak's behavior. Veara responded and said yes and that Kubiak's permit revocation shouldn't be judged on the accruing of violations. Reinhart asked Civetta to speak to the list of Kubiak's violations.

Civetta presented a synopsis of Kubiak's violations in the last three months : a written warning, a verbal warning about wet storage, and the first ticket, for a failure to display the catch for inspection. Civetta mentioned that one fisherman had gotten his commercial license revoked in Edgartown by the Selectboard (one of whose members is the President of the Massachusetts's Shellfish Constables' Association) for six months, for failure to present his catch for inspection. Civetta clarified that there was vulgar language used by Kubiak when he addressed her. Wilson informed the public that all the materials for tonight's meeting pertaining to this agenda item are posted on the Town's website. Civetta said that Kubiak cannot be trusted not to put other shellfishermen and their livelihoods in danger and that Wellfleet's good name and reputation is at stake.

Linda Kubiak, Mike's mother, said she is not proud of what her son had said or done, but she added that Mike had spent \$505,000 on his fishing boat and does not believe the allegations that he stole a winch to be true.

The Assistant Harbormaster addressed some of the issues that have come up with regard to Kubiak's behavior at the Marina.

Wilson said that for the sake of maintaining our brand, the rule of law and morale of the shellfishing community, she hoped the Board would not take any action on this item at

tonight's meeting so as to maintain their previous decision to have Kubiak's ~~license~~ commercial permit suspended for the rest of 2018. .

Chip Benton said that, as a member of the shellfishing community, is happy with the job Civetta has been doing and thinks the Selectboard should support the Constable and stand by their decision, because they had been too lenient in the past.

I move to take no action and allow the revocation of Kubiak's permit through December 31, 2018.

Motion: Wilson
opposed.

Second: Carlson

4-1-0. Motion carries. Bacon

Bacon added that her vote tonight is not an indication of non-support of the Shellfish Constable and her duties and responsibilities.

The Selectboard reconvened in public session after a 10-minute break.

III. Appointments/Reappointments

A. Reappointment of Shellfish Constable Nancy Civetta for three-year term

This agenda item was taken out of order and discussed before the Public Hearings portion of the meeting.

Hoort said Civetta has been with the Town for a year and is very happy with the job Civetta has been doing and commended the entire Shellfish Department. Bacon said Civetta has been doing a great job. Wilson said that Civetta was signed up for the course required by her job description-at the Massachusetts Maritime Academy. Hoort mentioned that her job performance review was coming up. Reinhart said Civetta came in at a difficult time, but she has done a tremendous job managing and improving the shellfishing industry in town.

Civetta thanked John Mankevetch and Chris Manulla for their help and expertise, the Town Administrator, the Principal Clerk and the different Town Departments that have collaborated with the Shellfish Department: DPW, Health & Conservation, Beach. She proceeded to give a detailed report on what the Shellfish Department has been doing in the past year. Wilson said Civetta's record keeping is excellent and she received applause from the audience. Lilli Green commended Civetta for the article in the Cape Cod Times.

I move to reappoint Nancy Civetta as Wellfleet's Shellfish Constable for a three-year term ending on June 30, 2021.

Motion: Bacon
was absent for this vote.

Second: Wilson

4-0-0. Motion carries. Reinhart

- B. Comprehensive Wastewater Planning Committee – Janet Drohan for a three-year term

Appointment of Janet Drohan to the CWPC for a three-year term ending on June 30, 2021.

Motion: Second:

Reinhart announced that Janet Drohan had misidentified the committee she wished to apply to, which is the Wastewater Management Authority. This will be an agenda item at another meeting.

IV. Business

- A. Consideration of change to daily beach parking fee [T. LeBart and other citizens]

Bruce Bierhans and Todd LeBart, from the Beachcomber, was present to speak against the price hike at White Crest Beach. Bierhans read out loud a Yelp review from a potential customer who wanted to patronize the venue for lunch but didn't want to pay the \$40 parking fee. He reminded the Board of how much the business owner has given to the community, especially through donations, and how the venue is an economic engine for the town. LeBart presented the history of price increases at the beach and how he believes the doubling of the rate has negatively impacted his business. Wilson thinks this fee change needs another look, that it shouldn't be as high as it is now and acknowledges that the Beachcomber has been very successful over the years. Bacon said that the intent of the hike was not to affect individual businesses, but to create parking availability for residents and make the beaches more accessible for residents with beach parking stickers. Bacon also said that the Beach Administrator has a five-year plan with regard to beach parking. Carlson said it's too early and too soon to discuss the negative consequences of this price hike when it's bringing double the parking revenue at that location for the Town. Reinhart said there was a good meeting with representatives from the Town and the Beachcomber about our beaches and particularly with regard to the garbage issue over July 4th weekend at Cahoon Hollow Beach. Reinhart also said our beaches have become more popular and there was an unprecedented number of people coming to our beaches over July 4th weekend. Reinhart also announced the formation of the Parking Task Force under the direction of the Town Administrator. Richard Robicheau thinks the \$40 fee is high, but we should keep it for the rest of the season. A representative from Even Tide motel said that the \$40 fee and Wellfleet having the most expensive beach on the Cape sends the wrong message and said that the rate should be lowered. Reinahart said that usually cars parking at the beach are filled with four to eight people. Bacon said that a lot of people do not go to the Wellfleet anymore because the town has changed and that those changes have happened on Ocean View Drive. Bacon said she was overwhelmed by what she witnessed on Ocean View Drive on July 4th and said she did not feel safe. Molly Caskoff said there's been a lot of price increases in Wellfleet and

that we are not an elite town like other towns on the Cape. She also added and said that a lot of the younger partying crowd come to Wellfleet because of the Beachcomber and the beaches. Wilson said the drinking crowd has gotten exponentially bigger and doesn't go well in a community like ours. Carlson said the BOS received negative mail about the problems on Ocean View Drive and the Selectboard needs to make the right decisions to protect the town and our beaches and it is not a good business decision to change the rate so soon after increasing it. Houk then said the \$40 fee is too high and motioned to reduce it to \$30.

I move to reduce the daily parking fee at White Crest Beach from \$40 to \$30 for the rest of the season.

Motion: Houk

Second: Wilson

3-2-0. Bacon and Carlson

opposed. Motion carries.

B. CCNS Advisory Commission and The Barnstable County Assembly of Delegates Update [L. Green]

Lilli Ann Green presented an update on the CCNS Advisory Commission and the Barnstable County Assembly of Delegates. All materials and presentations were included in the packet for tonight's meeting. Green also said she would run again for the Barnstable County Assembly of Delegates and her name would be on the ballot in November.

B. Herring River Restoration Project discussion [Wilson]

Wilson said that there would be a posted, public meeting of the Herring River Executive Council taking place soon and that scheduling it was in the works.

D. Discussion regarding potential property acquisitions [TA]

301 Main Street and 3 Kendrick Avenue

Hoort said the 301 Main is the "news dealer" building property. He said he'd been trying, unsuccessfully, to reach the owner. Hoort asked why the Selectboard should want the Town to purchase these properties and said that if the board decides to go ahead, we would have to go into executive session. Houk said that, in discussing this with the Health/Conservation Agent, there might be some issues associated with the property. He suggested we could use the power of eminent domain to acquire it, but we need to get a lot of work done on it. Houk said that the building at 301 Main could be used for Town offices and that the property at 3 Kendrick, although appealing, is too expensive. Carlson said both properties are appealing, but we do need to make sure that we're responsible to the infrastructure that we own (particularly with regard to wastewater and water management) before buying more. Wilson is for the purchase of the property on Main

Street and adding more Town offices at that location. Bacon clarified that the shellfish shack is assessed at \$0 and we cannot make 50 %+ of 0 improvements on it. Bacon also said that the property on Kendrick Ave has been on the market for a long time and that it's in the flood plain. Bacon likes the TA's idea of using the news dealer building as an incubator for small businesses and she is reluctant to having office space in that building.

- E. Request approval of a Community Host Agreement for a Retail Marijuana Establishment and Registered Marijuana Dispensary for Jason Robicheau dba The Grateful Mind, 15 Bank Street. [TA]**

Jason and Richard Robicheau were present. Bacon asked whether any of the planning and zoning issues had been addressed and thinks 15 Bank street is a great location. J Robicheau said all the issues would be addressed in accordance with our bylaws and regulations. Carlson said she was glad to see a local business and family take advantage of this new opportunity. Wilson said this is a "clean" business because there's less potential for much groundwater pollution. Houk agreed with Bacon on the location and wished the Robicheaus well.

I move to approve a Community Host Agreement for a retail marijuana establishment and registered dispensary for Jason Robicheau dba The Grateful Mind, at 15 Bank Street.

Motion: Bacon

Second: Wilson

5-0-0. Motion carries.

- F. Vote to open 2018 Special Town Meeting Warrant [TA]**

Hoort presented a list of key dates for the 2018 Annual Town Meeting, which were included in the packet for tonight's meeting.

I move to open the 2018 Special Town Meeting Warrant.

Motion: Wilson

Second: Bacon

4-0-0. Motion carries. Carlson was absent for this vote.

- G. Formation of Beach Parking Task Force [Reinhart]**

Reinhart announced that a Beach Parking Task Force would be formed, but the Selectboard did not act on this agenda item. Reinhart said the parking lot expansion at White Crest Beach Parking Lot might be included within the scope of the Task Force and that most probably the Task Force would be formed by the end of August. Wilson clarified that the

Task Force would be subject to Open Meeting Law. Wayne Clough asked whether the Task Force would report to the BOS. Chair Reinhart responded and said yes.

H. Approval of financial staff reorganization [ATA]

Hoort introduced this agenda item and said that with the Town Collector's retirement in March, and the leaving of Assistant Town Administrator Brian Carlson, the Town was put in a unique situation where it could assess staff reorganization and reclassification options and opportunities. Some Houk asked whether the letter from Nancy Vail (included in the Correspondence folder) would impact this reclassification. Hoort responded and said no, it would not impact this reclassification at this point in time. He gave a detailed description of the proposed changes. Carlson asked Hoort whether there's a possibility of reaching an agreement with the WEA and Hoort said he's extended an open invitation to the WEA to reach common ground. He'd like to see every employee be able to advance in their position and receive payment increases. Bacon asked who was in charge of sending out the municipal systems water bills until a Water Clerk is appointed. Hoort explained how it was being dealt with in the interim. Wilson said that she hoped that the person who gets that job is not also asked to take minutes for four committees, as did the last person in that position. Carlson asked for and got more information about our relationship with the WEA.

I move to approve the financial staff reorganization as presented by the Town Administrator and the Assistant Town Administrator.

Motion: Bacon

Second: Wilson

2-3-0. Motion does not carry.

I. Approval of FY 2019 Goals [TA]

This agenda item was postponed.

J. Forming of Wastewater Management Authority [Wilson]

Wilson presented a synopsis for this project. Wilson and Greenberg Lemos had two formal meetings to discuss this topic and said there are three very qualified, potential candidates who may be willing to serve on this group. Once the group is formed, applications for grants, help from the Cape Cod Commission, and education for the members can begin.

I move to approve the charge for the Wastewater Management Authority (WMA).

Motion: Wilson

Second: Bacon

4-0-0. Motion carries. Carlson

was absent for this vote.

V. Town Administrator's Report

VI. Topics for Future Discussion

Wilson wanted to follow up on the project Brian Carlson worked on a project that was part of the matching.

Reinhart said she would like to address the TA's review.

Bacon would like to form a Task Force pertaining to a coastal management plan.

Houk suggested to hire Bourne Engineering to assess the uses of the shellfish shack, the property at 3 Kendrick Ave and the property at 301 Main Street.

Carlson addressed the WMA report from ConsCom.

Reinhart asked the TA to invite the Friends of the Herring River Restoration Committee for an update.

VII. Correspondence and Vacancy Report

Wilson said we need more people on certain committees.

VIII. Minutes (July 10, 2018)

Houk said his exact words from the July 10th meeting when quoting Mike Kubiak's language towards the Shellfish Constable be added, verbatim.

I move to approve the minutes of July 10, 2018 as amended by Wilson beforehand and during the meeting.

Motion: Wilson

Second: Bacon

5-0-0. Motion carries.

IX. Adjournment

I move to adjourn.

Motion: Bacon

Second: Carlson

5-0-0. Motion carries.

The meeting was adjourned at 10:05 pm.

Respectfully submitted,

Radu D. Luca,
Executive Assistant to the Town Administrator

Link to video here:

<http://viewer.earthchannel.com/PlayerController.aspx?PGD=wellfleetma&eID=71>

Public Records Materials of 7/24/18

1. Public Hearing Notice – Winslow Tavern extension of seasonal license (June 26)
2. Public Hearing Notice – Mike Kubiak shellfish permit revocation appeal (July 13)
3. Memos – Shellfish Department documentation on Mike Kubiak shellfish permit revocation
4. Map and legend – Kubiak appeal describing location of individuals and vehicles at the pier on June 19
5. Application for Town Boards – Janet Drohan (July 18) (withdrawn)
6. Memo – Beach Administrator daily parking revenues (July 9)
7. News article – Cape Cod Times – beach parking (July 18)
8. Presentations – Cape Cod Commission and Barnstable County Assembly of Delegates
9. Agreement – Community Host Agreement for Marijuana Dispensary
10. Memo – Town Clerk 2018 Special Town Meeting key dates
11. Memo – TA Staff Reclassification (July 16)
12. Compilation – Selectboard goals 2019
13. Memo – TA Report (July 20)
14. Memo – Principal Clerk Correspondence and Vacancy Report
15. Minutes – Draft Selectboard July 10