

Board of Selectmen Meeting Minutes
November 29, 2011
Town Hall Annex Meeting Room

Members Present: Chairman Florence Seldin, Timothy Roper, Len Sussman, Sean Summers and David Whitcomb also present Jill Goldsmith, Town Manager.

Chairman Florence Seldin called the meeting to order at: 4:01 pm.

I. Minutes

November 22, 2011 – Page 7 sentence regarding the National Science Foundation review should read: *People from several towns requested* a National Science Foundation review of the UMASS models for the determination of the nitrogen TMDLs (total minimum daily load) however, no Town's or the State were willing to provide money.

MOTION by Mr. Whitcomb: to approve the minutes as amended.

Seconded by: Mr. Roper

Vote: 3-0-2 (Mr. Sussman and Mr. Summers abstained)

II. Public Forum

Chief Pawlina announced Chatham PD will be conducting a Citizen's Police Academy – opportunity for citizens to engage and learn about the different areas of policing such as police procedures, patrol procedures, accident investigation and reconstruction, and forensics. This is a great way for the citizens to get to know the why things are done the way they are done. The citizen's academy is also an opportunity for police officers to engage with the public. There are openings for fifteen (15) participants. The Citizen's Police Academy begins Tuesday, January 17, 2012, continuing every Tuesday for eight (8) weeks. Each session will be approximately 3 ½ hours.

Applications are available at the Chatham Police Department. The deadline to return the applications is December 15, 2011.

III. New Business

- A. Water Street/Old Village Association – Donation to Remove Invasive Vegetative Species
Mr. John Whalen, Director, Old Village Association (OVA), read a letter Nancy Koerner, President of the Old Village Association, sent to Chairman Seldin. OVA would like to see the area at the eastern end of Water Street restored to its former condition to restore the view to Pleasant Bay, North Beach and beyond. The top of the bank has become overgrown with invasive species that should be removed and the area restored with native plantings. OVA would like to donate funds in the amount of \$8,500 for the restoration of this area.

Hope to have this project completed by Spring, 2012

Board of Selectmen Meeting Minutes
November 29, 2011
Town Hall Annex Meeting Room

MOTION by Mr. Sussman: to accept this donation.

Seconded by: Mr. Roper

Vote: 5-0-0

B. All Annual Liquor License Renewals

New England Pizza #3 – renewal application has not been received. The application must be received by tomorrow. However, the BOS can approve the license contingent upon receipt of the renewal application by November 30, 2011.

Mr. Whitcomb pointed out Del Mar was not on the renewal list received by ABCC.

Kristin Sullivan, Local Licensing Agent, noted a renewal application was not received from ABCC. However, the BOS can approve contingent upon a signed application being received by November 30, 2011.

Ms. Seldin pointed out for further clarification the Red Nun's renewal is specifically for the indoor seating capacity of 28 seats. Must file alteration of premises for the outdoor patio which has not been received as of yet. The BOS is only voting on the 28 inside seats.

William Gray – Marley's Restaurant, stated they submitted the renewal application. The restaurant has been for sale for the past year. They now have purchase and sales agreement and hope to have the closing by the end of 2011. The new owners would like to do extensive renovations. They will seek a closure in order to do the renovations.

Mr. Whitcomb asked if Marley's is currently open and intends to remain open until the sale is completed.

Mr. Gray stated they are open and will likely close a few days prior to the closing in order to take care of the details inside.

MOTION by Mr. Roper: to approve all annual liquor licenses with the exception of New England Pizza #3 and Del Mar (will be voted on separately)

Seconded by: Mr. Whitcomb and Mr. Sussman

Vote: 5-0-0

MOTION by Mr. Sussman: to approve the annual liquor license for New England Pizza #3 and Del Mar contingent upon receipt of a signed renewal application by November 30, 2011.

Seconded by: Mr. Roper

Vote: 5-0-0

**Board of Selectmen Meeting Minutes
November 29, 2011
Town Hall Annex Meeting Room**

C. Annual License Holders; Request for Temporary Closing

Heather Cantin on behalf of The Chatham Cheese Company has requested a temporary closing from January 1, 2012 through April 15, 2012.

Mr. Whitcomb questioned why The Chatham Cheese Company has an annual license versus a seasonal.

Ms. Sullivan explained that the Town did at one time have seasonal retail licenses but over time they were converted to annual licenses and there are no seasonal retail licenses available.

MOTION by Mr. Summers: to allow temporary closure of The Chatham Cheese Company from January 1, 2012 to April 15, 2012.

Seconded by: Mr. Roper

Vote: 5-0-0

The Chatham Wayside Inn has requested a closure from January 4, 2012 through January 26, 2012.

MOTION by Mr. Roper: to approve the temporary closure of the Chatham Wayside Inn.

Seconded by: Mr. Sussman

Vote: 5-0-0

D. Seasonal Alcohol Licenses; Request for Extension

Diane Fogg, on behalf of the Captain's Table requests an extension of the seasonal liquor license through January 1, 2012 to open for select days within the month of December to coincide with special events including but not limited to the Chatham Stroll and First Night.

MOTION by Mr. Roper: to grant the request for an extension of the seasonal liquor license for the Captain's Table.

Seconded by: Mr. Sussman

Vote: 5-0-0

Stephen Vining, on behalf of Vining's Bistro requests an extension of the seasonal liquor license through the weekend of December 3, 2011 and again on December 31, 2011 for First Night.

MOTION by Mr. Roper: to grant the request for an extension of the seasonal liquor license for Vining's Bistro.

Seconded by: Mr. Sussman

Board of Selectmen Meeting Minutes
November 29, 2011
Town Hall Annex Meeting Room

Vote: 5-0-0

Bob Gardner, on behalf of Pate's Restaurant requests an extension of the seasonal liquor license from December 1, 2011 to January 15, 2012.

MOTION by Mr. Roper: to grant the request for an extension of the seasonal liquor license for Pate's Restaurant.

Seconded by: Mr. Whitcomb

Vote: 5-0-0

E. Sewer Construction Project; Report on Police Details and Advertising

Chief Pawlina spoke of the significant planning and coordination that went into the traffic plan for the sewer project. This plan changes weekly and sometimes daily based on the work that was accomplished the day before, weather, etc. An example of an adjustment made based on observations, input, and time of year: the officer who was stationed at the George Ryder Rd. intersection has been removed and are now relying on signage only as most people know the detour and the traffic pattern. Chief Pawlina explained there was an amount of concern brought forth by businesses and requests to have the detour moved up to Barn Hill Road. This cannot safely be accomplished however; the police department did adjust the location of the officer and signage to open up a clearer path to Shop Ahoy and other businesses.

Currently there are six officers assigned to the traffic detail for the sewer project. Chief Pawlina pointed out some individuals were confusing gas company work because it was close in proximity to sewer project. Utility work is completely separate and the detail officers are hired privately by the utility companies.

Chief Pawlina addressed a clause in the police union contract that has been there for many years regarding paid details: Section 1 indicates "paid details shall be offered to bargaining unit members prior to being offered to special officer, reserve officer, or any other person in accordance with the procedures of Section 2". In essence, a paid detail must first be offered to Chatham Police Officers.

He added the issue of using flaggers in has come up. Flaggers for public projects receive a prevailing wage so there is no cost savings. The Chief provided examples of rates for flaggers recently used in other communities \$52 per hour in Harwich and \$49 per hour in Sandwich. Flaggers have limitations as to what traffic functions they can perform. Intersections are particularly a problem. If work is being done at an intersection such as Old Queen Anne Road, Main Street and Lime Hill Road, flaggers are not allowed to perform as a control device at an intersection. They can stop traffic and move traffic along on a single lane but they cannot stop traffic at one intersection street to allow

Board of Selectmen Meeting Minutes
November 29, 2011
Town Hall Annex Meeting Room

traffic through from another intersecting street unless you put a flagger on each street but you still have to hire a police officer. This intersection would require three flaggers and one police officer to coordinate this intersection. Flaggers also do not have radio capability or emergency response capabilities. Police officers know Chatham where flaggers from other communities do not know this community. For roughly the same amount of money it would cost for a flagger, police officers provide safety, effectiveness, efficiency (including cost) and accountability. Chief Pawlina stated he has full accountability over police officers – does not have that with flaggers.

The Chief added that although there have been complaints there have also been many positive comments. He read from one letter that was sent commending Officer Michael Murphy for his helpfulness, kindness and pleasant manner while working the detail at George Ryder Road and Rt. 28.

Mr. Summers asked if all assignments are paid at prevailing wages such as gas work.

Mr. Pawlina stated he believes all flaggers have to be paid prevailing wages.

Dr. Duncanson clarified the prevailing wage rate for flaggers only apply to public projects.

Mr. Summers asked in CPD officers are there on overtime.

Chief Pawlina replied they are on overtime.

Ms. Seldin asked if there is a limit to the number of detail hours an officer can work?

Chief Pawlina stated an officer can work a maximum of 16 hours per day (8 hour regular shift, 8 hour detail) but given the hours of road work it is more likely officers will work details on their days off. Explained the origins of details being in the contract is Chatham Police officers did not want the Town hiring officers from other communities if they received a cheaper rate.

Chief Pawlina stated as challenging as this project has been Lt. Anderson and Sgt. Glover have done an outstanding job working with the contractor and businesses.

Advertising (Discussion for this topic followed the Mitchell River Bridge agenda item)

Dr. Duncanson announced the Town has spent or have committed to: \$158,696.85 including Fall 2010, Spring 2011 and Fall 2011 in the business advertising program. This represents 3% of project cost. Where the money was spent was agreed to through the

Board of Selectmen Meeting Minutes
November 29, 2011
Town Hall Annex Meeting Room

work group process, business owners and a couple of representatives from the Chamber.

Ms. Seldin asked if there will be a need to continue advertising in future years.

Dr. Duncanson said that as the project moves forward there will be more construction on Rt. 28 and businesses will be affected. He suspects the business community will raise similar concerns and request some level of mitigation of some manner.

Ms. Seldin - Why advertise in Chronicle when it's read mostly by locals.

Dr. Duncanson stated it was decided upon with business owners. There are people outside of Chatham who read it and it also supports a local business.

Mr. Roper – thinks radio ads have been helpful, reaches a broader audience and especially helpful to people while they are driving in their cars.

Dr. Duncanson said there will be some level in of advertising in the Spring. Paving will impact stretch between Barn Hill and Old Queen Anne. Not just a simple overlay. There will be some impact. This was a policy decision for BOS.

Mr. Summers would like to come back prior to the Spring to discuss this issue. BOS needs to periodically review expenditure.

Dr. Duncanson stated advertising is scheduled to continue next week with construction hopefully being finished by Dec. 9th.

Lisa Franz, Chatham Chamber of Commerce, stated the advertising was necessary and appreciated by the business community. It has changed over the different construction phased because they have gone with what has worked. Radio has proven to be very effective.

Mr. Summers raised concerns of the way the money was allocated specifically running an All Roads lead to Chatham ad in Chatham newspapers.

Ms. Franz pointed out that construction is Monday through Friday when businesses are affected. The local market that is here at that time are local residents - the Monday – Friday people who are here.

Ms. Seldin would like to address mitigation for businesses in February when the BOS discusses the Spring schedule.

Board of Selectmen Meeting Minutes
November 29, 2011
Town Hall Annex Meeting Room

- F. Mitchell River Bridge MOA and Update (MDOT Joseph Pavao)
Joseph Pavao, Mass DOT Highway Division, Project Manager assigned to the MRB project
Jeff Shrimpton, MASS DOT Cultural Resource Division, author of the Adverse Effect Finding

Mr. Pavao provided a recap of the project and meetings that were held over the past year with the Sec. 106 consulting parties. A Repair Rehabilitation Report and Alternative Analysis Report were prepared. The first report was complete in March and the second in April. The Alternative Analysis Report looked at five alternatives for replacement of the Mitchell River Bridge (MRB). Two alternatives were added as an addendum to that report.

MASS Dot has consistently supported Alternative 5 an all modern bridge (steel and concrete) with some architectural elements to keep look of the bridge. After looking at the reports and listening to some of the comments of the consulting parties and the general public Mr. Pavao stated they were leaning towards Alternative 3 (modern sub-structure of steel and concrete in the water with a fully wooden super structure).

Since meeting in August Mass DOT has continued to move forward and has developed an adverse effect finding for this project and MOA. The Adverse Effect is the same regardless of what alternative is chosen. The MOA stipulates how Mass DOT and Federal Highway intend to mitigate the removal of the bridge. Those documents have been sent out by Federal Highway in early November for review which is typically a 30 day review.

Mr. Roper questioned how much time was spent looking into Alternative 1B especially with the concerns raised by the consulting parties and historic preservation groups.

Mr. Pavao stated they started looking at the alternatives in January when the Alternative Analysis Report was prepared. The Adverse Effect Finding is acknowledging that the entire structure is being removed from this location and replaced with a new structure. The Adverse Effect will be is the same for all the alternatives. Determined Alt. 5 from an engineering point of view is the best alternative but did not address the context sensitivity of removing this bridge. Mass DOT moved to Alt. 3 as it provides a good balance between uses of bridge, addresses context sensitivity (similar to what is there and 1B) but provides for a very reliable structure.

Mr. Roper asked what happens to the NEPA process if the advisory council and/or MA SHPO don't sign the MOA.

Mr. Shrimpton explained the MOA is part of the Sec. 106 process which has to be resolved before NEPA process. He continued to explain the signatory process. The three signatories on the MOA are the advisory council on historic preservation, MA State

Board of Selectmen Meeting Minutes
November 29, 2011
Town Hall Annex Meeting Room

Historic Preservation Officer (SHPO) and the Federal Highway Administration (FHA). Two invited signatories are the Chatham BOS and Mass DOT. All of the other consulting parties as recognized by the FHA have been asked to sign as concurring parties.

The three signatories must sign MOA in order for it to go into effect. If one does not sign then it is covered under the regulations under Sec. 800.7 Failure to Resolve the Adverse Effect - there no MOA. The three signatories must then determine if it would be productive to carry on further consultation. If one of the 3 determines further consultation would not be productive than that signatory can terminate consultation. If the Secretary of Transportation decides to terminate consultation the Secretary must notify the advisory council and all of the consulting parties and give each a chance to comment (45 day comment period). The Secretary must take those comments into consideration before making determination on how to proceed with the project. If the Council terminates, the Council must notify the Secretary and the Federal Preservation Officer of the agency as well as all consulting parties. The Council will then provide comments and also provide all consulting parties with 45 days to comment. The Secretary must take those comments into consideration. If the SHPO terminates, the Council and the Agency can create a new MOA that omits SHPO.

Ms. Seldin asked when Mass DOT will know if the three parties have signed the MOA.

Mr. Shrimpton spoke with his contact at the FHA and no comments have been received from the Advisory Council.

Mr. Whitcomb asked if the Nov. 9th letter kicked off the timeline.

Mr. Pavao explained they expect comments from the SHPO and Advisory Council by the second week of December. Once the comments are in FHA will consult with Mass DOT and they will address comments, if there are any. They are hoping to have the MOA signed by end of year.

Mr. Summers asked what formal action of the BOS would be helpful to move this process along.

Mr. Pavao responded any comments on MOA and the Adverse Effect Finding would be welcomed.

Ms. Seldin invited public comments and asked that remarks not be personalized nor should remarks reflect recriminations or accusations.

Mr. Pacon, Friends of Mitchell River Bridge (FOMRB), addressed three major points: why the FOMRB feel the 106 Process has failed to comply with requirements and regulations

Board of Selectmen Meeting Minutes
November 29, 2011
Town Hall Annex Meeting Room

of the process, why the FOMRB feel Alt. 3 has been chosen and what they and other consulting parties intend to do.

Bill Horrocks, 26 Ivy Lane, stated it is important, especially on the eve of 300th celebration, to retain a true historical gem which can be done.

Michael Pease, Pease Boat Works and Marine Railway, stated his support for Alt. 3.

Maryann Gray, Stage Harbor Rd., voiced concerns of safety involved with change of design that the level surface will encourage and increase speed of approaching cars.

Gloria Freeman, Kendrick Road, stated according to the FOMRB engineer Alt. 1B will allow 25 ft. channel. She spoke in support of Alt. 1b or another option that would truly minimize, mitigate or avoid harm to the MRB.

Spencer Grey, Lienau Drive, feels Alt. 1B wasn't given the attention it should have been given. He is also concerned about vehicles speeding if the span is leveled off.

Phil Richardson, 49 Shattuck, spoke in favor of Alt 1b.

Mr. Pavao responded the concern over speeding is an enforcement issue. The bridge has to be designed for a 30 mph design speed to ensure the bridge is safe for travel. There is some grade similar to what is there today. Width is currently 24' curb to curb with the new design increasing the width by 2' - 11' lanes with a 1' offset.

Mike Bastoni – environmental Group – Sec. 4F “avoidance” no build, build on new location, rehabilitate without – 4f document will be included in the EA.

No further action by the BOS

G. Report from David Whitcomb – Regional School Building Committee

The RSBC met Nov. 22 at Harwich HS library. The Owner's Project Manager Subcommittee has recently established a timetable to hire an OPM. On November 23 advertisements for an OPM were placed in the National Register and Cape Cod Chronicle. The deadline to apply is 4:00 pm on Dec. 7th. The OPM subcommittee will review those responses at its meeting on Dec. 7th and 8th at 4:30 pm. From the RFS they will select 3-5 finalists who will be interviewed on Dec. 14th. Once they choose a candidate for OPM the selection will be sent to MSBA for approval. They expect to execute contract on 1/13/2012. Once OPM is on board they will look at model schools.

Board of Selectmen Meeting Minutes
November 29, 2011
Town Hall Annex Meeting Room

They have an aggressive schedule and have been sticking to it. They are hoping to get this to the May Town Meeting. The group toured Ashland HS yesterday which is a phenomenal facility. The facade of the Monomoy Regional High School would indicate local flavor. Architectural Sub-committee will look at aesthetics.

Ms. Goldsmith announced she received an informal email from Mass DOT regarding Chatham's Project Initiation Request for the Rt. 28 road improvement project. The request has been approved to be forwarded to Metropolitan Planning Organization who does an annual review of TIP listing. They will then send to joint transportation committee to be reviewed for its merits. The application has been deemed complete. The formal letter is expected any day.

The BOS decided not to meet on 12/27. Town offices will be closed on 12/26.

The BOS extended condolences to family of Tottie Everett.

IV. Other Business

MOTION by David: to adjourn.

Seconded by: Len

Vote 5-0-0

Meeting adjourned at 6:23 pm.

Respectfully submitted

Kristin M. Sullivan