

**MARION BOARD OF SELECTMEN
WATER/SEWER COMMISSIONERS
May 27, 2008
Minutes**

The meeting was called to order at 7:07 p.m. Present were Chairman Roger F. Blanchette, Board members Jonathan F. Henry and Stephen M. Cushing, and Town Administrator Paul F. Dawson. Also present were Lee Craver, Kenneth J. Souza of *The Wanderer*, Ruth Thompson of *The Sentinel*, Andrea Smith of the *Tri-Town Observer*, Albin R. Johnson, III, Lucy and Joseph Napoli, Carol Sanz, Eunice Manduca, Paul St. Don, applicants Melissa Talbot, Sherri Leo and their attorney, Elizabeth Kunz, and Joseph Monger, abutter Merritt Strawn and Helene Craver, secretary.

Mr. Blanchette said that the first order of business was the reorganization of the Board as a result of the May 23 election.

Mr. Blanchette moved to nominate Mr. Henry as Chairman; the motion was seconded and carried unanimously.

Mr. Henry moved to nominate Mr. Blanchette as Vice Chairman; the motion was seconded and carried unanimously.

Mr. Henry moved to nominate himself as Chairman of the Water and Sewer Commissioners; the motion was seconded and carried unanimously.

Mr. Henry moved to nominate Mr. Cushing Clerk; the motion was seconded and carried unanimously.

Mr. Henry moved to nominate Mr. Blanchette as Parking Clerk; the motion was seconded and carried unanimously.

Mr. Henry moved Mr. Blanchette as representative to the Buzzards Bay Action Committee; the motion was seconded and carried unanimously.

Mr. Henry moved to nominate the three members of the Board as members of the Marion Affordable Housing Trust; the motion was seconded and carried unanimously.

Mr. Henry moved to nominate Mr. Cushing to the Music Hall Advisory Committee; the motion was seconded and carried unanimously.

Mr. Henry moved to nominate David Pierce, Paul F. Dawson and Robert C. Zora to the Mattapoissett River Valley Water Supply Protection Advisory Committee; the motion was seconded and carried unanimously.

Mr. Henry moved to nominate David Pierce and Donald Torres to the Mattapoissett River Valley Water District; the motion was seconded and carried unanimously.

Mr. Cushing moved Mr. Henry to the Police Station Building Committee; the motion was seconded and carried unanimously.

Mr. Blanchette moved Mr. Henry to the Plymouth County Advisory Committee; the motion was seconded and carried unanimously.

Mr. Cushing moved Mr. Henry as the Board's SRPEDD representative; the motion was seconded and carried unanimously.

Mr. Cushing moved Mr. Henry as the Board's SRPEDD/JTPG representative; the motion was seconded and carried unanimously.

Mr. Henry moved Mr. Cushing as the clerical union liaison; the motion was seconded and carried unanimously.

Mr. Henry moved Mr. Blanchette as the Department of Public Works union liaison; the motion was seconded and carried unanimously.

Mr. Blanchette moved Mr. Henry as the police union representative; the motion was seconded and carried unanimously.

Mr. Blanchette moved Mr. Cushing as the Carver/Marion/Wareham Regional Refuse Disposal District representative; the motion was seconded and carried unanimously.

Mr. Henry moved Mr. Cushing as the School Committee liaison; the motion was seconded and carried unanimously.

Mr. Henry moved John Crosby Carver/Marion/Wareham Regional Refuse Disposal District representative, term to expire June 30, 2010; the motion was seconded and carried unanimously.

Mr. Henry moved Mr. Blanchette as the Fire Study Committee representative; the motion was seconded and carried unanimously.

Mr. Henry moved Mr. Cushing as the Water/Sewer Rate Study Committee representative; the motion was seconded and carried unanimously.

Mr. Blanchette moved the minutes of April 15 and 22, 2008; the motion was seconded and carried, Mr. Cushing abstaining.

At 7:15 p.m., a public hearing was held in the matter of alteration of premises for Sippican Café. Mr. Monger, owner, explained that he was working with the Planning Board to allow for a front patio from which he could serve alcohol to his patrons. Mr. Blanchette recalled that, when the Board issued an alcohol license to the establishment several months ago, many neighbors had objected to the possibility of additional noise and raucous patrons, but there had been no comments since the issuance of the license. Mr. Monger reported that his immediate abutters are not opposed to outside seating. Mr. Blanchette noted that Mr. Monger was going to reach a

written agreement with the owner of the abutting commercial property for parking arrangements. Mr. Monger said that the property owner has given permission for twenty parking spaces and that he would get this in writing, if necessary. Mr. Blanchette read the following letter from Robert Mower into the record: "Please know that, as an abutter, I feel that the addition would be an "addition". It would make that and future operations more profitable during the busy Memorial Day through Labor Day good weather when Marion families have many guests." Mr. Blanchette said that the current situation is that Mr. Monger is using twenty-four spaces on that property; what happens if the property owner decides to use the property? Mr. Monger explained that he is demolishing the apartment behind the restaurant to provide for additional parking on site. Mr. Monger explained that he will be installing 6' stockade fencing to suppress noise. Mr. Henry noted an absence of neighbors at the hearing, which he interpreted to mean lack of objection to the plan. Mr. Henry asked Mr. Napoli from the Planning Board if he had any comments. Mr. Napoli reported that Mr. Monger had met every requirement, such as noise abatement and parking spaces. Mr. Johnson commented that the lack of neighbors reflects the resignation of the neighborhood, as their repeated petitions have been ignored. Mr. Napoli said that the one neighbor who had attended the Planning Board meetings is now satisfied with the plan. Mr. Napoli objected to the idea that Mr. Monger's plans had been a foregone conclusion, as the Planning Board takes its responsibility very seriously and is always looking for the betterment of the Town of Marion. Mr. Johnson objected to the parking on the public way. Mr. Monger said that, once the apartment is demolished, the parking issue on his abutter's property will be moot and, although the Planning Board allowed him parking on both sides of Spring Street, there has been no need for its use. Mr. Monger also noted that any parking on Spring Street is at least 2' inside his property line, not on the road way.

Mr. Henry moved that the application for outside seating be approved, subject to the conditions as outlined by the Planning Board; the motion was seconded and carried unanimously.

At 7:40 p.m., the Board met with Elizabeth Kunz, attorney for applicants of Leo's Cheese and Wine Cellar for a wine and malt license. Ms. Kunz stressed that the application was for a specialty food and take out service, with a store area of 930 square feet and a wine display area of 70 square feet. Ms. Kunz said that the store was not a liquor store, per se, and the applicants have been before the Planning Board for a special permit for take out foods; the parking and layout have been approved. Ms. Kunz said that, even though a liquor store was an immediate abutter, the proposed new store was not in competition with any other store in Town. It was determined that the license was for take out only and not to be consumed on the premises and that the license would be used for wine only. Ms. Kunz explained that wine and malt was the category of the license, but the owners contemplated selling wine only. Mr. Henry asked what the plans were for the second floor of the building. Ms. Kunz explained that the owners hope that the Zoning Board of Appeals will approve a special permit for an owner-occupied apartment. Mr. Blanchette recalled that the Zoning Board of Appeals had granted a permit for commercial property on the first floor and storage on the second. Ms. Kunz reported that Mrs. Washburn has no objection to the owners occupying an owner-occupied apartment at the property.

Mr. Strawn objected that, when you are selling beer and wine, you are talking about a package store. Mr. Blanchette asked if the Town permit the sale of wine only? Mr. Dawson explained that the Town cannot limit the license to wine, as the State controls the category of the license. Mr. Strawn said that Marion already has four package stores; the Town doesn't need another and he is opposed. Mr. Blanchette read the following letter from Robert Mower into the record "Isn't the question of fulfilling a need of Marion residents the principal question that you must address in granting this beer and wine license? If the proposed establishment were located in the Industrial Park or more toward the East End of Route 6 at Point Road, it would be convenient for wine and beer shoppers as are Spirits (downtown) and Lighthouse Liquors on Route 6 at Converse Road; the proposed store might then be a closer drive for some. Marion Country Package Store at 311 Wareham Street has well served the Community for over 20 years. It has good parking, helpful sales advisors, and competitive prices. Why does Marion need another wine and beer store next door?!!" Mr. Dawson pointed out that the applicant would not have the option of selling any other form of alcohol than wine and beer.

Mr. Napoli, speaking for the Planning Board, explained that the applicant had been given unanimous approval for the operation; the abutters had initially objected to the second floor being used as an apartment, but changed their minds and approved of its use for these applicants.

Mr. Henry moved the application as submitted; the motion was seconded and carried unanimously.

Mr. Blanchette moved a one-day, all-alcohol license for Sippican Tennis Club on June 13, 2008; the motion was seconded and carried unanimously.

Mr. Cushing moved one-day, all-alcohol licenses for VFW Post #2425 for June 6, June 8 and June 13, 2008; the motion was seconded and carried unanimously.

Mr. Blanchette moved one-day, all-alcohol licenses for the Marion Social Club for June 8 and July 13, 2008; the motion was seconded and carried, Mr. Cushing abstaining.

Mr. Blanchette moved Elizabeth Boyd Registrar with a term to expire March 31, 2010 and Linda J. Schuessler as Registrar with a term to expire March 31, 2011; the motion was seconded and carried unanimously.

Mr. St. Don met with the Board and explained that he had obtained insurance for his hot dog cart and has been in touch with the Board of Health for a final inspection of the cart. Mr. Dawson reported that the Police Chief and Harbormaster have no objection to the cart being on Island Wharf.

Mr. Henry moved to approve the common victualler's license for Mr. St. Don as discussed; the motion was seconded and carried unanimously.

Mr. Dawson referred to the vote at Town Meeting last week, which requested the Board reconsider its decision to charge for ambulance services. Mr. Dawson recommended that the Board hold the public hearing as requested. Mr. Dawson reported that proposals for the billing had been received last Friday; the next step is to begin the review and selection process. Mr. Dawson suggested the Board consider holding a public hearing on June 24 and then go on from there. Mr. Dawson pointed out that the vote at Town Meeting was advisory only, but we should respect the will of the Meeting. Mr. Henry said that it was his feeling that to hold a public hearing creates a precedent; the Selectmen have the authority to institute this policy and it is unnecessary to subject the authority to a public hearing. Mr. Henry said that he didn't recommend the course Mr. Dawson has outlined; the Board has already voted and has begun the bid process—this is not the proper way to proceed. Mr. Dawson said that the process would continue to move forward, even with the hearing scheduled. Mr. Blanchette said that it was his opinion that they should absolutely have a public hearing—the Town voted by a wide margin; now that we have some bids, the Board will be able to clarify some of the issues. Mr. Blanchette said that he was opposed to billing in the beginning, but he voted to institute billing and still feels the same way. Mr. Henry was concerned that the hearing would compromise the integrity of the submittals. Mr. Henry was concerned that a billing company would be chosen and there would be a different outcome at the public hearing. Mr. Dawson explained that the bidding process precludes this event; the public hearing would be limited to the concept of billing for ambulance services, not the bidding process. Mr. Blanchette noted that questions were asked at the Annual Town Meeting which the Board was not able to answer, so he feels strongly that the public hearing would give people an opportunity to get information. Mr. Dawson discussed the policy which would allay people's fears about the ability to pay for the ambulance service and stressed that the procurement process is completely separate from the hearing, which would be to disseminate information, receive citizen input and respect the Town Meeting vote. Mr. Henry was concerned that the public hearing would be an opportunity to reverse the decision to bill for ambulance services. Mr. Dawson said that he didn't believe there was any compelling information that would have that outcome, as the decision had been carefully researched. Mr. Cushing indicated that, as a member of the Finance Committee, he is in agreement with the decision to charge for ambulance runs, but he is also in agreement with Mr. Blanchette that the Board should hear and respond to the public's concerns. Mr. Cushing said that he is not going to change his mind; the vote taken at the Annual Town Meeting was a non-binding Article. Mr. Henry said that he is not willingly disregarding the Town Meeting vote, but it sets a precedent; the decision to charge has been two years in the making. Mr. Blanchette said that the overwhelming Town Meeting vote obligates the Board to look at the issue again, because the voters were the ones who "put us here". Mr. Henry said that they would be inundated with questions that can't be answered with specific detailed illustrations of "what if?" Mr. Dawson agreed that there can't be answers in every case, as the insurance varies from case to case and policy to policy. Mr. Henry said that this was his point exactly. Mr. Dawson said that the Board can and will craft a policy which covers the specifics. Mr. Henry said that they would not be instituting a policy that automatically waives the co-pay amount across the board. After further discussion, Mr. Henry said that, right now, we have a major difference of opinion and he doesn't want to go into a public hearing when the Board can't agree. Mr. Henry asked if July 1 was still a viable starting date for

billing. Mr. Dawson said that it would be really close, as the Board must approve the policy, choose a vendor and sign a contract. It was agreed that the target date for approving the policy would be June 24. Mr. Henry asked if the bids would have to be rejected if a contract is not awarded on June 24. Mr. Dawson said that it depends on the reason for the delay—the Board could make the contract effective August 1.

Mr. Blanchette moved to hold a public hearing on June 24 at the Music Hall at 7:00 p.m.; the motion was seconded and carried, Messrs. Blanchette and Cushing voting aye, Mr. Henry voting nay.

Mr. Henry moved to go into executive session at 8:45 p.m. to discuss collective bargaining and not to reconvene the open session following the executive session; the motion was seconded and carried unanimously, Messrs. Henry, Blanchette and Cushing voting aye.

Respectfully submitted,



Stephen M. Cushing, Clerk

Date approved: 6/24/08