

Selectmen's Meeting

March 12, 2012

4:00 pm

A meeting of the Board was held on the above date in the Fred B Morgan Jr. Meeting Room, Town Hall. Members present were: Arthur Smadbeck, Chairman; Michael J. Donaroma, and Margaret E. Serpa. Also present was Ms. Pamela Dolby, Town Administrator.

At 4:00 p.m. Mr. Smadbeck opened the meeting and recognized Ms. Peg Regan from the Island Partnership for Healthy Living a project of the Dukes County Health Council of Martha's Vineyard. She was here to let the Board know that they had received a 5 year grant from the Department of Public Health in the amount of \$60,000/year for the whole island.

Ms. Regan handed out an outline of goals of what they would like to accomplish with the funds which included providing healthy food to institutions such as the Councils on Aging and schools, providing more bicycle and pedestrian access overall, providing safe routes for kids to get to school, and to inform the public on bicycle rights. The ultimate goal is to get people moving and reduce heart disease on the island by 5%. She stated that there would be a workshop with Mass DEP on March 20th from 1-4.

Ms. Serpa stated that Stuart Fuller, Highway Superintendent, and Police Chief Tony Bettencourt would be the best choices to bring in on the discussions.

Ms. Regan replied that she would contact them and that Georgiana Greenough, Planning Board Assistant, was also on the committee and was a great help.

Mr. Smadbeck thanked Ms. Regan for coming and then moved on to the annual review for Mr. Charlie Blair, Harbormaster.

Ms. Serpa remarked that Mr. Blair does a good job with the harbor. The Board receives letters of commendation every year from happy customers. She asked if it would be a busy summer. She had heard that the 4th of July sold out in 4 minutes.

Mr. Blair responded that it had sold out that quickly and that reservations overall were up.

Mr. Smadbeck stated that Mr. Blair does a fantastic job and that the town is lucky to have him.

Mr. Blair stated that he had a good crew and couldn't do it without them.

Mr. Donaroma agreed with Mr. Smadbeck and Ms. Serpa.

Ms. Dolby stated that Mr. Blair was a good Department Head and easy to work with.

Ms. Serpa moved to give Mr. Blair a positive review. Mr. Donaroma seconded. Unanimous.

Mr. Smadbeck then recognized Ms. Jessica Roddy who was in for Jan Burhman and MV Slow Food. They were applying for a one day liquor license for March 23rd to have a wine and cheese event at Morning Glory Farm for about 50 people.

Ms. Serpa asked if she had received all the rules and regulations.

Ms. Roddy replied that they had and that they were working on the insurance.

Ms. Serpa moved to approve the one day liquor license as long as they acquired the proper insurance. Mr. Donaroma seconded. Unanimous.

The Board then addressed a request from the Edgartown Affordable Housing Trust to use trust funds of \$2700 for the housing needs assessment. Mr. Donaroma moved to concur with the expenditure as long as the other towns were participating. Ms. Serpa seconded. Unanimous.

Mr. Smadbeck then recognized Mr. Paul Bagnall, Shellfish Constable, who was in to talk to the Board about closing Cape Pogue to scalloping. Mr. Bagnall stated that to protect the seed and the eel grass, the Shellfish Committee had voted to close Cape Pogue to scalloping for the season on March 19th. The outer waters would still be open until the March 31st the traditional day that scalloping closed.

Mr. Benefit supported the closing and stated that it would be good for the seed and the eelgrass.

Ms. Serpa moved to approve the closure. Mr. Donaroma seconded. Unanimous.

Ms. Dolby stated that Mr. Bagnall had come to her about the putting the Estuaries Project on the Special Town Meeting Warrant. Financially, it would have to go to on the Annual Town Meeting Warrant and the only way she saw to add it was as an override. She had tried not to have any overrides this year, but saw no other way to add it in. The warrants needed to get to the printers, so due to the time sensitive nature of the request, she had invited the FINCOM members, Dredge Advisory Committee, and the Shellfish Committee to this meeting to hash out the details and decide what can go on the warrant and how it will be paid for.

Present for the discussion was: Mr. Bagnall, Shellfish Constable and Dredge Committee member; Jane Varkonda, member of the Dredge Committee; Mort Fearey, member of the Dredge Committee and FINCOM; Donnie Benefit, member of the Shellfish Committee and employee of the Dredge; Cooper Gilkes, Chairman of the Shellfish Committee; Barbara Schriber, member of the FINCOM; Bob Clay, alternate member of the FINCOM; Charlie Blair, Harbormaster and Dredge Committee member.

Mr. Bagnall started by stating that the Estuaries project was a needed study of what the thresholds of nitrogen were in the ponds among other things. Then recommendations are made depending on the results. The town can choose to follow or not follow those recommendations. A lot of the studies that are done can be needed for things to do with the ponds that don't have to do with shellfish, such as dredging projects. This way the state will pay for 50% of the costs of these studies. The cost to the town was a total of \$272,500, which broke down as \$98,000 for Cape Pogue and Pocha Pond, \$104,000 for Katama Bay, and \$70,500 for Oyster Pond.

Mr. Smadbeck asked about what lawsuits had resulted in Estuaries studies in other towns.

Mr. Bagnall replied that there had been a lot of controversy and threats but no lawsuits. The study had been peer reviewed in Chatham and it had passed.

Mr. Smadbeck asked what the benefit to the town would be.

Mr. Bagnall replied that it would be a comprehensive study of the waters in the ponds and the harbor. It would help to keep the shellfish beds open by knowing what the maximum daily loads of nitrogen are and where the water is in relation. It also helps him as the town marine biologist know where the circulation is and where the best places to seed are. It also supplies the watershed boundaries and suggests remedies to nitrogen issues. He pointed out that it would be an expensive study to do independently and that the state is paying for 50%. He added that the Edgartown Great Pond is better because of the Estuaries program.

Mr. Smadbeck stated that it was because the town sewer.

Mr. Bagnall replied that the Estuaries Project told the town where to sewer to get the most effect on the pond.

Ms. Dolby stated that in discussions it had come up that the Oyster Pond is private and that Katama Bay gets flushed out with the breach. There has also been talk about funding sources. She reminded all those present that the warrant needed to be done and the matter needs to be resolved.

Ms. Serpa agreed that Oyster Pond is private and that Katama Bay gets flushed with the cut.

Mr. Bagnall reminded those present that to complete sewer, the town needed a comprehensive study. He didn't see another opportunity to get 50% paid by the state.

Mr. Donaroma asked if they could stagger asking for the funds. Spread it out a bit. Maybe ask for Cape Pogue now, wait 6 months to ask for Katama Bay and later ask for Oyster Pond.

Mr. Bagnall stated that the program was scheduled to wrap up in 2013, so the requests couldn't wait.

Mr. Donaroma stated that he didn't see them recommending to sewer Cape Pogue.

Mr. Bagnall replied that Cape Pogue was probably just below or at the maximum daily load. There were many other options other than sewer to negate the issues. There is a lot of open land around the bay.

Mr. Donaroma asked about dredging plans in Cape Pogue.

Mr. Bagnall replied that it was part of the 10 year comprehensive permit the Dredge Advisory Committee is applying for.

Mr. Donaroma asked what the Shellfish Committee thought.

Mr. Benefit replied that the seed is great and that areas of eel grass were coming back. The study is very important to the continuing maintenance of the shellfish and their area. It's a "major concern".

Mr. Fearey stated that he is not in favor of the dredge being asked to contribute to the funds needed.

Ms. Serpa replied that the dredge should contribute.

Mr. Smadbeck reiterated that the whole amount would be \$272,500.

Mr. Bagnall stated that the article could be worded to also accept any donations.

Mr. Blair stated that it could be amended on town floor if the dredge decided to contribute, they needed to talk to the rest of the Committee and have a discussion about it.

Mr. Donaroma pointed out that the study information will be used by the dredge.

Ms. Dolby stated that if they put it on the Town Meeting Warrant it will be an override question. FINCOM has not had the opportunity to talk about it yet, she suggested that they give an opinion of whether it is recommended or not on the floor of Town Meeting. If the Board were to approve the project for the warrant, she asked the Board to continue the meeting at the end of the session that day to Tuesday morning at 9am so she would have time to write the article before they sign the warrant.

Ms. Serpa stated that she was very disappointed that the Dredge Advisory Committee was unwilling to contribute.

Mr. Fearey replied that he was not against the project.

Ms. Serpa moved to add the Estuaries Project with all 3 areas and a total of \$272,500 to the Annual Town Meeting Warrant as a Proposition 2 ½ override question and also to add it to the ballot for April 12, 2012. Mr. Donaroma seconded. Unanimous.

Mr. Smadbeck then recognized Atty. Ron Rappaport, Town Counsel, who had updates on some cases in which the town was involved.

Atty. Rappaport first addressed the MV Transport/ Ron Minkin appeal to the Department of Public Utilities for a license to give ticketed tours downtown in the "off season". The Board had denied his application on the basis of public safety. Atty. Rappaport stated that the Department of Public Utilities agreed with the Board and denied Mr. Minkin a license. The decision was that the Board had a reasonable basis for denial and that public safety trumped competition.

Atty. Rappaport secondly addressed the appeal to the Land Court of the owners of the Victorian Inn against the Zoning Board on a decision for a 49 seat restaurant owned by the Courtneys on South Water Street. He explained that the Land Court had split the case into two sections. The Board had won the first part which had to do with referring an application to the Martha's Vineyard Commission. The Land court upheld the B1 zoning bylaw not to refer an application below the 50 seat limit and that the abutter had no right to appeal the decision not to send the application to the MVC. The second part which refers to the Special Permit issued by the ZBA is still out.

Atty. Rappaport then gave a short update on the dredge and stated that they were working on protocols and that he was working closely with the Dredge Advisory Committee. There had been a letter from the Army Corp of Engineers and a response has been sent. The Barnes had agreed to pay for the study of the area dredged and the area that the spoils were deposited. The Board had just 5 minutes ago received a letter from Mr. Norman Rankow offering to pay for all legal bills associated with the Barnes issue and again apologizing.

Ms. Serpa asked if the protocols would be coming to the Board's attention.

Atty. Rappaport responded that they would require the Board's approval.

Mr. Donaroma asked if there was room for Mr. Minkin to appeal again.

Atty. Rappaport responded that the DPU had made a deference to public safety and he did not see them entertaining the application again.

Ms. Serpa said he could still drive through town.

Atty. Rappaport responded that he could have chartered tours, just not give ticketed tours.

The Board then approved the following items:

A Common Victualler license for Morning Glory Farm.

A Travel Voucher for the Police Department

A Lodging House License for the Katama Guest House.

The minutes of March 5, 2012.

They set alcohol hearings for: 55 Main St. on March 26, 2012 at 4:20pm and 11 North Water St. on March 26, 2012 at 4:25pm.

The Board concurred with the Affordable Housing Trust agreement with South Village and the first payment of \$200,000.

The Board concurred with the Dredge Advisory Committee returning the \$70,000 remaining from the Sengekontacket project to the Town of Oak Bluffs.

Ms. Dolby stated that she had called the state with the Board's questions about remote participation and stated that Mr. Smadbeck was correct, that the Board had could not make their own criteria, but had to accept it as written or just not allow remote participation.

Ms. Serpa moved to recommend not participating in remote participation. Mr. Donaroma seconded. Unanimous.

Ms. Dolby added that the warrant booklets should be in the mail early next week.

At 5:00pm Ms. Serpa moved to continue the meeting until the next day at 9am for the purpose of signing the Annual and Special Town Meeting Warrants. Mr. Donaroma seconded. Unanimous.

Approved:

Arthur Smadbeck, Chairman

Michael J. Donaroma

Margaret E. Serpa
Board of Selectmen

Respectfully submitted,

Kristy Rose
Assistant