

**MARION BOARD OF SELECTMEN
WATER/SEWER COMMISSIONERS**

**September 7, 1010
Meeting Minutes**

MEMBERS PRESENT: Roger Blanchette, Chairman
Jonathan Henry, Clerk
Stephen Cushing

ALSO PRESENT: Paul Dawson, Town Administrator
Carol Sanz
Eunice Manduca
Betsy Dunn
Albin Johnson
Korrin Petersen
Marc Rasmussen
Mark Nelson
Ricky Pursley
Anne O'Brien-Kakley
George Barrett
Debra Paiva, secretary

The meeting was called to order at 7:00 p.m. in the Main Conference Room of the Marion Town House.

NOTE: A list of the materials reviewed at the meeting shall be attached to these minutes.

Approval of Meeting Minutes

Moved by Mr. Cushing and seconded by Mr. Henry to approve the minutes of the August 17, 2010 meeting. VOTE: 3-0-0

ACTION ITEMS:

1. One-day, all-alcohol license for VFW Post #2425, 9/11/10

Moved by Mr. Cushing and seconded by Mr. Henry to approve the one day, all alcohol license for VFW Post #2425, scheduled for September 11, 2010. VOTE: 3-0-0

2. Signing of the contract of the Public Health Nurse

It was agreed to postpone signing of the contract until the Board has had the opportunity to review it.

Moved by Mr. Henry and seconded by Mr. Cushing to hold this item over to the next meeting. VOTE: 3-0-0

3. Signing of letter of appreciation to Representative Straus

A letter of thanks to Representative Straus was reviewed. Representative Straus had communicated with the Executive Office of Energy and Environmental Affairs and recommended a full Environmental Impact Report for the Marion Village Estates Project. Moved by Mr. Cushing and seconded by Mr. Henry to approve and sign the letter. VOTE: 3-0-0

4. One-day, all-alcohol license for Marion Social Club, 9/26/10

Moved by Mr. Cushing and seconded by Mr. Henry to approve the one day, all alcohol license for the Marion Social Club, scheduled for September 26, 2010. VOTE: 3-0-0

5. Approval of Credit Memo

A credit memo for Louis Monteiro, 23 Parkway Lane, in the amount of \$427.06 was reviewed.

Moved by Mr. Henry and seconded by Mr. Cushing to approve. VOTE: 3-0-0

6. Approval of Water Service Commitment

A water service commitment (final readings), dated September 2, 2010, in the amount of \$2110.93, was reviewed.

Moved by Mr. Cushing and seconded by Mr. Henry to approve. VOTE: 3-0-0

7. Appointments – 2015 Oversight Committee

Mr. Blanchette said it was his understanding that the appointments would be addressed at the September 21 meeting. He noted that the Board's correspondence included two letters from people expressing interest in serving on the committee.

Mr. Dawson asked if the Board wished to include scheduling appointments to the Capital Improvement Committee at the September 21 meeting as well; he was told yes. He recommended that the committee have five to seven members and include one member of the Finance Committee and one Selectman.

TOWN ADMINISTRATOR'S REPORT

Hurricane Earl Update

Mr. Dawson noted that Hurricane Earl weakened and the area avoided storm damage. He said one result of the process was the opportunity to look at the Emergency Plan and put it into action. The Emergency Management Team met on a daily basis, sent out notifications via the Town website, briefly opened the Emergency Operations Center, and maintained Police, Fire, and EMS coverage during the storm.

Mr. Dawson offered thanks to the entire Emergency Management Team for their outstanding work. Mr. Henry said he received complimentary feedback on Mr. Dawson's efforts as well. Eunice Manduca praised the efforts of the Harbormaster and his staff. Betsy Dunn complimented Mr. Dawson's work and noted the safety efforts of Police, Fire, and clean-up crews. She said the Emergency Shelter was ready to be opened until notification on Friday that it was unnecessary. Mr. Blanchette thanked everyone involved in the planning.

APPOINTMENTS:

Cumberland Farms (406 Wareham Street) – Increase Fuel Storage

The following representatives attended the meeting on behalf of Cumberland Farms – Attorney Robert Pellegrini, Planning Manager Manny Paiva, and Regional Manager Richard Boyle.

Certified Mail green cards were submitted as proof of abutter notification.

The property is located at 406 Wareham Street and the request is to increase the existing underground fuel storage from 24,000 gallons to 40,000 gallons. Three 8000 gallon underground tanks exist at the site and the proposal would result in two 20,000 gallon underground tanks.

The Planning Board has been reviewing applications and plans to allow expansion of the existing store. Attorney Pellegrini said the public hearing was closed earlier this evening and it appears that there will be a denial. The underground storage portion of the plan may or may not continue if approved by the Board of Selectmen.

Mr. Paiva described the existing and proposed conditions. Three 8000 gallon single wall fiberglass tanks were installed on August 27, 1984 with single wall fiberglass fuel lines leading from the tanks to the dispenser. The current mix is 16,000 gallons of regular and 8000 gallons of premium fuel. The proposal is to remove the three tanks and replace them with two double wall fiberglass 20,000 gallon tanks at another location on the site. Each 20,000 gallon tank will have double wall fiberglass fuel lines and an inner wall. One will be divided to store 12,000 gallons of regular and 8000 gallons of diesel fuel; the other will be divided to store 12,000 gallons of regular and 8000 gallons of premium fuel. The Fire Chief has reviewed and approved the proposal. Mr. Paiva said there is no mandate to replace the tanks; they are tested annually and there are no leaks. The proposal meets or exceeds State requirements and also would involve reconfiguration of the site's traffic flow.

The site currently drains into Town drainage system below Front Street and the larger proposed site plan includes improvements to the system. The Planning Board indicated to the applicant that those improvements would require approval from the Board of Selectmen. Mr. Paiva was told this hearing is for the approval of the fuel tanks only.

Mr. Cushing asked if the existing conditions allow sale of diesel fuel and was told no. The proposal would allow sale of automotive, not truck, diesel fuel.

Mr. Blanchette asked what is planned for the Cumberland Farms across the street; Attorney Pellegrini said Cumberland Farms does not own that site but there are no changes planned.

Mr. Dawson asked if the applicant would move forward to increase the size of the tanks with the current configuration of the site. Mr. Paiva said the project could be done in phases, with the tank replacement in Phase I and razing of the site in Phase II.

It was agreed to continue this to September 21 at 8:10 p.m. Mr. Paiva asked if the Board would vote on the proposed drainage improvements at that time; he was told the only application that has been submitted is related to the fuel storage tanks.

Moved by Mr. Henry and seconded by Mr. Cushing to continue to the September 21, 2010 meeting at 8:10 p.m. VOTE: 3-0-0

Beverly Yacht Club – Change of Manager

There was no representative present – the manager will be contacted and the appointment rescheduled.

Board of Health – Sewer System Concerns

Board of Health members Albin Johnson and Betsy Dunn were present. Mrs. Dunn said she and two other residents had experienced crushed sewer pipes resulting in sewer backup into their homes. One of the residents reported that she contacted DPW on Saturday and was told it would be taken care on Monday. Mr. Blanchette said the Selectmen had met with DPW, he had been involved in the situation, and it has been resolved. Mrs. Dunn asked if the Board could guarantee there would be no more occurrences. Mr. Blanchette said if a resident calls about a crushed sewer pipe the DPW

should be there in minutes. Mrs. Dunn said the resident called at 10:00 a.m. and DPW arrived at 3:30 p.m., after Mr. Blanchette intervened. She said the Board of Health wants to be sure that will not happen again. Mr. Blanchette said these problems, whether water or sewer, need to be addressed immediately, the situation got out of hand due to communication, and the end result was that the problem was straightened away.

Mr. Cushing noted that one person lives in the home, the pipe was partially crushed, still allowing some water flow, and the full extent of the problem wasn't apparent until a number of people were in the house.

Mr. Blanchette said the Boards and staff try to work together, in an appropriate manner, but in this instance there was a lapse in communication which caused a delay in resolving the issue.

Mr. Henry said the procedure has always been to have a Sewer/Water staff person who can be reached by the police dispatcher on weekends and holidays. Mr. Dawson said that procedure is still in place. Mrs. Dunn said both she and the resident did speak with the staff person and there still was a delay in the problem being taken care of.

Mr. Johnson said a staff person should go to the site prior to determining whether the problem is a water or sewer issue.

Mr. Dawson explained the following - the issues began a week or two prior to the Saturday in question. During the first call it was stated that one of the fixtures was running slowly but running fine in the rest of the house. Based on the answers to the questions it appeared to be a water problem. The Water Department responded on the first day, checked the pipe and services on the street, found no issues, advised the resident to contact a plumber, and requested the resident contact the Water Department if there was anything the Town needed to do. For over a week there was no further contact. There was one other call and the resident was advised to run a camera out to the street. On the Saturday when the problems occurred the staff member was under the belief that the issue was with the water and if there was water available in the home it could wait until Monday. Mr. Dawson was contacted and he spoke with Mr. Zora, who also believed it was a water, not sewer, problem. At that point a crew went to the house, discovered a sewer problem, and repaired the sewer pipe. Mrs. Dunn asked the Board for their assurance that problems such as this will be handled. Mr. Johnson voiced concern that the focus was on water, not sewer. He was told when there is a complaint the focus is on what the problem is believed to be.

Coalition for Buzzards Bay Presentation

Korrin Peterson, Marc Rasmussen, and Mark Nelson were present on behalf of the Coalition for Buzzards Bay.

The Coalition came before the Board in January to discuss elevated nitrogen levels in Sippican Harbor and their concern that lagoons at the wastewater treatment plant might be a contributing factor. Since that time a monitoring program has commenced, with two sampling rounds completed. In May and August elevated nitrogen levels and low dissolved oxygen were found in groundwater; both are indicators of waste water issues. Another sampling round and some amendments to the sampling plan are planned.

Mr. Nelson gave an overview of the sampling. He said it's a high probability that the lagoons are a source of the elevated nitrogen levels in the groundwater but he can't yet determine where the groundwater will go.

During the PowerPoint presentation Mr. Nelson described sampling methods, direction of groundwater flow, mounding of groundwater, increased concentrations of nitrogen during drier periods, and increased nitrogen resulting in reduced dissolved oxygen in the groundwater.

Additional monitoring well (one deep, one shallow) clusters are proposed to be placed between the lagoons and also to the west toward Sippican Harbor.

Mr. Henry asked if the monitoring wells at the landfill are incorporated in the information presented tonight and was told yes. Mr. Nelson said he's tried to highlight wells that take the landfill issue out of the question, e.g., wells that are upgradient of or crossgradient from the landfill. He said the landfill is an issue in its own right.

Mr. Henry asked if there was a risk of perforation and was told no. Mr. Blanchette said the Town was told the soils in the area of the lagoons are glacial till and are impermeable.

During the discussion the following issues were addressed:

Pumping of stormwater into the sewer system

Costs of lining the lagoons

Installation of the wells (2" PVC well below ground, locked metal cover flush with ground)

Surface water infiltration – Mr. Nelson described measures taken to ensure water tightness of the wells.

Mr. Dawson said the following is proposed by the Coalition:

Installation of one well cluster on the road between the lagoons to evaluate the groundwater levels and also the installation of two well clusters west of the wastewater treatment plant on Route 6 to evaluate if the nitrogen from the lagoons is migrating to Sippican Harbor.

Moved by Mr. Henry and seconded by Mr. Cushing to approve as proposed. VOTE: 3-0-0

TOWN ADMINISTRATOR'S REPORT

Tri-Town Selectmen Meeting

The meeting will be at ORR High School, September 29, 2010, at 7:30 p.m

Authorization to sign Amendment #1 to Engineering Agreement regarding Village Loop Phase 3A

The amendment totals \$25,807, an increase to the original contract, and related to the resident inspection services (CDM) for Phase 3A Village Loop project. At the end of the project there were some issues with the construction company (Cape Ann Equipment); the contract ran significantly over, the time to complete the project went past the contract. Of the \$25,807, \$23,912 is related to the cost associated with the resident engineer onsite monitoring the progress. The remaining \$1895 is related to clerical tasks.

The Town is continuing to pursue a claim against the contractor for overextending the contract; Mr. Dawson anticipates potential liquidated damages of approximately \$22,000 that will come back to the Town. Mr. Blanchette asked if Cape Ann Equipment has been

paid yet and was told no. He asked if the Board should delay approving the amendment until the matter been resolved; Mr. Dawson explained it's better to pay CDM and pursue the funds from Cape Ann Equipment.

Moved by Mr. Cushing and seconded by Mr. Henry to authorize Mr. Dawson to sign the contract amendment in the amount of \$25,807. VOTE: 3-0-0

CORRESPONDENCE

Certificate of the Secretary of Energy and Environmental Affairs on the Notice of Project Change (Marion Village Estates) – Certificate dated August 20, 2010

The Board had requested that the MEPA review requirements be kept intact for the Marion Village Estates project. Secretary Bowles subsequently ruled against the Town and determined that no further MEPA review would be required.

Division of Fisheries & Wildlife – Vernal Pool 2 (Marion Village Estates) – Letter dated August 23, 2010

The Division of Fisheries & Wildlife has decertified Vernal Pool #2 referred to in the August 20, 2010 Certificate from Secretary Bowles.

NOTE: Mr. Dawson took the next correspondence item out of order as it was related to the two items previously discussed.

Email from Attorney Witten regarding Baywatch Realty Trust and MEPA – Email dated September 7, 2010

Attorney Witten described the procedure required to file an intent to appeal the decision of the Secretary of Energy and Environmental Affairs. This procedure applies as well to any against permits or financing decisions that may be issued pursuant to the Secretary's decision. The notice to appeal must be filed within 60 days of the August 20, 2010 date of the Certificate.

Mr. Blanchette said filing an intent to appeal is an opportunity for the Board to be heard should further appalling decisions be made. Mr. Dawson said there may be no further actions to take but there are potential decisions that could come from other State agencies that rely on the Secretary's decision and all of the language contained in it. Mr. Henry said he is not of the mind to file another appeal; Mr. Blanchette said the action would not be the filing of an appeal but reserving the right to file one.

After discussion it was agreed to invite Attorney Witten to attend the Board's September 21, 2010 meeting. The meeting will commence at 6:30 p.m.

Moved by Mr. Henry and seconded by Mr. Cushing to invite Attorney Witten to meet with the Board to discuss the filing of an intent to appeal. VOTE: 3-0-0

Gary Warner – Change of polling location – Letter dated August 20, 2010

The letter was read into the record. In his letter Mr. Warner expressed strong displeasure with the Board's decision to approve change in voting location from the Music Hall to the VFW.

Mr. Dawson reminded everyone that primary day is Tuesday, September 14, and voting will be at the VFW on Route 6. Carol Sanz suggested that a sign advertising the new location be placed at the Music Hall a day or two before the primary.

Michael Sudofsky – 2015 Oversight Committee – Letter dated August 19, 2010

The letter was read into the record. In his letter Mr. Sudofsky expressed interest in being appointed to the 2015 Oversight Committee. Appointments to the Committee will be made at the September 21, 2010 meeting.

Buzzards Bay Regatta 2010 – August 16, 2010

The letter was written by Mary Pierce on behalf of the 2010 Buzzards Bay Regatta Organizing Committee, thanking the Board, Town officials, and local businesses and residents for their contributions to the regatta.

Marion Art Center – Request approval of annual Halloween Parade Route – Letter dated September, 2010

The annual parade is planned to be held Saturday, October 30, at 4:00p.m. A vote is required to approve the parade route (down Front Street, up Main Street, right on Spring Street, right on Cottage Street to the Music Hall). Mr. Dawson has spoken with the Chief of Police, who has approved the request.

Moved by Mr. Cushing and seconded by Mr. Henry to approve the annual Halloween Parade route. VOTE: 3-0-0

Jennifer Francis - Application for appointment to 2015 Oversight Committee – Application dated August 30, 2010

Ms. Francis' application was briefly reviewed by Mr. Dawson. Appointments to the Committee will be made at the September 21, 2010 meeting.

Sherman Briggs – Broken fire hydrant at 324 Point Road – Undated letter received September 7, 2010

The letter was read into the record. The letter is a request replacement of the broken fire hydrant in front of 324 Point Road. Mr. Briggs also requested that the replacement hydrant be relocated to the northern property line (current location is in the middle of the lot.) Mr. Dawson said he had discussed this request today with DPW and they reported that although the hydrant is broken there are two others within 500' of it that could provide fire protection for the short term.

The hydrant repair program will begin in mid-October; it is unclear at this point where this location is on the schedule. Mr. Blanchette asked if the replacement hydrant could be relocated; Mr. Dawson said if it's a total replacement the relocation was fine. He agreed to respond to Mr. Briggs.

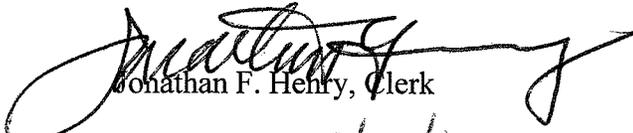
The issue of broken fire hydrants was discussed. Mr. Dawson said a hydrant replacement program is part of a Capital Improvement Program. At the last meeting Mr. Zora explained replacement on Delano Road would require a shutdown of the entire system. Mr. Cushing asked for a list of the hydrants; Mr. Blanchette said there should be a plan, with a copy provided to the Board of Selectmen.

Mr. Blanchette said this brings home the point that in times of tight money numerous items (road repairs, hydrant repairs, etc.) get left by the wayside. He recommended that the Board review neglected services during budget discussions with the Finance Committee.

Carol Sanz asked that Town Hall be included in the list of items needed repair. She was told funds for an existing conditions study was approved in 2009. Eunice Manduca asked when the report for the existing conditions study will be available; she was told the bids are due on September 17.

Moved by Mr. Cushing and seconded by Mr. Henry to adjourn at 9:20 p.m. VOTE: 3-0-0

Respectfully submitted,



Jonathan F. Henry, Clerk

Date approved: 9/21/10

**MARION BOARD OF SELECTMEN
WATER/SEWER COMMISSIONERS
September 7, 1010**

DOCUMENTS REVIEWED AT MEETING

Cumberland Farms – 406 Wareham Street - Application for amended license to increase underground fuel storage. Plans – Existing Conditions Plan, dated 7/30/09, Site Plan, dated 11/18/09, rev. 6/28/10, Fire Suppression Plan, dated 6/14/10, rev. 6/15/10, Tank Installation Details, dated 6/4/10

Public Health Nurse Contract

Letter to Rep. William Straus, dated 9/7/10

A credit memo for Louis Monteiro, 23 Parkway Lane in the amount of \$427.06

A water service commitment (final readings), dated September 2, 1010, in the amount of \$2110.93

Letter from Horsley Witten Group, dated September 1, 2010 (included plans showing groundwater contours and tabulated water quality summary)

Certificate of the Secretary of Energy and Environmental Affairs on the Notice of Project Change (Marion Village Estates), dated August 20, 2010

Letter from Division of Fisheries & Wildlife, dated August 23, 2010

Letter from Gary Warner, dated August 20, 2010

Letter from Michael Sudofsky, dated August 19, 2010

Letter from Mary Pierce, Buzzards Bay Regatta, dated August 16, 2010

Letter from Marion Art Center, dated September, 2010 (regarding Halloween Parade)

Application for appointment, Jennifer Francis, dated August 30, 2010

Email from Attorney Witten to Paul Dawson, regarding Baywatch RT and MEPA, dated September 7, 2010

Undated letter from Sherman Briggs regarding broken hydrant at 324 Point Road