

**MINUTES OF THE  
REGULAR MEETING OF NOVEMBER 9, 2010**

**WATER COMMISSIONERS PRESENT:**

Mr. Robert L. Burnham, Chairman  
Mr. John S. Lovewell, Water Commissioner

**EWD STAFF PRESENT:**

Mr. Shane A. Ben David, Foreman  
Mr. Fred R. Domont, Water Superintendent  
Mrs. Pia Webster, Administrative Assistant

**OTHERS PRESENT:**

Mr. Peter McGuire, Edgartown Resident

**MEETING CALLED TO ORDER:**

The Board of Water Commissioners of the Town of Edgartown held their Regular Meeting on Tuesday, November 9, 2010, at 4:00 p.m. at the offices of the Water Department located at 24 Machacket Road, Edgartown, Mass. At 4:05 p.m., Chairman Robert L. Burnham called the meeting to order.

Before taking up the first agenda item, Chairman Burnham introduced Edgartown resident Peter McGuire, who had run for Water Commissioner a year or two earlier. The Chairman said he had called him up a few weeks ago to invite him to a meeting, figuring it would be good for him to come and listen. Water Superintendent Fred R. Domont mentioned that Ed Handy had recently expressed an interest in running for Water Commissioner.

**APPROVAL OF MINUTES:**

There were no meeting minutes ready for approval.

**OLD BUSINESS:**

**UPDATE: WINTUCKET CONTROL CENTER PROJECT.**

Superintendent Fred R. Domont reported that “things are going right on schedule as far as the garage is concerned” up at the Wintucket Control Center project site. The office

modules were tentatively set to arrive on-Island the following Thursday, November 18. “But we’ve heard that song before,” he remarked.

Recently, Mr. Domont continued, he had submitted a “wish list” of items to purchase with grant funds to Ronald M. Koontz, Area Loan Specialist for USDA Rural Development. Said list included a supervisory control and data acquisition (SCADA) system; additional work at the site, for instance, the asphaltting of the entrance road; and equipment like a mini-excavator and a dump truck.

Water Commissioner John S. Lovewell related that he had recently visited the site with the Superintendent; the Chairman said that he had been there on Monday. Mr. Lovewell wanted to know if the conduits for the outdoor lighting were in. “Everything’s there,” responded Foreman Shane A. Ben David. The Superintendent commented, “It’s one of the smoother government contracts I’ve ever experienced.”

**UPDATE: PROPOSED SOLAR PANEL PROGRAM AT WINTUCKET.**

“As you know, the Board of Selectmen wanted to locate solar panels on Water Department property,” said Mr. Domont, who reminded the Commissioners of the many “Article 97 hoops” that the Town would have to jump through to do that. *[See pages 5-7 of the Minutes of the Regular Meeting of October 12, 2010.]* The Town had realized that overcoming those obstacles would take too long, continued the Superintendent. So he and Edgartown Conservation Agent Jane Varkonda had studied other Town-owned parcels and had come up with alternative possible sites for the placement of the solar panels.

**UPDATE: PROPOSED USE OF MUNIS PROGRAM FOR WATER BILLING.**

Chairman Burnham said he would recuse himself from the discussion of the MUNIS water billing program’s being imposed on the Department, as the Superintendent had requested him to do. Administrative Assistant Pia Webster pointed out that if Chairman Burnham were to leave, the meeting would lose its quorum. “We’re at an impasse here,” observed Mr. Domont, who continued, “I recommend that Bobby [Burnham] recuse himself because his daughter is involved in this issue.” (Chairman Burnham’s daughter is Melissa Kuehne, the Collector of Taxes.)

Mr. Lovewell expressed his frustration over the absence of Water Commissioner William R. Erickson; if the latter were present, the quorum could be maintained and the issue discussed. Messrs. Burnham and Domont explained to Mr. Lovewell that the Chairman could not simply sit in the room silently while Mr. Lovewell discussed this agenda item. If the Chairman recused himself, the quorum of two Commissioners no longer existed. So the meeting would no longer be valid, and discussion could not occur.

“How did you determine that I would be in conflict?” asked Chairman Burnham. Mr. Domont responded, “I’m going to excuse myself.” “How come *you* decided this?”

demanded Mr. Lovewell. “You’re probably right, but...” began the Chairman. Mr. Domont declared, “We’re talking about *MUNIS*, his daughter is the *Collector*, it’s all part of this *issue!*” “So what?!” said the Chairman, adding, “The Selectmen are the ones that bought *MUNIS*, not Missy [Keuhne].” Mr. Lovewell stated that he did not see that there was any conflict of interest.

The discussion continued along the same lines, until Mr. Domont said that he was going to recuse himself because “if any legal action gets taken, I don’t want any part of it.” He then left the meeting room. The time was 4:22 p.m.

The discussion proceeded. Mr. Lovewell referred to the meeting of the Water Commissioners with the Board of Selectmen on October 25. “I was there,” he said. “Unfortunately, I could not hear a word that was said.” He assumed, Mr. Lovewell went on, that the Town wanted the Water Department to change from the billing system they had to the *MUNIS* program. “They must have reasons if they want us to do [it],” he said. “But I didn’t hear any reasons, and in talking to Fred [Domont], it’s just because the auditors want us to.”

Based on the fact that the Department liked the billing program it had, Mr. Lovewell thought they should stay with it “and we tell the Town that we do not see any merits in changing.” “The item is moot, anyway, at this point in time,” said the Chairman, “because the Selectmen have decided to abandon it [the change] for this year.”

Mr. Lovewell asked Foreman Ben David if the color diagrams of the main and tap layouts were part of the current billing system or if the Department had to pay extra for them. “It’s part of that system,” replied Mr. Ben David. And *MUNIS* doesn’t have that? inquired Mr. Lovewell. “Evidently not,” answered Mr. Ben David.

In the meantime, Admin Assistant Webster had photocopied an excerpt from the official Web site of the State Ethics Commission titled “Summary of the Conflict of Interest Law for Municipal Employees.” Responding to an objection from Mr. Lovewell, she pointed out that for the purposes of conflict of interest law, Water Commissioners were municipal employees. Referring to the paragraph under Question 1 on page 1 of the printout, Mrs. Webster read: “*Anyone performing services for a city or town or holding a municipal position, whether paid or unpaid, including full- and part-time municipal employees, elected officials, volunteers, and consultants, is a municipal employee under the conflict of interest law.*” [Emphasis added.]

That settled, Mrs. Webster turned to the restriction under which the Superintendent might believe that the Chairman was in conflict. This was Category (d), Self-dealing and nepotism, which states: “Participating as a municipal employee in a matter in which you, your immediate family, your business organization, or your future employer has a financial interest is prohibited.” The Admin Assistant also indicated the exceptions to this restriction.

Have we finished discussing this? asked the Chairman, referring to the possible switching to the MUNIS billing program. Mr. Lovewell said yes. The Superintendent returned to the meeting room.

**NEW BUSINESS:**

**DISCUSSION: LEVEL BUDGETING MEMORANDUM.**

Chairman Burnham briefly explained the annual budget process to Mr. McGuire. Mr. Domont referred the Board members to a memorandum dated October 26, 2010 from the Board of Selectmen and the Financial Advisory Committee to all Town Departments regarding the former's request to level-fund the expense portion of the latter's Operating Budgets for Fiscal Year 2012. Said memorandum also asked that warrant articles be limited to items a Department "cannot operate without."

"As you know," stated the Superintendent, "we can't level-budget... And we're *self-sustaining*." Chairman Burnham pointed out that certain expenses were uncontrollable, plus the Water Department had just opened a new facility in FY11 that carried with it myriad expected and unexpected expenses. *And* we have a 106-year-old water system that we still have to make improvements on, added Mr. Domont.

The Chairman wondered if the Town Administrator was simply talking about cutting back on stationery purchases, that sort of thing. "Every year's a battle," commented the Superintendent.

**DISCUSSION/POSSIBLE VOTE: SECOND ANTENNA AT STANDPIPE.**

Mr. Domont reported to the Water Commissioners that unbeknownst to the Department, a second antenna had "mysteriously appeared" atop the standpipe. *[For background on the antenna/standpipe matter, see pages 3-5 of the Minutes of the Regular Meeting of August 10, 2010; pages 2-3 of the Minutes of the Regular Meeting of September 14, 2010; and page 3 of the Minutes of the Regular Meeting of October 12, 2010.]* Police Sergeant Christopher M. Dolby had called Doug Bardwell of Bardwell Electronics and asked him to remove the second antenna, since the Board of Water Commissioners had approved only a single antenna, for the Edgartown Police Department. *[Ibid.]*

Mr. Domont related that although the second antenna was supposed to have been gone a week ago, the last he looked, it remained in place. "I'm just making you aware of it," he said. "That's unfortunate," remarked Mr. Lovewell. Chairman Burnham suggested, "We should instruct [Sergeant] Dolby to contact Bardwell again." Mr. Lovewell stressed that the Board had approved only a single antenna, and Mr. Domont reminded the Board that the Massachusetts Department of Environmental Protection as well had approved only one.

The Superintendent confirmed with the Commissioners that the consensus was to remove the second antenna.

**REPORT: RESULTS OF OCTOBER WATER-SERVICE BILLING.**

Admin Assistant Webster referred the Commissioners to a chart that showed the totals of base fees and usage charges for each semiannual billing period since metered billing began on October 15, 2004 (FY05). The FY11 Operating Budget expenses totaled \$1,457,125.16, she continued; and the total billed since July 1, 2010 was \$914,016.68. That left \$534,108.48 in revenue that had to be generated and collected by the end of the fiscal year to meet their budget expense needs. In fact, she cautioned, the amount billed should be \$25,000 to \$35,000 more than that, since that was generally the figure in Accounts Receivable on June 30 each year.

If one subtracted from the sought-after \$534,108.48 the minimum of \$384,643.08 in expected base fees for the April 2011 billing, \$158,465.40 remained to be raised. The average collected in usage charges for the April billing over the past six years was \$101,448.22. Factoring in the rate increase for both steps (1 to 50,000 gallons and above 50,000 gallons) and the average relative proportions of those rates, one would reasonably expect \$129,234.89 to be generated in usage fees in the April 2011 billing.

Factor in \$10,080.68 in sprinkler fees billed in April, \$3,240.00 in annual cross connection fees, and around \$9,000 in expected on-off charges, the total needed to meet Operating Budget expenses fell to \$6,909.83. This, Mrs. Webster concluded, was not a significant amount to generate, considering that they had not even looked at service installation charges or connection charges.

“All right, that sounds good,” remarked the Chairman. “That’s a good, positive report.”

**OTHER BUSINESS:**

**UPDATE: EDGARTOWN MEADOWS BETTERMENTS.**

Chairman Burnham provided for Mr. McGuire some background on the Edgartown Meadows Water Main Project and the betterments instituted to pay back the Department for the work. Admin Assistant Webster noted that on the MUNIS reports she was able to access, there were accounts that held collected betterment funds. However, the labeling of the accounts was confusing because the word “Wastewater” appeared on one of them, and the amounts seemed too high, though the accounts could simply be showing monthly totals. The complete data had to come from Collector of Taxes Melissa Kuehne, she said.

As far as she knew, Mrs. Webster went on, the funds were supposed to be transferred by the Town Treasurer back to the second USDA Loan Account. “It’s very hard to tell,” she said. “You can’t tell from the report.” It was agreed that a clearer accounting of the betterments collection was called for.

Mr. Lovewell inquired if a running total of the monthly Commitment sums was kept. Mrs. Webster explained that the Commitment form which the Commissioners signed

each month was in a format demanded by the Town Accountant. The Assistant to the Accountant entered the Commitments and Abatements into the MUNIS system each month, where they got factored into the fiscal statements for the Department. At the end of the fiscal year the Town Auditor required a summary sheet from Mrs. Webster of the year's Commitment and Abatement figures, which she produced in early July and distributed to the Water Commissioners.

In addition, said the Admin Assistant, the amounts billed to date in any category could be accessed at any time in the Department's billing system.

**PAYROLL FORMS:**

The Commissioners signed payroll forms.

**ADJOURNMENT:**

There being no further business, Chairman Burnham asked for a motion to adjourn. Mr. Lovewell made a motion to adjourn, seconded by the Chairman. The motion carried unanimously by voice vote, and Chairman Burnham adjourned the Regular Meeting at 4:44 p.m.

Respectfully submitted,

Pia Webster  
Administrative Assistant

APPROVED:

BOARD OF WATER COMMISSIONERS  
TOWN OF EDGARTOWN

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Robert L. Burnham, Chairman

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John S. Lovewell, Water Commissioner