

**MINUTES OF THE
REGULAR MEETING OF NOVEMBER 8, 2011**

WATER COMMISSIONERS PRESENT:

Mr. Robert L. Burnham, Chairman
Mr. William R. Erickson, Water Commissioner
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:

William Waterway, Edgartown Resident

MEETING CALLED TO ORDER:

The Board of Water Commissioners of the Town of Edgartown held their Regular Meeting on Tuesday, November 8, 2011, at 4:00 p.m. at the offices of the Water Department located at Fifty-Eight Kavanagh Way, Edgartown, Mass. At 4:04 p.m., Chairman Robert L. Burnham called the meeting to order.

APPROVAL OF MINUTES.

The Minutes of the Regular Meeting of October 11, 2011, which had been listed on the agenda, were not ready for approval.

OLD BUSINESS:

DISCUSSION: CONTRACT FOR CAPITAL EFFICIENCY PLAN.

Water Commissioner John S. Lovewell had requested further discussion of a proposed contract submitted by Tata & Howard Incorporated of Middleborough, Mass. titled "Agreement Between Owner and Engineer for Professional Services – Capital Efficiency Plan™." [See pages 3-4 of the Minutes of the Regular Meeting of September 13, 2011; and page 2 of the Minutes of the Regular Meeting of October 11, 2011.]

Mr. Lovewell recounted that the Commissioners had met with engineer Paul E. Cote, who had first presented the plan in the September Regular Meeting. “But I think before the engineer submits a plan, *we* should have discussion,” stressed the Commissioner. For instance, he continued, if they were to have a Master Plan done, would it include Chappaquiddick? “So we should talk *ahead of time*,” Mr. Lovewell said.

Water Superintendent Fred R. Domont explained that the Capital Efficiency Plan (or CEP) would be “like an amendment to the Master Plan, to the ’92 plan.” As an example, in September Mr. Cote had shown the Commissioners high-impact zones that held the potential for disaster. They had also discussed, à propos the age of system components, how old was not necessarily bad. So, said the Superintendent, the CEP studied the water system “in a more detailed way, looking at hot spots.” A more modern, updated approach, the new plan would be developed with more sophisticated tools, like computer modeling.

“I’m just saying, the Water Commissioners must discuss this *first*, so they have input into the shaping of the contract,” insisted Mr. Lovewell. Chairman Burnham responded, “They did that when Paul Cote came.” “Maybe we can meet with Paul Cote before we approve it [the agreement],” suggested Water Commissioner William R. Erickson. (At this point Administrative Assistant Pia Webster provided Mr. Lovewell with a copy of the September 13 minutes, indicating the meeting with Mr. Cote.)

Superintendent Domont pointed out that in any event the Department did not currently have the funds to engage Tata & Howard to do the CEP. Mr. Lovewell stated for the record that from this point forward he wanted Mr. Cote to meet with the Commissioners face to face when he submitted a contract and not to send it in without any discussion.

UPDATE: MARTHA’S VINEYARD CENTER FOR LIVING.

Chairman Burnham noted that the Board would not be addressing this agenda item that afternoon.

NEW BUSINESS:

BASE CHARGE REFUND/ABATEMENT REQUEST: ANNA CARLSON TRUST.

Next, the Board considered a two-part abatement request on behalf of the Anna Betty Carlson Trust (Acct 064-108 – 45 Fuller Street). Admin Assistant Webster explained that the request had come from James F. Reynolds, trustee of the Anna Betty Carlson Trust and an executor for her estate. His request had been sent to the Department in late August. However, since the envelope was addressed to the Chairman and it originated from Town Counsel, it was delivered directly to Chairman Burnham without being opened by staff. Mr. Reynolds’ assistant contacted staff on October 26 when there had been no response.

According to the meter reads done every six months, Mrs. Webster continued, there had been no water usage at 45 Fuller Street since April 1, 2008. Mr. Reynolds had confirmed that no one had lived at the house. (However, the service had not been shut off at the street until last August.) Therefore, there had been six billing periods for which a Base Charge had been paid although no water had been used. Those charges added up to \$675.00. Mr. Reynolds was asking for a refund to the trust of those charges.

Mrs. Webster moved on to the second part of Mr. Reynolds' request. The street service had been turned off on August 25, 2011, and the read posted on October 1, 2011 confirmed that no water had been used during the billing period that had begun on April 16, 2011. The water had remained off since. Nonetheless, Acct 064-108 was billed a Base Charge of \$125.00 on October 15, 2011. Because of the preceding considerations, Mr. Reynolds was requesting that the \$125.00 Base Charge of October 15, 2011, which hasn't been paid yet, be abated.

Mrs. Webster suggested the following motion: That the Base Charges paid for the billing periods of April 16, 2008 through April 15, 2011, totaling \$675.00, be refunded by the Department; and further, that the Base Charge of \$125.00, posted on October 15, 2011 but not paid, be abated. Mr. Erickson provided said motion, seconded by Mr. Lovewell. It carried unanimously by voice vote.

USAGE CHARGE ABATEMENT REQUEST: JAMES/KAREN PAGLIUSO.

James J. and Karen M. Pagliuso (Acct 067-101 – 90 Pease's Point Way South) had submitted an abatement request for the Usage Charge levied during the billing period of April 16 through October 15, 2011. Admin Assistant Webster related that during the summer of 2011, Town water had been flowing unchecked from an abandoned irrigation line belonging to the Pagliusos.

The uninterrupted deluge, Mrs. Webster went on, had not been discovered until mid- to late August. The offending valve, she noted, had been shut off promptly. A usage figure of 1,024,000 gallons for the latest billing period had been about 500 percent greater than the next highest usage recorded for this property, 208,000 gallons for the summer of 2008.

The Pagliusos, concluded Mrs. Webster, were asking for an abatement of 30 percent of the \$2,291.50 Usage Charge for the billing period ending October 15, 2011, reducing that charge by \$687.45. They have already paid the \$125.00 Base Charge.

On a motion by Mr. Erickson, seconded by Mr. Lovewell, the Board approved unanimously by voice the request by James J. and Karen M. Pagliuso for a 30 percent abatement, or \$687.45, of their \$2,291.50 Usage Charge for the billing period of April 16 through October 15, 2011.

DISCUSSION: OCTOBER 31, 2011 MEETING WITH SELECTMEN.

Chairman Burnham provided William Waterway, an Edgartown resident who is interested in running for a seat on the Board, with some background on the so-called Account 6502 matter. The Commissioners and Department Staff had met with the Board of Selectmen and Town Accountant Kimberly G. Kane in the Selectmen's Meeting of October 31 to discuss a discrepancy between the Accountant's expenditure records for the Wintucket Control Center project and those submitted to the USDA-RD by the Superintendent and Paul E. Cote of Tata & Howard Incorporated.

According to Ms. Kane, the Department had failed to submit all of the documentation for reimbursement from the USDA-RD, resulting in the Town's having to cover some expenditures on the project from Free Cash. Superintendent Domont, however, insisted that the Department's submission of expenditures had in fact been complete. "We're still waiting for the money to come to the Town," said the Chairman, adding, "The Selectmen asked us to resolve this."

Mr. Lovewell quoted an article in the November 4, 2011 edition of the *Vineyard Gazette* that referred to a list of items compiled by Mr. Domont. "A list that I have never seen!" declared Mr. Lovewell. Admin Assistant Webster noted that the Commissioners had been provided with packets at the Selectmen's meeting and that the list being referred to in the newspaper article was the second item in each packet.

Mr. Domont explained that the list in question had been generated from an ongoing spreadsheet developed by Tata & Howard. "They're saying we spent I-don't-know," he said. "It's been really for me difficult and confusing." The Superintendent surmised that the problem could be rooted in the splitting of the loan into two parts. Also, he pointed out, there had been expenditures out of the Repair and Maintenance Account and the first phase of the loan that were later reclassified to the second phase. "I have to prove it to myself that there were no double postings," he said, adding, "To me it's confusing because I don't work with reclassifications."

"The bottom line is," said Chairman Burnham, "we did the project, we borrowed the money, there's money left, and we need to prove the expenses." The discussion continued. The Chairman pointed out for Mr. Waterway's benefit that the only part of the Water Department that interfaced with Town Hall was Accounting and Treasury. "We're trying to run like an enterprise fund," he said. The Commissioners were reminded that they were to meet again with the Board of Selectmen for an update on this matter on Monday, November 14, at 4:00 p.m.

Mr. Erickson asked how the Department had paid for the Edgartown Meadows Project. The Superintendent answered that they had paid initial expenses from the first phase of the loan but that the wording of the Town Meeting Warrant Article had placed it in the

second phase of the borrowing. So this was where some the reclassification had been done.

There was some discussion about the USDA-RD process and how the expenditure of the first-phase borrowing had been followed by the release of the first-phase grant. Mr. Erickson wanted to know if the Department was getting back the money it had spent on the Edgartown Meadows project. Mr. Domont replied that the expenses for Phases 1, 3 and 4 were being recovered through betterments attached to the residents' tax bills.

Mr. Erickson wondered whether the Department should hire its own accountant to help sort out the Account 6502 conundrum. Chairman Burnham recommended that they wait to see whether anything positive developed from the materials that the Department had submitted to the USDA-RD earlier in the week. Mr. Erickson argued that a CPA had "the expertise and the eye to see" what was going on in a situation like the one confronting them. The Superintendent assured him, "There's an effort being put into this..."

DISCUSSION: POSSIBILITY OF GOING DISTRICT.

Chairman Burnham said that the Board in general would like to "go district." This, he explained to Mr. Waterway, was a matter that would have to be taken to Annual Town Meeting for a vote. "It takes all of our inner workings out of the hands of the Town," he related. The Superintendent noted that this was not entirely the case, since the district would be owned by the taxpayers. This surprised the Chairman, who had not thought that the residents of Chappaquiddick would have been able to vote on district issues. Mr. Domont explained that what *would* change would be "the internal structure of the entity."

Chairman Burnham expressed the frustration he felt over the control of the Water Department. By statute, observed the Superintendent, the Commissioners controlled the Water Department. The actuality in Edgartown, though, departed from the spirit and letter of the law. Chairman Burnham observed that the formation of a district would result in a cleaner statement of their autonomy. "The Cape has lots of districts," added Mr. Domont.

OTHER BUSINESS:

REPORT: OCTOBER 15 SEMIANNUAL BILLING.

Admin Assistant Webster went over the figures for the October 15, 2011 semiannual billing. Base Charges were billed at \$388,875.11, and Usage Charges, at \$430,333.50, for a total of \$819,208.61, she said. When compared with the fall billing of one year earlier, the numbers were down by \$50,654.72. "The economy hurt us," said the Superintendent, "and we're not bringing in the jobbing, and costs keep rising."

DISCUSSION: HALLGATE SUBDIVISION.

Mr. Lovewell had requested that a discussion of the moribund Hallgate subdivision be placed on the agenda. He wanted to know, he said, if the water in that stretch of main just sat there stagnant. Foreman Shane A. Ben David answered that it was flushed every spring. The Superintendent pointed out that the Water Department did not have ownership of that system; since it had never been turned over formally by the Halls, there was little the Department could do about it. He then described the process the Halls would have to go through to transfer ownership. Mr. Domont explained that nothing could be done until the Planning Board released the subdivision, which as far as he knew, it had never done.

Would it not be desirable to do fire flow tests in that area of the system? asked Mr. Lovewell. Mr. Erickson said that if Mr. Lovewell wanted the other Commissioners' permission to talk to the Hall family about these matters, he had their permission. "So, theoretically, the water is all right?" inquired Mr. Lovewell. Yes, replied the Superintendent.

And why had the Department used 12-inch main in Edgartown Meadows? Mr. Lovewell wanted to know. In part, for fire protection, said Mr. Domont. As for the fire flow tests, he went on, this was Mr. Hall's responsibility. Further, the only reason the gate there was open was to provide a second hydrant in that area. "But we'll shut off the gate tomorrow," he said.

DISCUSSION: THE TWO BEETLE SWAMP ROAD SITUATION.

Admin Assistant Webster said she had resurrected for this meeting the subject of Edward Lee Oliver of 2 Beetle Swamp Road (EWD Acct 067-106) and his mammoth water bill because in their October Regular Meeting the Commissioners had failed to reach any definitive conclusions about handling the matter. *[For background see pages 2-4 of the Minutes of the Regular Meeting of August 9, 2011; pages 4-5 of the Minutes of the Regular Meeting of September 13, 2011; and page 5 of the Minutes of the Regular Meeting of October 11, 2011.]*

Discussion ensued. What was plain was that it would be to the advantage of all involved to replace Mr. Oliver's on-property line. The idea of Mr. Oliver's signing a private note arose, but the Superintendent nixed that approach, noting that the Department was not allowed to do business like that. Foreman Ben David said he was willing for his crew to donate its labor, requiring Mr. Oliver to pay only for the necessary materials. As for the water bill, which at this point amounted to more than \$5,000.00, this could be paid off over a period of, say, 20 years, without interest, recommended the Chairman.

"First, we need his permission," pointed out Mr. Erickson. The others agreed. The Foreman also noted that the work would involve Mr. Oliver's hiring someone to go

through the wall of the house. Moreover, the work ought to be done by December, before the ground got too hard. Chairman Burnham instructed Mrs. Webster to meet with Mr. Oliver to discuss these matters. In addition, he suggested that she schedule a Special Meeting to expedite this business sooner than the next Regular Meeting, set for December 13.

PAYROLL:

The Commissioners signed payroll forms.

ADJOURNMENT:

There being no further business, Chairman Burnham asked for a motion to adjourn. Mr. Erickson made a motion to adjourn, seconded by Mr. Lovewell. The motion carried unanimously by voice vote, and Chairman Burnham adjourned the Regular Meeting at 5:13 p.m.

Respectfully submitted,

Pia Webster
Administrative Assistant

APPROVED:

**BOARD OF WATER COMMISSIONERS
TOWN OF EDGARTOWN**

Robert L. Burnham, Chairman

William R. Erickson, Water Commissioner

John S. Lovewell, Water Commissioner