

**Wellfleet Selectboard Meeting
Tuesday, November 12, 2019 at 6pm
Wellfleet Senior Center**

Selectboard Members Present: Chair Janet Reinhart; Kathleen Bacon; Helen Miranda Wilson; Justina Carlson; Michael DeVasto

Also Present: Town Administrator Dan Hoort; Executive Assistant Courtney Butler; Acting Police Chief Mike Hurley; Fire Chief Rich Pauley

Chair Reinhart called the meeting to order at 6:00 p.m.

ANNOUNCEMENTS, OPEN SESSION AND PUBLIC COMMENTS

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

- Bacon thanked the Wellfleet Arbor Committee for their installation of four new trees in Town, which were installed at no cost to the Town.
- Butler, on behalf of Hilary Lemos-Greenberg, announced the call for instructors for the Winter Wednesdays program hosted at the Provincetown Schools. The program runs from February 5 through March 25 and the application to apply to be an instructor closes on November 18. Information is available on the Town's website.
- Acting Chief Hurley announced the department was participating in the winter coats and gloves for Veterans program.
- Acting Chief Hurley also announced the Toys for Tots program was starting.
- Acting Chief Hurley said the department applied for and expects to receive a \$10,000 traffic grant for summer enforcement.

COMMUNITY DEVELOPMENT PARTNERSHIP – STRATEGIC PLAN PRESENTATION

Jay Coburn of the CDP made the presentation. His presentation was provided to the Board and is available online in the meeting packet for this meeting. Coburn introduced Rob Doane, the new CFO for the CDP. The Board commended and thanked Coburn and the CDP on their efforts and workshops held.

COMMITTEE UPDATE – MARINA ADVISORY BOARD

Chair Joe Aberdale and Vice Chair Walter Baron, of the Marina Advisory Committee, presented their update. Aberdale said the Committee works with the Harbormaster and his staff reviewing then entire operation of the marina, addressing problems, complaints, and concerns, and conducts hearings on such matters. He said they provide any resources they can to the Harbormaster and explore new concepts that can be incorporated. Aberdale said one of these efforts is the Town's ongoing commitment to the harbor dredging. Additionally, the Committee presents recommendations on Town policies and projects including the Shellfish Regulations and electric vehicle charging station installations. Aberdale noted current studies and projects at the harbor, including parking. Aberdale also noted the Committee's work with Assistant Town Administrator, Mike Trovato, who has a background in marina planning and grant writing. He also noted members' related Committee

Baron concurred with Aberdale's report. He commented on the name of the Committee, noting the word "advisory" and the purpose is to advise the Selectboard on matters relating to the Marina. Baron noted working with the Shellfish Constable, specifically related to the overwintering of gear. He said the Committee tries to educate people on all the work going on at the Marina, noting there is a lot happening.

Reinhart thanked the members for their report and the Committee for their efforts. She agreed that Trovato's experience will be beneficial.

Aberdale noted the Enterprise Fund and that Wellfleet is one of the only communities on the Cape to have such a fund. Baron noted there was at least 5 or 6 different communities that utilize the pier and marina: commercial shellfishermen, commercial draggers, mooring people, people with slips, those who park their cars as employees, shoppers and diners of local businesses, and those who walk the path on the pier.

Bacon noted that funding was approved to replace the gas tanks at the spring Town Meeting. She asked where this project was at; Aberdale said this was yet to be determined. He noted that Hoort oversaw the RFPs that went out and that the tanks are at the end of their life. Aberdale said the issues at hand are whether the tanks will be underground or aboveground, and where they will go. Bacon asked if this would be seen in 2019; Aberdale said he was not in a position to answer that right now, but it was a realistic goal.

Reinhart clarified that the Marina Enterprise Fund gets money from moorings and slips. Aberdale said it also gets funding from the launch ramp. Wilson noted the Board decided they wanted the tanks above ground, due to the risk of sea level rise. She noted the study to see what is under the water in the harbor and asked how the Committee plans to remove whatever is down there once its location determined what is there. Wilson also asked if there was a schedule for this survey. Aberdale said the sonar survey was completed but they have not seen it yet. He said if the report is not received soon the Committee will make an inquiry. There was further discussion. Reinhart announced that the Center for Coastal Studies will be hosting a fund-raising event at their offices in Provincetown on Tuesday, November 19. The funds raised will go towards beach cleanups.

Carlson thanked the members for coming to present and for being a committee the Board can rely on for a professional opinion. Aberdale noted the Parking Task Force is finishing their report regarding the parking at the Marina. He said a challenging item that will be coming up is that the Marina has served as a municipal parking lot for many constituencies over the years. Aberdale said there will be increased use, once dredging takes place there.

DeVasto asked if the Committee has looked into increasing the capacity of the Harbor for slips for commercial fishermen. Aberdale said they have heard from other commercial fishermen about this issue and it is a situation where the Town has to decide what kind of Marina they want and how large. There was further discussion.

Bacon asked what the decrease is in revenue due to the lack of the use of moorings. Aberdale said it is not down significantly, because people have waited a long time for their slip that they are not willing to give it up. She asked if they felt the use of the Marina has decreased; Aberdale said the uses of boating time is certainly down. There was further discussion.

2019 OYSTERFEST REPORT – POLICE CHIEF

Acting Chief Hurley presented his report with Chief Pauley. The report was provided to the Board and in the meeting packet online. Hoort noted that SPAT will provide their report on OysterFest at the first meeting in December.

Hurley said the Fest had a huge turnout and that the two departments coordinated with the organizing party, SPAT. He noted that the security agency hired, of about 25 people, cancelled on the morning of the event.

Acting Chief Hurley noted the Police and Fire Chiefs met with SPAT to discuss the event and that the discussion went well. He said it was an open and productive discussion. Acting Chief Hurley noted that SPAT hires security for the event but would like to see the Town included in that process.

Bacon noted that SPAT does have an emergency management plan and asked the Chiefs their opinions on it. Chief Pauley said he puts together an Incident Action Plan (IAP) for each day of the event, between the Police and Fire Departments. He said he was very uncomfortable with the crowd size this year. Chief Pauley said he and Acting Chief Hurley have had very direct but respectful conversations with the Executive Director of SPAT and the SPAT board, and they are looking at the event from the bottom up. Chief Pauley said there will be an expected ramp up in security and personnel next year.

Bacon asked if there was a medical emergency, emphasizing if the Department staff was able to get in and out of the crowd effectively. Chief Pauley said it was shoulder-to-shoulder and the crowd size was of concern. Bacon noted that she heard from residents how uncomfortable it was to have a crowd size that large and the inability to maneuver on the streets. Bacon said it was suggested that increasing the entry fee to attempt to fend off attendees; she disagreed that this would work due to the event's popularity. Bacon suggested moving some of the event down to the Mayo Beach area.

Wilson asked why the security agency did not show up. Acting Chief Hurley said it was told to him that the founder of the company had a medical event and did not have a second in command. Wilson noted that the Board permits this event and it would not be good publicity for the Town if something were to go wrong. Acting Chief Hurley said that he told SPAT that until these concerns are addressed, he and Chief Pauley will not sign the requests for use of town property to make it to the Board for approval. Reinhart clarified that no one was hurt on Saturday; Acting Chief Hurley said no one was hurt but they cannot continue to run the event on luck.

Wilson suggested moving the event to take place past the Library. Carlson said a concern of SPAT is that there is not enough oversight financially. She asked how the Board can support the departments. Chief Pauley said he was quite certain the Board would support the Departments and there will be no sign-offs be himself of Chief Pauley until everything is vetted.

Carlson asked about limiting ticket sales to scale the event back. Acting Chief Hurley said that suggestion was put on the table the past few years. He said his concern was for those who are not online and would not be informed about the limitation and show up in Town anyway. Acting Chief Hurley again noted the difficulties that volunteers and staff faced at the gate dealing with the crowd of attendees. There was further discussion.

DeVasto said the weather was really good for the event this year, which did play into the crowd size. He noted the congestion issues. DeVasto suggested offering something on Sunday to shift the crowd's attention from mainly attending on Saturday. Acting Chief Hurley noted that Saturday is typically the out-of-town crowd, while Sunday attendees are more local.

Bacon asked when the security agency cancelled, and when that notice came to the Chiefs. Acting Chief Hurley said he and Chief Pauley found out from SPAT at 10:45 AM on Saturday. She thanked the Chiefs for a job well done.

LICENSES

Liquor License Renewals – multiple

Bacon asked about Marconi Beach Restaurant, saying that the owner has once again walked away from the business without notifying the Board. She said she spoke with Jeanne Maclauchlin, Principal Clerk, and asked what the Alcohol and Beverage Commission (ABC) thought of this. Bacon suggested he was forfeiting his year-round liquor license and noted that he must be open X amount of days per year to keep his license. She asked to remove that establishment in the motion. Wilson said that was a good idea and said that the owner would have to come back and reapply for an annual liquor license.

Carlson asked if not including him meant he will have lost his renewal, saying she would rather hear from the owner. Reinhart said he would have to come back and apply for a new license.

Audience member Tim Sayre said that it was unfair of the Board to ask a business to stay open year-round if the owner is not around to manage and oversee operations. Wilson said the owners must request from the Board to close their business. Bacon said the ABC has requirements for the business to stay open and the Board acts as the licensing agency for the Commission. There was further discussion.

- Carlson moved to renew the liquor licenses for the following establishments for a 1 year, beginning January 1, 2020 and ending December 31, 2020: Bookstore and Restaurant, The Wagner at Duck Creek, Seaside Liquors, Wellfleet Marketplace, Wellfleet Spirits Shoppe, The Wicked Oyster, Wellfleet Harbor Actor's Theater, PB Boulangerie Bistro, Wellfleet Preservation Hall, JB's Pizza Bar & Grill, Blackfish Variety, C. Shore, Wellfleet Mobil.
- DeVasto seconded, and the motion carried 5-0.
- DeVasto moved to renew the liquor license for Marconi Beach Restaurant contingent upon the owner's appearance before the board, or a letter of explanation, as to his intentions of being closed this season and compliance with the ABC.
- Bacon seconded, and the motion carried 4-1, with Wilson opposed.

BOARD/COMMITTEE APPOINTMENTS

Request medical leave of absence from the Planning Board and Energy and Climate Action Committee – David Mead-Fox

Wilson noted the Board received the votes from each committee.

- Bacon moved to approve the medical leave of absence for David Mead-Fox from the Planning Board and the Energy and Climate Action Committee through December 2019.
- Wilson seconded, and the motion carried 5-0.

Commission on Disabilities – Kate Clemens, 3-year term

Clemens introduced herself and presented her request to serve on the Commission. She said she is the Director of Special Education and Student Services at Cape Cod Tech. Clemens noted she applied because she is looking for ways to grow and serve the community.

Bacon asked if other Wellfleet residents serve on the Commission. Clemens said there is one member listed on the website. Wilson asked if there was a Charge; Butler read the Town Meeting votes from 1984 and 1992, found on the website and noted there is a State Commission that provides guidance to municipal commissions. She offered her assistance to Clemens in getting this started. Hoort noted that the State website provides a full charge for municipal Commissions on Disabilities.

There was further discussion.

- Wilson moved to appoint Kate Clemens to the Commission on Disabilities for a term expiring June 30, 2022.
- Bacon seconded, and the motion carried 5-0.

Recycling Committee – Jed Foley to alternate member and Christine Wisniewski to regular member

Wilson asked if Foley was aware that he could not miss more than 4 consecutive meetings in a row; Bacon said yes.

- Bacon moved to approve the change of Jed Foley to an alternate member, and Christine Wisniewski to a regular member, on the Recycling Committee, effective immediately.
- Carlson seconded, and the motion carried 5-0.

USE OF TOWN PROPERTY

Town Hall Driveway – Friends of the Library on July 5 and August 2, 2020

Bacon asked to waive the fee.

- Bacon moved to approve the use of the Town Hall Driveway on July 5, 2020 and August 2, 2020 from 7AM to 3PM, with rain dates of July 12 and August 9, by the Friends of the Library subject to the conditions, if any, listed on the application form.
- Wilson seconded, and the motion carried 5-0.

White Crest Beach – Kendra Luongo on June 27, 2020

The Board asked Butler to record the following questions to provide to Suzanne Grout Thomas and/or the applicant to answer or ask the applicant:

- Did the applicant consider high tide / low tide?
- What type of seating and is it seating for all 120 guests – will there be 120 chairs?
- Is the applicant aware that guests must pay for parking at \$30/vehicle?
- Where on beach will the ceremony occur – up top or down below?
- Are there kids and are they aware of erosion issues?
- How many cars will be expected to park in the lot?

DeVasto noted the beach handles that many people on a regular basis and the parking lot can accommodate this number as well. There was further discussion. Wilson asked to charge a higher fee for this due to the number of guests.

- No action taken.

BUSINESS

HDYLT Trust Purchase Update

Hoort provided the update, saying that the purchase has closed and the survey, using the Spillane Case, came in with less acreage than which the Town originally thought they were purchasing. He noted that the appraisal, however, came in at \$2,450,000 which is in excess of the maximum of \$2million which the Town voted to pay for it at the spring Town Meeting. Because of this, the Board was comfortable paying \$2 million for the property. Hoort said the Town filed to take all land owned by the Trust, which was 250 acres. He said he does not expect this to change but if it should, the Town has ownership of the entire property and is protected either way.

Bacon clarified, through Hoort, that the appraisal for \$2,450,00 for the 162 acres. She also clarified that everything Hoort has spoken of and what the Board approved was well within the scope of what was approved at Town Meeting. Hoort concurred.

Wilson said she checked a third time with the Ethics Commission, and since her money is no longer affected, she may discuss this matter. She asked the audience to research NGVD88 Surveys, saying this was the best way to find out what the low-mean tide would be. Wilson noted the use of the property would not change, no matter what the survey said.

Carlson said she felt this was a fabulous accomplishment on behalf of the Town, and Wilson's contribution. She noted the purchase included a piece of beach, creating uninterrupted beach access. There was further discussion.

Approve 2020 Meeting Schedule

Wilson noted she would be having surgery on December 13, 2019 and would be unavailable to meet following that on December 17, 2019. She asked the Board if they were comfortable with having a 4-week gap between the December 17, 2019 and January 14, 2020 meetings. The Board consensus was that they were comfortable with this gap.

There was further discussion.

- DeVasto moved to approve the 2020 meeting schedule as printed in the packet.
- Wilson seconded, and the motion carried 5-0.

Review of Open Meeting Law Complaint Response

Wilson asked Hoort to review Counsel's response to the Attorney General regarding the complaint filed by Ms. Ahern. Hoort provided the Board with the response as written and sent by Carolyn Murray of KP Law. Hoort said that Counsel explained that the Town did not violate Open Meeting Law (OML) but acknowledged that the Board is aware it could have been more specific in the agenda as per the Open Meeting Law Guidelines. Counsel also spoke up to the Attorney General's office asking them to consider the fact that this person has filed numerous complaints.

Wilson noted there are many ways to object to this prior to filing an OML complaint. Reinhart noted Ahern's email was included in the meeting packet online, so while it could have been more specific in naming her in the agenda, those items were included.

Bacon said the Board cannot continue to respond with knee-jerk reactions to this situation and is confident that the Board followed the letter of the OML. Wilson noted the meeting regarding this matter, on November 6, was recorded. She agreed that the Board complied with the letter of the law in posting the meetings. Wilson noted that responding to these requests cost time and money.

Hoort noted that this response was received today and so it was not included in the meeting packet. He said he would include it in his report to the Board after this meeting. It is also available for public record per the Administration office.

Carlson said this was a thorough letter from Counsel and asked to have a record of all complaints filed and the substance of those complaints from this individual. Hoort said he wanted to wait for the Attorney General's response prior to providing more information.

DeVasto noted the spirit of the Open Meeting Law is to prevent the Board from deliberating from behind closed doors. He said this clearly was not the basis of the complaint. DeVasto said the spirit of the OML is to make sure the Board does not deliberate behind closed doors. He said it was a waste of everyone's time when the filer knows it was not the issue of the complaint. DeVasto advised those who file complaints to know the law and file in the spirit of what the law was created for, or otherwise to use their time more constructively.

SELECTBOARD REPORTS

- Wilson: Attended Wellfleet Shellfish Association meeting where Rep. Peake and Senator Cyr were also present. Carlson and DeVasto attended same meeting.
- Wilson: Attended NRAB-Shellfish Advisory Board joint meeting
- Wilson: attended the Herring River Stakeholders meeting.
- Wilson: will be attending the Herring River Technical Team meeting.
- Bacon: Met with Recycling Committee to commend them on the elimination of plastic cups at OysterFest. She asked what more we could do.
- Reinhart: attended the Cape Cod Selectmen and Councilors Association meeting, and the next one will be held on December 13 at the Upper Cape Technical School in Bourne. The topic will be recycling. Hoort noted the Recycling Committee has been sought as a resource for other communities and commended their efforts.
- Carlson: Gave opening remarks at the Wellfleet Harbor Conference.

TOWN ADMINISTRATOR'S REPORT

This report is for the period October 19, 2019 through November 8, 2019.

1. General
 - none
2. Fiscal Matters
 - FY 2021 CIP delivered to BOS and FinCom
 - FY 2021 Budget in progress
3. Meetings
 - October 22 - Selectboard meeting
 - October 23 – Meeting at Center for Coastal Studies regarding CZM grant
 - October 23 – Finance Committee meeting

- October 24 – WEA union negotiations
 - October 24 – Herring River Executive Committee meeting
 - October 25 & 28 – Vacation day
 - November 2 – Wellfleet Harbor Conference
 - November 4 – Staff Department Head meeting
 - November 6 – Budget meeting
 - November 6 – Budget meeting
 - November 7 – Budget meeting
4. Complaints.
- Jude Ahern - multiple
5. Personnel Matters:
- none

Hoort said the biggest thing happening now is budgets. Carlson asked about the meeting at the Center for Coastal Studies regarding the CZM grant; Hoort said it was exciting to participate in the meeting where 3 Towns are working with a nonprofit. Bacon asked if the Town was likely to hear something back from the DCR or the DOT. Hoort said he emailed with the DOT last week and he will be setting up a meeting with them. He noted that the DCR wants to come to Wellfleet after the 1st of the year, to show the Town what its final plans are for the bike trail extension project.

TOPICS FOR FUTURE AGENDAS

- Wilson: Barbara Taylor did a report on bike paths in the Seashore. Wilson would like to see the report on a future agenda for discussion.
- DeVasto: Would like to see bike path on future agenda.
- Wilson: Requests an executive session meeting on 3 Kendrick Avenue.
- Wilson: Discuss and finalize the marijuana HCA policy.
- Wilson: Discuss the Old Shellfish Shack, including having a map that shows what will be covered due to sea level rise.
- Wilson: Discuss Long-term use of town owned property.
- Wilson: Questioned the use of drones in Town, said Board should discuss their policy.
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- Reinhart asked to have a work meeting with the Shellfish Department, the Harbormaster, and the Marina Advisory Board to discuss the marina. This would not include discussion of the Shellfish Shack.
- Wilson asked to discuss the 2 long-term uses of Town Owned Property. Hoort said it would be listed as “short-and-long-term use of Town Owned Property”.
- Reinhart asked to discuss the potential donation of private property to the Town; Hoort said it has not come all the way forward yet as it is owned by 2 people and only 1 has agreed to donate it. He will be looking into it further.
- Reinhart: Wants to know if the new marijuana store in the Cove Road plaza will be displacing Mass Appeal.
- Carlson asked to have the aforementioned establishment return to the Board for an update.
- DeVasto asked to discuss and update the Social Media Policy.

CORRESPONDENCE REPORT

Approved November 26, 2019

Reinhart read a letter she received from Aim Thrift Shop Board of Directors congratulating herself, Hoort, and Michele Insley of SPAT on a successful OysterFest. The letter stated that the Thrift Shop appreciated being part of such a wonderful event and had many visitors.

Wilson noted an email received on November 12 about establishing a drone policy. Wilson asked Butler to note emails that are forwarded from her to the Board, as they do are not originally sent from her.

MINUTES

October 15, 2019 – Work Meeting

October 22, 2019 – Regular Meeting

Wilson provided amendments to Butler and the Board.

- Wilson moved to approve the minutes of Tuesday, October 15, 2019 and Tuesday, October 22, 2019 meeting as amended.
- Bacon seconded, and the motion carried 5-0.

ADJOURNMENT

- Bacon moved to adjourn.
- Wilson seconded, and the meeting adjourned at 9:10 pm.

Respectfully submitted,
Courtney Butler,
Secretary

Public Records Material as of 10/18/19

1. Community Development Partnership Strategic Plan Presentation materials
2. Memo from Police Chief to the Selectboard re: OysterFest 2019
3. Requests from the Energy and Climate Action Committee and the Planning Board re: Medical Leave of Absence for David Mead-Fox
4. Appointment paper for Kate Clemens
5. Request from Recycling Committee re: change in member statuses
6. Application for Use of Town-Owned Property from the Friends of the Library and Kendra Luongo
7. Draft 2020 Meeting Schedule
8. Response filed by KP Law, on behalf of the Town, to the Open Meeting Law Complaint filed by Jude Ahern, dated October 22, 2019 and received by the Town on October 25, 2019
9. Town Administrator's Report
10. Correspondence Report
11. Draft minutes for October 15, 2019 and October 22, 2019