

Approved 11/9/15

**Board of Public Works
Meeting Minutes**

Date: July 13, 2015

Time: 7:15 p.m.

Place: Marshfield Town Hall

Hearing Room 3 Second Floor

In attendance for all or part of the meeting were the following:

Stephen Hocking	Chairman
Robert Shaughnessy	Vice Chairman
John Cusick	Member
Thomas Reynolds	Superintendent
Shawn Patterson	Deputy Superintendent
Rod Procaccino	Town Engineer
Dan Bowen	Business Manager
Paul Tomkavage	Project Manager
Robert Galvin	Town Counsel
Karen O'Donnell	Open Space
Residents	Rexhame Beach Area
Ann Marie Sacchetti	Board of Public Works Secretary

The meeting convened at 7:25 p.m.

Stephen Hocking opened the meeting and reviewed the evening's agenda which included 13 action items, number 10 will be passed over. He **motioned** to accept the meeting's agenda as written. **Seconded** by Robert Shaughnessy. All in favor.

Action:

1. Old Rexhame Beach

Several residents from this old subdivision were present to discuss beach access. Bob Shaughnessy requested that this issue be discussed. Joe McDonald, a resident of the area, asked for this discussion. There is a long history regarding private and public beach rights and access. An issue that has been before the courts. The court came to a decision which is now in the appeals process. There are four roads that are private, closed to the public, and the owners have control over those roads. The road that is open to the public, which is a County Road, is the Winslow Ave. Extension that is the public access to the beach. This discussion is to hear what owners of the roads can and cannot do and to hear from Town Counsel.

Bob stated that his mother owns property on Waterman Ave. as well as John Cusick who resides on Waterman Ave. Waterman Ave. is a private road, closed to the public. In order to have a quorum, which is to have (2) members, per Town Counsel, the rule of necessity will be invoked in order for the meeting to proceed and the Board of Public Works can participate in the agenda action. Bob will remain, John Cusick will recuse himself, and Steve Hocking will be as Chairperson.

Town Counsel explained the court ruling, (which is under appeal), states that in relevant part, as related to the streets, that Winslow Ave. Extension is a public highway, it happens to be a County Highway, which the public has the right of access to. The other streets that were an issue are; Raleigh Road, Ames Ave, Waterman Ave. and Kent Ave. which are private ways closed to the public according to the ruling of the court. This means there are no Town Services provided to these roads, meaning no snow and ice removal, no roadway repair. Trash removal is provided as long as the road is passable. To the public it means if you do not have deeded rights or permission of the owners of the streets, you have no right to access over it. The remaining rights of the Town to those four streets has to do with water and sewer access easements but does not give the public access as a whole, access rights down those streets.

Relative to the beach, the Town has been adjudicated owner of the beach, some or all of the dune, the exact line has not been determined; there are appeals by the plaintiffs and the public defendants as well.

Steve Hocking then opened the meeting to the public for questions for Board members and Town Counsel.

Joseph McDonald of 25 Waterman Ave. for 65 years first spoke. He indicated he asked for this meeting in order to have some clarification to see what rights all have. He had concerns for the fence that was put up at Kent Ave., and for the potential of vandalism happening; he tried to intervene to get the Town involved to take action. He went to several Town entities for assistance to no avail. He does not think the gate at Kent Ave. is legal. He had several questions regarding this.

Town Counsel responded; he was not given any advance notice of the fence being placed there. He had heard there was a portion of the fence removed; a situation in which the police became involved. He indicated that this is a private issue which the Town does not necessarily have an obligation to get involved in and will not get involved in this issue. The Town has a water and sewer easement where the fence crosses and the Town has the right to access its pipes and all activity related to them, this dates back to 1978. He has disagreement with the plaintiff's attorney regarding this.

Mr. Pesko of 53 Kent Ave. stated that the fence is on private property. Jean Ruffo of Vincent Drive had concern regarding Conservation's involvement with the fencing. Town Counsel spoke to the Conservation Agent to ask if a permit was necessary for the installation of this type of fence and he indicated that it was not necessary. People are free to file a complaint with Conservation if they wish.

The attorney for the plaintiffs was present and he indicated that each resident of the four private roads own to the center of their respective road and the owners can put a fence across it. A notice of such activity does not bear a legal requirement. The fence is a way of preventing trespass.

Bills Mosten of Ames Ave. had a concern regarding the dunes, where they end and begin and about their preservation. He would like them to stay in a pristine way. Would the activity on Winslow Ave. affect the wetlands; the dunes; and the wildlife (?) Steve stated this would be a question for Conservation.

Frank Bonaco of Kent Ave. had the same concerns; this is barrier beach and foot traffic will damage the dunes and he would like effort taken to protect them.

A resident had a question regarding the code for the fence. Steve indicated the Town could obtain the code to have access to the water and sewer easement. Town Counsel stated that the Town does not need anyone's permission to exercise its rights to its infrastructure. Police and fire have indicated that the fence would not be a problem for them in the event of an emergency.

A resident of Winslow Ave. Ext. has gone forward with legal action regarding the determination that it is a public way. Town Counsel indicated that we are going to wait for the appeals process and in the meantime will not stop people from using the Extension.

Joe McDonald suggested that the Winslow Ave. Extension needs to be widened, and put down stone dust. The Indian Trail, to Crane Road, to Pricilla can be cleared and that would take care of the people on Pricilla's access. There can be a solution for access for both sides. Steve indicated that he would have the Superintendent look at his suggestions and would like to have them in written form.

Bob Shaughnessy stated that we need to layout Joe's suggestion for the southern portion of Crane, Priscilla; the Indian Path, open that up and that would be a clear path to Rexhame Beach. The four Streets; Waterman Ave., Kent Ave., Raleigh and Kent are owner owned and it is for them to determine if they will allow access, not the Town's responsibility. We then have to get Engineering involved with Con Com on what we should do crossing over paper streets at Winslow Extension to avoid damage to a sensitive eco system. He would like guidance from Town Counsel regarding what can be done at this time to clarify public beach access without infringing on private owner's rights. Town Counsel stated that the public can use Winslow Ave. Extension, and the area can be marked out. Have the surveyor that is already familiar with the property stake an approximate 40 foot layout and determine if that path, is within the path of the layout, and have that marked out for public access.

Town Counsel stated that he does not agree with some of the plaintiffs' views in this case. He thinks every lot that was on the original subdivision plan has the right to use all of the streets and ways of the subdivision. Any lot in the subdivision based on the deeds he has seen has the rights to use any or all of the streets and ways of the subdivision.

In conclusion to the meeting Steve Hocking stated that he everyone in attendance has been given the opportunity to speak. At the outset of the meeting the original concern was the Town's access to Kent Ave. regarding the public water and sewer. The Town is satisfied with access. All the other matters seem to have to be resolved in a court of law.

Bob Shaughnessy asked Town Counsel to confirm that anyone in this room can walk down Winslow Ave. Extension, cross over the path that will be surveyed and marked out and be within public rights to the beach; Town Counsel affirmed Bob's assessment.

Discussion ended at 8:35 p.m.

6. Contract Award Damon's Point Revetment

Town Engineer, Rod Procaccino was present to discuss the contract. He indicated the damage done was related to the NEMO storm. *Scope of work:* the project includes reconstruction of about 220 linear feet of revetment on slope, and replacement of timber bulkhead with new timber bulkhead includes regrading and concrete wall and ramp. *Funding Source:* Article 8 STM 4/2013/Storm Damage & Article 14 STM 4/2013 Seawalls and Rip Rap. Staff Recommends awarding the contract to the low bidder, Coastal Marine LLC, Canton, MA.

MOTION: Stephen Hocking motioned to authorize to award Contract 2014-23 Restoration of Damon's Point Revetment to Coastal Marine Construction LLC, Canton, MA in the amount of \$734,524 and the Chairman or designee is authorized to execute the contract when the documents are prepared.

Seconded: Robert Shaughnessy All in favor.

7. Contract Amendment Damon's Point Engineering Services

Rod Procaccino was present to explain the amendment to contract 2014-11. *Scope*: to increase scope of the engineering services to include replacing the timber bulkhead at the end of Damon's Point with timber bulkhead in lieu of steel bulkhead originally proposed due to rock fill and potential interference with existing piles below grade. *Funding Source*: Article 8 STM 4/2013 Storm Damage & Article 14 STM 4/2013 Seawalls and Rip Rap. *Staff recommends* to authorize additional design phase and permitting phase for adding scope to replace the bulkhead with timber bulkhead in lieu of steel bulkhead.

MOTION: Stephen Hocking motioned to authorize amendment No. 2 to Contract 2014-11 with Haley and Ward Inc. in the amount of \$112,000 and the chairman or designee is authorized to execute the contract when the documents are prepared.

Seconded: John Cusick

All in favor.

8. Archer Property – Conservation Restriction

Karen O'Donnell was present and indicated that part of the grant for the purchase of the Archer Property is that a Conservation Restriction be placed on it.

3. Contract 2016-08 /Award Professional Landfill Environmental Monitoring & Reporting Svcs.

Paul Tomkavage was present to review the contract details. He indicated that they have been doing this and have held their prices over the years. This year increased a little. *Scope of Work*: the engineer will provide 6 tasks for FY2016 (1) groundwater/surface water sampling & analysis (2) soil gas monitoring (3) annual third-party cap inspection & reporting (4) transfer station monitoring & reporting (5) engineering assistance (6) annual CB/SS BUD management. Funding source: accounts for inspections & for monitoring & testing. *Staff recommends* WSE as they have designed the final landfill closure and the Transfer Station and has performed these monitoring services for years without increasing their price.

MOTION: Stephen Hocking motioned to approve Contract No. 2016-8 for Professional Landfill Environmental Monitoring and Reporting Services to Weston & Sampson Engineers, Inc. in an amount not to exceed \$48,000.00 and to authorize the Chairman or designated member to execute the contract documents when they have been prepared.

Seconded: Robert Shaughnessy

All in favor.

9. New Solid Waste Contract Status

Paul Tomkavage reviewed the contract with the Board.

MOTION: Stephen Hocking motioned to accept the contract for Curbside Collection Disposal and Processing of Recyclable Materials and Solid Waste, Contract 2016-01 effective July 1, 2015.

Seconded: John Cusick

All in favor.

Tom commended Paul, Debbie, Dan and the whole staff for their due diligence in regard to their time and effort put forward regarding the contract.

2. Contract 2015-33 Award / Bulldozer & Operator Services

Scope of work: providing bulldozer and operator services on an as needed basis. *Staff recommends* award to W.D. Lopes Grading.

MOTION: Stephen Hocking motioned to award Contract No. 2015-33 Bulldozer and Operator Services to W. D. Lopes Grading in the amount of \$120.00 /hr. and to authorize the Chairman or designated member to execute the contract documents when they are prepared.

Seconded: Robert Shaughnessy All in favor.

4. Contract 2013-34 Extension / Plumbing Services for DPW & Other Town Facilities

Tom Reynolds indicated that this is an extension of an existing contract, this is the last extension and will have to go out to bid after this.

MOTION: Stephen Hocking motioned to extend Contract 2013-34 "Plumbing Services for the Department of Public Works and other Town Facilities" between the Town of Marshfield Department of Public Works and Coast Line Plumbing & Heating is made this day of July 13, 2015 for the purpose of extending the original contract dated June 16, 2013 for an additional year as provided for in the contract documents.

Seconded: John Cusick All in favor.

5. Enterprise Funds / Accounts Discussion

John Cusick provided his Board members with an overview of the indirect charges to the Enterprise Funds. Specifically the line items for; *Selectman/Town Administrator; Town Accountant; Treasurer Collector / Director of Finance; Town Counsel; ITs Directors* salary current costs FY16 and **his Proposed New Formula** for each of these indirect charges. He included a hand out From: **Enterprise Funds a Brief Overview: G.L. c.44s53F1/2.**

April 2008

"Indirect cost allocation methodology. The Bureau recommends that every community with an enterprise fund establish a written, internal policy regarding indirect cost allocation and should review this policy annually. **The policy should be reasonable and calculated in a fair and consistent basis.** Local financial officials should understand and agree on what indirect costs are appropriated as part of the General Fund operating budget and what percentage of these costs should be allocated to the enterprise fund."

Steve indicated that John has provided a nice proposal on what he believes the indirect costs should be and all agreed. He said we should stick to our original plan. Address our concerns that were not addressed by the fiscal 16 team; the information we requested and were not provided; the meetings that were attended and the answers we got at the meetings, at one point Dan Bowen said, our Board has to approve this, Rocco said "no" and Marcia said I think they do Rocco and Rocco just ignored her. We need the email chains where we were denied information, the Advisory Board and the Selectmen have made claims that we have over spent, and wondered how we can over spend when we have a full time Business Manager. Steve said our response to that was, and he spoke to them directly; we were not given enough information to make a determination on how much we had, how much we had to spend, information we requested, but was never provided to us. When the question was asked how an indirect charge was calculated the response was, "we don't have to tell you that", or, we used the previous staff's method.

Steve stated that the Charter reform has the implications, for the struggle, of power, over the money.

One of the functions of the Board of Public Works is to control the money **they want to** take out of the rate payers pockets, Steve Hocking stated that this is something the Board will continue to protect as dictated by the Town Charter. Over the years, prior to being a Board member, John Cusick has been an advocate for the protection of the rate payers' money, and he admires him for his efforts.

11. Tabled Items None

12. Old Business

Shawn Patterson stated that he had a meeting with Jim Cantwell, the Director of Agriculture, DEP, and John Cusick in regard to Plymouth Ave. flooding issue. Mosquito Control will try to schedule to clear, hopefully this season. They may try this fall. They prefer to clear in colder weather; we are in the process in setting things up.

13. New Business None

14. Executive Session None

At this time the open meeting of the Board of Public Works for July 13, 2015 adjourned at 9:46 p.m.

Respectfully Submitted,

Ann Marie Sacchetti,
Board of Public Works Secretary