

**MARION BOARD OF SELECTMEN
WATER/SEWER COMMISSIONERS
September 21, 2010
Meeting Minutes**

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

ALSO PRESENT: Paul Dawson, Town Administrator
Jon Witten
Carol Sanz
Eunice Manduca
Norman Hills
Julia Deane Crowley
Thomas Magauran
Frank "Jay" Ryder
William Washburn
Steven Grima
Sherman Briggs
Chris Reagle (Sentinel)
Ricky Pursley (Standard-Times)
Anne O'Brien-Kakley (Wanderer)
Debra Paiva, secretary

The meeting was called to order at 6:35 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 September 2, 2010 emergency meeting. VOTE: 3-0-0

Moved by Mr. Cushing and seconded by Mr. Henry to approve the minutes of the September 7, 2010 meeting. VOTE: 3-0-0

APPOINTMENTS:

Jon Witten – Marion Village Estates

Attorney Witten and Board members discussed letters from Attorney Theodore Regnante dated August 16, 2010 and September 16, 2010, and also a response letter from Attorney Witten dated September 19, 2010. Mr. Blanchette suggested the Board be provided correspondence prior to meetings.

Attorney Witten explained that the issue is surrounding the August 20, 2010 decision of the Secretary of Environmental Affairs to not require an Environmental Impact Report (EIR) for the Marion Village Estates project. The Board of Selectmen voted to ask the Secretary to move the project from the requested Environmental Notification Form (ENF) to what the Secretary required four years ago, an EIR. Letters supporting the Board's request were also submitted by Representative Straus and the Conservation

Commission. Subsequently, the Board's request was denied and the applicant was allowed to file in ENF; according to Attorney Witten this is a substantial difference in filing requirements. The relative statute requires any interested party or the municipality to file a notice of appeal if it seeks to challenge any of the subsequent permits that come out of the MEPA review (curb cuts, sewers, State financing, EOTC, etc.) The August 20, decision of the Secretary cannot be appealed; however, failure to file the notice of appeal within 60 days of the Secretary's notice will eliminate the opportunity for the Board to appeal any permits that may be granted in the future.

Attorney Witten voiced concern for the threats posed in Attorney Regnante's letter; he said he has never seen a municipality threatened in this manner, which he described as "chilling". He said the Board of Selectmen is acting in good faith yet the letter suggests that there is a concerted effort to stop the project. A draft letter of response has been composed for the Board's review. The letter includes a chronology of the project and states that the case has been out of court for two years now and failure of the project to move forward is the choice of the applicant, not the Town.

Other concerns of Attorney Witten were:

The suggestion that the Board of Selectmen "made a deal" and therefore would be breaching the deal by filing the notice of appeal. Attorney Witten said it would be violating public policy for the Board to make any deal, they have never made a deal, and they would not be able to.

The suggestion of a coordinated effort on behalf of the Town to block the project. Attorney Witten said there is no coordinated effort and if there were he would be duty bound to inform the Ethics Committee of it. He described the suggestion as inflammatory and chilling because it leads to the presumption that the applicant is planning to file a civil rights action.

Mr. Blanchette said at the September 7 meeting the Board discussed the possibility of filing the notice of appeal to reserve the ability to appeal future permits should the need arise. During that discussion it was agreed to invite Attorney Witten to this meeting to discuss the notice and ask whether he recommended filing it. Attorney Regnante's September 16 letter, which was sent as a result of the September 7 discussion, was read into the record. Mr. Blanchette said the attorney has been lied to by his client; Mr. Cushing said the Board and the applicant never discussed anything related to MEPA. Mr. Henry said he has had, with the concurrence with the Board, meetings with the developer, and has been the lead negotiator with these and other matters, and while at various points reference was made to MEPA as being a hurdle the developers needed to overcome, no discussion or strategy session was held and there was no agreement to bring to the Board regarding this matter. Mr. Cushing asked why the applicant believes these discussions took place; Attorney Witten said the Board was in negotiations with the applicant under the protection of Executive Session to talk about a settlement. He said this Board and the previous Board worked hard to reach an agreement and while there were discussions regarding MEPA he told the applicant repeatedly, and the Board agreed, that no Board of Selectmen could agree to ignore State law, and MEPA is State law. Attorney Witten said the applicant's letter's disclosure of what took place in Executive Session is very inappropriate.

Mr. Henry asked the following:

What type of appeals could be mounted,

What the reasons for the appeals would be,
What the likely outcome would be,
What the chances of winning the appeals would be,
What the record of the past would indicate what the likelihood of success would be.

Attorney Witten said his recommendation about the notice of appeal is to protect the rights of the Board and he has no idea what permit the Board might wish to appeal. If a notice of appeal is not filed the Board can't appeal a permit they don't know about. Attorney Witten said he would not want to venture a guess on the likelihood of a successful appeal. The applicant needs approval from the Conservation Commission and also went to the Board of Appeals last week to determine if the revisions to the plan are minor or major; a public hearing for those revisions will open in October. He advised that he did not know what the appeal would be but given how narrow the issues are now, the likelihood of success is limited. Mr. Blanchette said common sense would be to file the notice of appeal; Mr. Dawson said filing the notice is a perfunctory placeholder. Mr. Cushing said the Board needs to think what's in the best interest of the Town. He said filing the notice does not mean the Board is appealing anything but reserving the right to appeal something in the future. Mr. Henry said the operative words from Attorney Witten were that the outcome of appeals may not be successful and matters contingent on a permit from this point on could be resolved administratively. He asked if filing this notice would interfere with the standing of other Boards and was told this notice would be on behalf of the Board of Selectmen.

Mr. Henry said the previous Board had filed a similar notice and was not successful. Mr. Blanchette said the applicant has not been forthcoming in providing the required information (building design and placement, source of financing) and the Board needs to protect the interest of the Town. Mr. Henry said the process has been going on for ten years; Mr. Cushing said some of the ten years has been due to the applicant dragging their feet.

Moved by Mr. Cushing and seconded by Mr. Henry to file the Notice of Appeal. VOTE: 3-0-0

Subsequent to the motion, Mr. Henry stated for the record that he has reservations about this and he is taking it on pure faith that the Board is only preserving the right and not opening a path for further appeal. He was told the Board would have to vote for further appeals and replied that he was deeply troubled by this and sees it as a step backward. Mr. Dawson emphasized that the only action by taking tonight's vote is the Board has allowed Attorney Witten to file a piece of paper with the Secretary of Environmental Affairs stating that it reserves its right to appeal at some future time if it feels an appeal is warranted. If in fact a permit gets issued and it contains something the Board wants to appeal that would still have to be discussed and voted on by the Board.

Mr. Blanchette said the Board needs to review the letter from Attorney Regnante and Attorney Witten's response to the letter and then discuss them at the next meeting.

Beverly Yacht Club – Change of Manager

General Manager Dean Lavoie was present for tonight's meeting. He was hired in January, 2010 and is in the process of changing over the alcohol license for his name to appear on it. Mr. Lavoie told the Board he has been in this type of business for 12 years, most recently on Nantucket. Mr. Blanchette said he has never seen the BYC in better

shape than it is today, under Mr. Lavoie's management. Audience members had no comments or questions. Mr. Cushing asked if the appropriate background checks have been done and was told yes. Mr. Dawson explained that ABCC will require CORI checks as part of their approval, they are not required under local approval.

Moved by Mr. Henry and seconded by Mr. Cushing to recommend approval of Mr. Lavoie for change of manager. VOTE: 3-0-0

Continued Dog Hearing – 4 Jobs Cove Road

This hearing was continued from August 17, 2010 at which time the Board admonished the dog owner that they would continue the hearing to tonight and during that time if there were no more complaints the Board would take an action that the problem has been corrected. The owner was also warned that should there be additional complaints during that time the Board would enforce the law. The Police Department has reported that there have been five additional complaints in the time frame. The report contained six responses, five as a result of citizens' complaints, one a self-initiated response by the Animal Control Officer. Mr. Dawson noted the complaint times (11:32 p.m., 6:42 a.m., 12:39 a.m., 3:07 a.m., 5:55 p.m.) and said the time of the Animal Control Officer's visit was 3:29 p.m. The Animal Control Officer noted on that on August 29 a woman at the house named Linda stated she was getting rid of the dog; the ACO visited the home and the dog was still there. The owner of the dog was not present tonight and there were no neighbors present.

Moved by Mr. Cushing and seconded by Mr. Henry to close the public hearing. VOTE: 3-0-0

Mr. Blanchette said the dog is not vicious and has not bitten anybody but the Board does have the power to ban the dog from Town. The owner has indicated that he will be moving from the area within four months; however, the neighbors are entitled to sleep.

Julia Deane Crowley suggested a training collar and was told that was discussed previously with the owner. Mr. Blanchette said most of the barking occurred during the times when the owner was gone for two weeks at a time. He said the man loved the dog but unfortunately no one else did.

Moved by Mr. Henry and seconded by Mr. Cushing to order the dog removed 15 days from the date of service of the order. VOTE: 3-0-0

Pole Hearing – Verizon, Wareham Street

Barry Maffini was present on behalf of Verizon. The request is to locate a new pole on Wareham Street to provide access for Little Neck Village. Mr. Blanchette asked if the pole is where it's supposed to be and was told yes.

Moved by Mr. Cushing and seconded by Mr. Henry to accept the application to set Pole 24/16 on Wareham Street. VOTE: 3-0-0

Bill Washburn – Washburn Trust

This discussion was regarding the status of the Washburn Trust. Mr. Washburn explained he is not a member of the Trust but has done volunteer work for it over the years. There are three members remaining on the Trust (Mr. Clemmey, Ron Winters, and Robert Washburn, who has indicated that he will be resigning). Mr. Dawson has been

provided copies of the original Trust documents by someone who believes Mr. Winters is the only member of the Trust. Documents require that members live in Town; Mr. Clemmey and Mr. Washburn are no longer residents.

The Trust is private, owns the land containing the horse rings and food shack located in Washburn Park, and was originally set up as a fundraiser for the Scouting programs in Town. Mr. Henry asked if the land could be transferred, for a nominal sum, to the Town, and was told no. Mr. Dawson said he briefly scanned the documents and it stated that in the event the Trust dissolves, the financial assets are to be divided equally among the Boy Scouts, Girl Scouts, Cub Scouts, and Brownies and the land in the Trust would revert to the Town. The remaining member could choose to dissolve the Trust or name more Trustees.

Mr. Blanchette noted that the Town maintains the Trust-owned portion of Washburn Park. Mr. Dawson said at some point in time the Town began managing the rental of the Park, including the Trust-owned portion. He said there is an issue because a member of the Washburn family wants to get married there in May and has been told by the Town they can't because rentals are not allowed in May. Mr. Blanchette asked which Town department denied the rental and was told Recreation. Mr. Washburn said weekends in the spring are when kids play baseball, that's what the land is for, and it would be available for a wedding in July. After discussion, it was agreed to provide the Trust paperwork to Town Counsel. Mr. Blanchette said it would make sense to speak with Mr. Winters and see what he wants to do.

Washburn Land

Mr. Washburn said the family owns the road running from Route 6 into the park. The family has decided to ask if the Town wanted to purchase the road or work out an easement. Mr. Blanchette recommended DPW examine the road and provide an estimate of the cost to upgrade it. Mr. Cushing asked if there were engineered plans showing the road layout; Mr. Washburn submitted a plan showing existing conditions. Mr. Henry asked if the plan was recorded and was told no. After discussion, Mr. Blanchette said DPW would be asked to estimate the cost to upgrade the road.

Sherry Bernier – Quelle Lane

Ms. Bernier had an emergency and cancelled her appointment. She'll be contacted and another appointment will be scheduled.

ACTION ITEMS

6. Application for Private Sewer to Discharge into Town Sewer System

Baywatch Realty Trust has submitted an application for a private sewer to discharge into the Town sewer system.

Attorney Witten said the original application submitted by Baywatch to tie into the Town sewer system occurred several years ago under the provisions of 314 CMR 7 and was for a permit to tie into an extension of a sewer system. 314 CMR 7 is still in effect but there have been exceptions made to it. One exception would apply to this project due to the length of the extension sought by the applicant. While the requirements of 314 CMR 7 would be removed for this project in terms of application to the State, one of the requirements that provides an exception is that the connection to the Town sewer system

will comply with the Town's sewer regulations. The Board has an obligation to ensure that the application complies with local regulations. Attorney Witten said that raises the real issue of the Consent Order, Moratorium, and Sewer Policy adopted by the Board. He said he wants to be sure that the Selectmen (Water/Sewer Commissioners) are not in violation of the Consent Order. He recommends that if the DPW tells the Board that this application meets with their ministerial requirements and the Board feels the application is complete, then they vote to approve the connection subject to the condition he suggested a few months ago, that this connection will not put the Town in jeopardy of violating the Consent Order. Attorney Witten said he does not have the answer tonight and although he has had conversations with DEP to determine whether the extension would be permissible under the Consent Order, DEP has not provided an answer. He recommended the application be approved with the caveat that the Water/Sewer Commissioners are not suggesting this would be a violation of the Consent Order. Mr. Dawson said in trying to ascertain whether or not the application before the Board complies with all local sewer policies and regulations in terms with construction, it clearly seems to. The only issue is related to the Discharge Permit, which provides a rolling average (.588 million gallons per day) the Town is not supposed to exceed. The Town has been exceeding those numbers on a regular basis with the exception of two months in 2009 and every month so far in 2010. Mr. Dawson said adding further flow may trigger further scrutiny by DEP; he added that an honest effort has been made to get answers but they have not been forthcoming. Attorney Witten explained that the two issues are connection and discharge. There will be no violation by the connection, the issue is the discharge.

Thomas Magauran said the Buzzards Bay Coalition has concern that the Town's lagoons are leaking and asked the following:

How can the Town determine the real capacity?

Have the I&I results been reviewed and how does that weigh?

Is the I&I reduction achieving what it was thought to?

If the Town is required to take the lagoons out of commission will the capacity be available?

Mr. Henry told him if the lagoons needed to be repaired/lined they would be done one at a time.

Mr. Cushing asked what would happen in the event that it was determined that the capacity was not available for the applicant. Attorney Witten told him the Town could not be forced to violate its contract but the applicant is allowed to "get in line" so when capacity is available they will be treated equitably.

Mr. Blanchette asked who makes the final decision as to whether the Town has capacity or not. Attorney Witten said he and Mr. Dawson had a conference call with the DEP regional engineer and asked that question. He advised that the next step is for the Selectmen, through Mr. Dawson, to put in writing the request from DEP, with advice from the Town's engineer (CDM) as to calculating exactly what that number is and how many units can be connected based on flow, over a period of time.

During a discussion relative to when the applicant got in line for the connections, Attorney Witten advised that September, 2005 would be good operative date as it's the date of the court order. Mr. Dawson noted that on the first night he came to work for the Town the Board of Selectmen took a vote ordering a moratorium on any new connections

that were outside of the existing footprint and carved out at that time an exception for residences within the sewered area that had stubs but had not connected. He said those connections were calculated into the plant capacity, had a stub and paid a betterment but for some reason were never connected. Mr. Dawson said he is not aware of one single connection that has been made outside of those exceptions. Mr. Henry said there have been exceptions made to the moratorium and described one. Mr. Dawson said when they were allowed to connect and they applied for sewer their sewer calculations were under the 440 gpd to which they were entitled. Mr. Magauran said there are many people who are within sewered areas but due to the sewer policy are restricted from expanding their homes; he said if there is any sort of consideration it should be for the people who already live here, not for this development. Mr. Henry said there have been requests for waivers to increase the number of bedrooms.

Attorney Witten said during the conversation he and Mr. Dawson had with DEP he came to the conclusion that they were not even aware of the Consent Order. There is, however, no rescission or release of the agreement. Mr. Henry asked why a release can't be requested – Attorney Witten said CDM would have to negotiate a release and that has not happened.

Moved by Mr. Cushing and seconded by Mr. Henry that the Marion Board of Selectmen, acting as the Board of Water and Sewer Commissioners of the Town of Marion, hereby grants approval to Baywatch Realty Trust to connect to the Town of Marion wastewater disposal system, said connection to be completed as shown on the plan entitled "Sewer Layout Plan of Marion Village Estates, dated March 16, 2010, and prepared by Existing Grade, Inc., all as provided for in 314 CMR 7.05 (c) (new sewer extension of less than 1,000 feet) and contingent on compliance with the requirements of 314 CMR 7.00, et seq. and all other relevant regulations, and further contingent upon the condition that no approval for discharge into the Marion wastewater treatment plant is granted if such discharge would constitute a breach of the Administrative Consent Order governing wastewater disposal, as revised, between the Town of Marion and the Commonwealth of Massachusetts. VOTE: 3-0-0

APPOINTMENTS

Continued Hearing - Cumberland Farms

There were no representatives from Cumberland Farms present.

Mr. Blanchette explained this was continued from the September 7 meeting to allow the Board an opportunity to study the proposal. Applications to allow expansion of the building were submitted to the Planning Board and denied; however, the applicant indicated that they would still move forward with the tank expansion project if approved by the Board of Selectmen.

Attorney Witten made the following statements:

The Board needs to ensure compliance with the Fire Code and Building Code, and that will be done through their agents (Building Department, Fire Department, Cumberland Farms.)

Approval of tanks is a good idea as newer tanks are better than older tanks, especially since Cumberland Farms will be required to have an engineer on the site to certify there is no discharge.

Expansion of the tanks is the authority of the Board of Selectmen alone.

As long as the expansion of the tanks is not perceived by Cumberland Farms as an approval of what the Planning Board denied, it is the Board's authority alone.

Mr. Blanchette said his worry was if the Board granted the tank replacement the applicant may use that in an appeal to indicate that the Board approved that which the Planning Board did not approve. Attorney Witten said that argument would fall on deaf ears because the Board of Selectmen does not have the authority to overturn the decision of the Planning Board.

Mr. Magauran voiced concern for the proposed tank location and recommended the new tanks be placed into the current location.

Frank Ryder, Planning Board Chairman, urged the Board of Selectmen to show a sense of support and unity on this issue. He said approving an increase in the capacity of the existing tanks is an invitation to Cumberland Farms to develop the site further, and urged the Board of Selectmen to deny the application.

Mr. Henry said the Fire Chief approves of the application due to the age and condition of the existing tanks. Mr. Ryder asked if the applicant proposes to double the tank volume and was told yes. He said this is sending the wrong message and if the Board approves the application it's tantamount to encouraging a larger building. Mr. Cushing said the furthest thing from the Board members' minds is to override the decision of the Planning Board. He said it's an existing business in town and the business is needed in town. Mr. Ryder asked about the age of the tanks and said maybe there's a statute requiring replacement. Mr. Ryder said he's in favor of replacing the existing tanks but he's not in favor of doubling the capacity. Mr. Blanchette said he's in favor of doubling the capacity because it would reduce the number of deliveries at the site. He asked if Planning Board would even be present tonight if the applicant had never come forward with a plan to increase the building size but simply asked to double the size of the tanks. Mr. Ryder said he would be here because he would be suspect of the applicant's request to double the capacity for a gas station that size.

Mr. Dawson reminded the Board that their authority is to make a determination related to public safety and if in fact they determine it's in the best interest of public safety to approve the application it is their right. He said considering the Planning process is stepping outside their authority under the law.

Mr. Magauran said the Planning Board had concern with the proposed location of the tanks because placing them at the rear of the site would interfere with the goals listed in the 2015 Plan.

Mr. Blanchette asked if the Board could ask the applicant to not place the tanks at the rear of the site and Attorney Witten said yes. Mr. Henry said the applicant explained at the last meeting why the tanks were proposed to be moved to another location. He said he agreed with the Planning Board that the plan is very ambitious but he approves of the new tank location shown in the plan. Mr. Dawson explained the process required for approval of underground storage of fuel.

It was agreed to continue the public hearing to October 19 at 7:05 p.m. The applicant will be contacted and asked to attend the meeting.

Steve Grima – 2015 Oversight Committee

Mr. Grima provided a summary of what the committee has worked on since being sanctioned in January, 2009. It is an advisory committee and does not create or

implement any policy. Last year's effort was focused on supporting the Planning Board in the implementation of a mixed use overlay district located in one of the nodes designated in the 2015 report.

ACTION ITEMS

1. One-day, all-alcohol license for Marion Social Club, 10/2/10

Moved by Mr. Cushing and seconded by Mr. Henry to approve the one day, all alcohol license for the Marion Social Club, scheduled for October 2, 2010. VOTE: 3-0-0

2. Signing of the Public Health Nurse contract

Moved by Mr. Henry and seconded by Mr. Cushing to approve the Public Health Nurse contract. VOTE: 3-0-0

3. Appointments – Capital Improvements Committee

Mr. Dawson recommended that the Capital Improvements Committee consist of six at-large members, the Chairman of the Finance Committee or his designee, and a member of the Board of Selectmen. Mr. Henry agreed to be an ex officio member of the committee. The following individuals have applied to the Capital Improvements Committee: Casimiro Barros, Richard Giberti, Bianca Hebbel, Norman Hills, Edwin North, and Carol Sanz.

Moved by Mr. Henry and seconded by Mr. Cushing to appoint the six at-large members, the Chairman of the Finance Committee or his designee, and Mr. Henry ex officio to the Capital Improvements Committee. VOTE: 3-0-0

4. Appointments - 2015 Oversight Committee

Mr. Blanchette said there had been discussion of reducing the number of Committee members from nine to seven but after Mr. Grima's report he believed the number should stay at nine. He said there is an opportunity tonight to appoint two people who have never served on Town committees and wish to serve (Michael Sudofsky, Jennifer Francis.) One committee member has resigned. Mr. Blanchette said he has a hard time reappointing Mr. Hayes, who lives in town on a very part time basis. He recommended that Mr. Sudofsky replace the person who chose not to be reappointed, Ms. Francis replace Mr. Hayes, and the rest of the committee (Steven Grima, Thomas Magauran, Allan Minard, Joseph Napoli, Sidney Weinberg, Jr., Chris Bryant, Sherman Briggs) be left to act as it was.

Mr. Blanchette listed the following people to be appointed:

Steve Grima, Sherman Briggs, Chris Bryant, Tom Magauran, Allan Minard, Joe Napoli, Jim Weinberg, Michael Sudofsky, Jennifer Francis

Moved by Mr. Cushing and seconded by Mr. Henry to approve the 2015 Oversight Committee per Mr. Blanchette's order. VOTE: 3-0-0

5. Declaration as Surplus Property – Various appliances at Little Neck Village

The new units at Little Neck Village are complete and residents will be moving in October 1. Some of the appliances in the existing units are in usable condition; they will be removed from the units and put out to bid. The list of appliances was reviewed.

Moved to Mr. Henry and seconded by Mr. Cushing to declare the appliances surplus. VOTE: 3-0-0

7. Water Commitment – (\$313.83)

Moved by Mr. Henry and seconded by Mr. Cushing to approve the miscellaneous bill for water services and other charges for \$313.83, dated September 17, 2010. VOTE: 3-0-0

8. Water Commitment – (\$990.96)

Moved by Mr. Henry and seconded by Mr. Cushing to approve the final reading for water services and other charges for \$990.96, dated September 21, 2010. VOTE: 3-0-0

TOWN ADMINISTRATOR'S REPORT

1. Appointment of Evaluating Committee (Town House Existing Conditions)

Mr. Dawson requested that the Board, under the Designer Selection Procedures it adopted last September, appoint himself, Judith Mooney, and Richard Marx to the Evaluating Committee for the Town House Existing Conditions Survey RFQ. The deadline to submit proposals was Friday, September 17, and Mr. Dawson wants to begin reviewing the proposals to make a recommendation to the Board.

Moved by Mr. Cushing and seconded by Mr. Henry to appoint Mr. Dawson, Ms. Mooney, and Mr. Marx as the Evaluating Committee for the Town House Existing Conditions Survey RFQ. VOTE: 3-0-0

2. Building Commissioner

Mr. Dawson announced with regret that he has received the resignation of Building Commissioner Richard Marx, effective October 1, 2010. Mr. Dawson has reached out to 12 neighboring communities to discuss sharing services and has not yet received a response. If there is no interest from the other towns he will request direction from the Board. Mr. Henry asked if SRPEDD was contacted; Mr. Dawson said he and Ross Perry discussed communities who have expressed an interest in sharing Building Commissioners. Mr. Cushing asked if inspections can still be done and was told there is a backup building inspector available on a temporary basis.

3. Buzzards Bay National Estuary Program Mini Grant

The Buzzards Bay National Estuary Program has approved a mini-grant application for the purchase of real property located in Rochester, adjacent to Town of Marion wells. The property would be purchased for the purpose of protecting the wells. The Town has been awarded a reimbursable grant of \$45,000. A Purchase & Sale Agreement has been signed and the closing will be September 27. The property is under agreement with the Coalition for Buzzards Bay, subject to appropriation and approval at Town meeting the land will be conveyed to the Town of Marion for the purposes of protecting the well.

4. Request Authorization to execute standard contract form

Mr. Dawson applied for the above discussed grant so the contract came back in his name; he requested authorization to execute the contract.

Moved by Mr. Cushing and seconded by Mr. Henry to authorize Mr. Dawson to sign the contract. VOTE: 3-0-0

5. Public Notice Marion Water Division

Last week residents were sent notification that the town recently experienced a slightly elevated level of perchlorate in the west well (located off Route 105 in Rochester). Perchlorate is a compound commonly found in substances such as rocket propellant, fireworks, explosives, etc. There is no knowledge how it ended up in the area of the west well. The Water Department and DEP have been working since it was detected to discover the source and also how to test the well. The west well was shut down on September 7, when the elevated level was discovered, and is still shut down. The elevation level was 2.2; the acceptable level in Massachusetts is 2.0, and in many states the acceptable level is 6.0. A follow-up test received September 17 indicated a slight decline (2.0 was the most recent detection). Although the level has dropped it was

decided to send a full scale notification to the public - more detailed information is available on the website. Mr. Dawson announced that water containing perchlorate should not be consumed by pregnant women, nursing mothers, infants, children under the age of 12, or individuals with any sort of hypothyroidism condition. Mr. Dawson said there has been no introduction of water from the west well since the September 7 date and there won't be until local and State officials are satisfied that the levels are down. This is a mandatory yearly test.

6. Update – Volunteer Firefighter's Insurance

Mr. Blanchette said the Board has been working with the call firefighters to come up with a plan providing a small remuneration upon retirement. It was agreed to discuss this at the October 5 meeting.

CORRESPONDENCE –

Cape Cod Cranberry Growers' Association

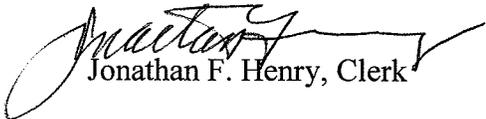
The Association has extended the Board an invitation to a public officials' workshop. The workshop will be held October 1 and is a day-long program.

Marion Art Center

At the last meeting the Marion Art Center requested and was approved for their Annual Halloween Parade to be held Saturday, October 30. The request has been changed to allow the parade to be held Sunday, October 31 at 4:00 p.m.

Moved by Mr. Cushing and seconded by Mr. Henry at 10:22 p.m. to adjourn. VOTE: 3-0-0

Respectfully submitted,


Jonathan F. Henry, Clerk

Date approved: OCTOBER 5, 2010

**MARION BOARD OF SELECTMEN
WATER/SEWER COMMISSIONERS
September 21, 2010**

DOCUMENTS REVIEWED AT MEETING

Letter from Attorney Theodore Regnante, dated August 16, 2010
Letter from Attorney Theodore Regnante, dated September 16, 2010
Draft letter from Attorney Witten, dated September 19, 2010
Application paperwork from Beverly Yacht Club, requesting change of manager
Paperwork related to dog hearing – 4 Jobs Cove Road (police reports, memo from Chief Miller dated August 13, 2010, neighborhood petition dated July 28, 2010)
Petition #10-2259 from Verizon, dated March 12, 2010, requesting hearing for placement of new pole
Undated form showing Marion WWTP Rolling Average for Effluent
Application for Private Sewer to Discharge into Town Sewer System – Baywatch Realty Trust
Memo dated September 16, 2010, providing 2015 Committee Work Summary
One day alcohol license – Marion Social Club, October 3, 2010
List of appointments – 2015 Oversight Committee, Capital Improvements Planning Committee
Memo from Mr. Dawson, dated September 21, 2010, regarding Capital Improvements Planning Committee
Email from Attorney Witten, dated September 20, 2010, regarding Capital Improvements Planning Committee
Email from E. North, dated August 19, 2010, regarding Capital Improvements Planning Committee
Email from C. Sanz, dated August 18, 2010, regarding Capital Improvements Planning Committee
List of surplus property – Little Neck Village
Water Commitment, dated September 17, 2010, for \$313.83
Water Commitment, dated September 21, 2010, for \$990.96
Memo from Mr. Dawson, dated September 21, 2010, regarding Review Committee – Town House Existing Conditions
Letter from Building Commissioner, dated September 17, 2010
Letter from Buzzards Bay National Estuary Program, dated August 30, 2010
Letter from Cape Cod Cranberry Growers' Association, dated September 2, 2010
Letter from Marion Art Center, dated September 9, 2010