

MARION BOARD OF SELECTMEN
WATER/SEWER COMMISSIONERS

November 20, 2007

Agenda

SIGNING OF WARRANTS

APPROVAL OF MINUTES, November 6, 2007

APPOINTMENTS:

- 7:05 p.m. Board of Assessors, classification hearing
- 7:10 p.m. Joseph Napoli, ambulance fund drive
- 7:15 p.m. Special Permit Hearing, Baldwin Brothers—
WITHDRAWN
- 7:15 p.m. Scott Snow, affordable housing proposal
(LIP application, Route #6)
- 7:30 p.m. Chief Lincoln W. Miller, Richard Nighelli,
candidate for Sergeant
- 7:40 p.m. Marion Country Package Store, violation of
liquor laws
- 7:50 p.m. Finance Committee, Fireworks Committee

ACTION ITEMS:

- 1. Appointment, Isaac Perry, Reserve Police Officer
- 2. Letter of thanks, Susie Connor, Animal Control Officer
- 3. One-day, all-alcohol license, Board of Selectmen at the
Music Hall, December 4

TOWN
ADMINISTRATOR:

Report—

- 1. "Village Loop" progress
- 2. Holiday schedule
- 3. Custodial services request for bids (Town House,
Police/Fire Station)
- 4. Tri-Town Selectmen's meeting

Correspondence—

- a. From Joan Wing re EMT Association/Emergency Medical
Services
- b. From Joe Monger re Sippican Café alcohol license
- c. Requests for abatements on water/sewer bills
- d. Conservation restriction voted at 2007 Annual Town Meeting,
railroad bed property off Front Street

COMMITTEE UPDATE, if necessary

ANY OTHER MATTERS TO COME BEFORE THE BOARD

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

November 20, 2007

Minutes

The meeting was called to order at 7:00 p.m. Present were Chairman Roger F. Blanchette, Board members Andrew N. Jeffrey and Jonathan F. Henry and Town Administrator Paul F. Dawson. Also present were Lee Craver, Kenneth J. Souza of *The Wanderer*, Ruth Thompson of *The Sentinel*, Andrea Smith of the *Tri-Town Observer*, Police Chief Lincoln W. Miller, Candidate for Sergeant Richard B. Nighelli, Officers Scott C. Smith, Jeffrey E. Tripp and Kris K. Smith, Carol Sanz, Deborah Thompson, Finance Committee members Richard A. Kemp, Lee Vulgaris, Stephen M. Cushing, James B. Barron and Karen C. Kevelson, Fireworks Committee members Reginald C. Foster, Christopher Collings and Gerald J. Thornell, Board of Assessors members Bradford N. Eames, Catherina A. Gibbs, Ray E. Pickles and Associate Assessor Patricia A. DeCosta, Scott Snow and attorney John Bentley, Marion Country Package Store owners Merritt E. and Suzanne Strawn and Helene Craver, secretary.

Mr. Jeffrey moved the minutes of November 6, 2007; the motion was seconded and carried unanimously.

The Board then met with the Assessors. Mr. Eames recommended the Town adopt a residential factor of one, a single tax rate of classification of property, as has been done in the past. Mr. Eames announced a tax rate of \$7.56 per thousand, which is a 15¢ increase over last year. Mr. Henry said that he saw no reason to depart from the single tax rate; Mr. Jeffrey concurred.

Mr. Henry moved to adopt the recommendation of the Board of Assessors for a tax rate with a residential factor of one; the motion was seconded and carried unanimously.

The Board then met with Chief Miller and candidate for Police Sergeant, Richard Nighelli. Chief Miller noted that Officer Nighelli had been with the Marion Police Department since 2003 and previously with the Nantucket Police Department. Chief Miller reported that Officer Nighelli has a B. S. degree in law enforcement and will be attending law school. Chief Miller recommended that Officer Nighelli be promoted to Sergeant, effective November 25, 2007. Chief Miller said that this appointment would fill the opening left by the retirement of Sergeant Larry Savery.

Mr. Jeffrey moved the appointment of Richard Nighelli as Sergeant, effective November 25, 2007; the motion was seconded and carried unanimously.

Chief Miller requested the appointment of Isaac Perry, Shellfish Officer, as a reserve officer. (Chief Miller has requested the term "Special Police Officer" be changed to "Reserve Officer".) Chief Miller noted that Mr. Perry had completed all the necessary training, but will not be working shifts for the Police Department. Chief Miller explained that the designation allows Mr. Perry to enforce the laws while on land, as

well as on the water. Chief Miller said that the Harbormaster has requested this appointment and he concurs with the recommendation.

Mr. Henry moved the appointment of Isaac Perry as Reserve Officer; the motion was seconded and carried unanimously.

Mr. Blanchette read a letter of thanks to Susan Connor for her work over the years boarding animals for the Town.

Mr. Henry moved a one-day, all-alcohol license for the Board's annual holiday party at the Music Hall on December 4; the motion was seconded and carried unanimously.

Mr. Dawson reported on progress on the village loop piping project.

Mr. Dawson presented his recommendations for the Town House holiday schedule, which would have the offices closed on Monday, December 24 and Tuesday, December 25 and open all day Monday, December 31.

Mr. Henry moved the Town Administrator's recommendations for the holiday schedule; the motion was seconded and carried unanimously.

Mr. Dawson reported that he has put out to bid custodial services at the Town House and police/fire station.

The Board then met with Messrs. Snow and Bentley to discuss a two-unit affordable housing project on Route #6 in a building owned by Mr. Snow. Mr. Bentley said that they would like the Town to "join in" with Mr. Snow and Coastal Homes LIP to have the Town serve as the monitoring agent for this 40B project, qualify the renters and have the support of the Selectmen in securing a special permit from the Planning Board. Mr. Bentley described the project as two floors, each containing 1,000 square feet, one of which would be a dedicated as an affordable housing unit and one a rental for low- and moderate-income housing. Mr. Bentley said that the Selectmen's support would be needed to create multi-family housing in a general business district. Mr. Dawson explained that the owner has met all the requirements in the LIP procedures and the next step is to come before the Board. Mr. Blanchette suggested that the Marion Affordable Housing Trust be involved in this project. Mr. Bentley explained that he was hopeful to have the Town support to approach the Department of Housing and Community Development to access a pool of qualified renters.

Mr. Jeffrey indicated that he has no problem with the project—his concern is with the Town's involvement and with setting a precedent with the Town's limited resources. Mr. Henry said that he would like to send the project to the Trust without Board action. Mr. Blanchette said that he was the only member of the Board who was present at the Trust meeting last night and it was the Trust's request that the Board deal with this request before it went before the Trust; he suggested the Board approve the project, subject to the Trust's approval. Mr. Bentley said that they weren't looking for the Board's approval, but their support. Mr. Henry said that he was uncomfortable committing the Trust to be landlords. Mr. Blanchette said that he thinks the Board can

enthusiastically support the project, but the Trust has more experience and can make a determination as to its feasibility. Mr. Dawson noted that the Trust has no staff to monitor the project or rental qualifications for this project—this aspect of Littleneck Village is done by him. Mr. Jeffrey noted that the Board has no problem with the project itself—that is not the issue. Mr. Bentley suggested he file with the Planning Board for a special permit, contingent upon endorsing the project as a LIP.

At 7:40 p.m., a public hearing was opened for an alleged violation of the alcohol regulations by the Marion Country Package Store. Mr. Dawson swore in those persons relative to the hearing and noted that he was in possession of a police report filed by Officer Scott Smith of the Marion Police Department regarding activities of November 2 at 10:14 p.m. and requested Officer Smith relate his observations. Officer Smith stated that he observed a cream-colored Ford pickup truck, which parked at the Marion Country Package Store. Officer Smith reported that he checked the operator's date of birth from his cruiser, which was underage for the purchase of alcohol. Officer Smith stated that he observed the operator leaving the liquor store with a 20-pack of beer and that he followed the truck to Creek Road, where he stopped the truck. Officer Smith reported that he requested the driver's license of the operator, which showed that the operator was 20 years of age. Officer Smith asked how the operator was able to purchase alcohol and the operator told him that "they know me" at the store, as he had purchased alcohol there many times with a fake ID, which he has subsequently lost. Officer Smith reported that he returned to the store and confirmed these facts and that the store owner had not asked for an ID that evening. Mrs. Strawn reported that the suspect had been producing a Mass. driver's license for over a year; she had seen it so many times and she had no reason to think he was under 21. Mr. Strawn explained that, in 21 years of owning the store, he had never been cited for selling alcohol to minors. Chief Miller recalled that, in 2003, the Board endorsed a video which was provided to all retail package stores and restaurants to help spot fake IDs—it is incumbent upon the owners to verify the age of the individuals who purchase alcohol. Chief Miller recommended the Board issue a letter of reprimand to the store owners. Chief Miller noted that we are heading into the holiday season when many college students will be returning; he requests all establishments pay particular attention to the IDs at this time. Mrs. Strawn said that she had stopped accepting out-of-state driver's licenses as proof of age. Chief Miller stated that she was correct to do so. Mr. Dawson concluded the hearing and asked for the Board's instructions. Mr. Henry observed that, if the owners had checked the ID this time, he would be inclined to say that no offense had occurred; however, they did not and he concurred with the Chief's recommendation to issue a warning letter stating that there were mitigating circumstances. Chief Miller said that it was important to establish a paper trail for this offense.

Mr. Henry moved to issue a warning letter with mitigating circumstances; the motion was seconded and carried unanimously.

The Board then met with Mr. Foster and members of the Finance Committee to discuss the 4th of July fireworks. Mr. Collings related that, each year, the Committee meets to plan fundraising and arrange the bid specifications for the fireworks and barge contractor. Mr. Collings reported that, this year, they immediately noticed that the cost for the fireworks and barge service were increasing, plus the increased cost of public

safety, were causing concern that the fundraising would not cover the expenses. Mr. Collings said that, before the Committee begins fund raising, they should pursue other ways of covering expenses, as the fund raising may fall short. Mr. Thornell said that, in his experience, the cost of public safety is usually borne by the community, not the fund-raising committee. Mr. Henry said that their policy reflects Town Meeting discussions that Town funds not be used for fireworks, so this expense is not in the budget. Mr. Foster said that he isn't sure that the Fire, Police and Harbormaster charge for any other event in Town, other than the fireworks. Mr. Foster said that he fully understands the need to protect the public and make the fireworks a family friendly event; however, they can't predict how big the crowd will be and the cost of public safety has risen 20% year after year. Mr. Collings said that the increases almost guarantee a shortfall from fund raising and requested the Town consider budgeting \$5,000-\$6,000 for the event. Mr. Collings said that, if this isn't possible, they probably won't be pursuing a fireworks display next year. Mr. Foster said that it was an issue of timing—their fund-raising letter should be sent out now to take advantage of generous donations before the end of the tax year.

Mr. Blanchette asked the Committee members if they had discussed the public safety costs with the Chiefs? Mr. Collings said that it was inappropriate to question what seems to be in the best interests of the Town—the expected public safety costs are what they are. It was agreed that the Finance Committee should be consulted on this issue. Mr. Jeffrey commended the Committee for bringing the matter before the Board; he asked if it was realistic for a Town this size to take on such a project.

Dr. Kemp said that the Finance Committee would look at this issue; it is a problem, as the Town has voted not to provide funds for the fireworks. Dr. Kemp said that the Finance Committee can only advance money from the reserve fund and he has just reviewed the account, which will be stressed by serious unanticipated needs which have to be met. Dr. Kemp expressed his concern that, if the Town donates money to the fireworks, residents may feel that they don't need to support the event. Dr. Kemp was also concerned that the escalating costs would result in additional funding each year—the Committee is in agreement not to fund the event. Mr. Collings noted that his Committee is acting on behalf of the Town—the Town would be liable for the bills whether or not the fund raising covers the costs. Mr. Dawson noted that he had added a clause in the contracts last year that absolved the Town if the funding were not in place. Mr. Collings suggested postponing the fireworks until 2009, to give the Town time to raise the money. Mr. Foster complained that the need to have the funding in place before the contracts are signed tilts the fiscal cycle, which begins July 1. Dr. Kemp said that it would be a very difficult time to set aside \$5,000 or \$10,000 of reserve fund money and run the risk of a serious problem; the Town cannot run a deficit. Mr. Foster asked if we wanted to consider putting a \$10,000 contingency figure in the budget in case of a shortfall.

Mr. Blanchette said that they should discuss this with the Chiefs—it doesn't make sense that there should be a 20% increase in public safety costs each year. Mr. Blanchette also suggested soliciting residents of Mattapoisett and Rochester. Mr. Foster said that they are striving for balance—soliciting funds from out-of-town people will mean there will be bigger crowds at the event. Postponing the fireworks from 2008 to

2009 was discussed; it was agreed that the Committee's energy would be lost and the fund-raising effort might not succeed if people were asked to contribute a year in advance. Mr. Blanchette said that, as he marched in the parade the last couple of years and saw the people who lined the streets, he realized that these are the people who go to the fireworks and don't come to Town Meeting to vote the funds; he doesn't think raising the money a year in advance will work. Mr. Henry pointed out that every town in the area has some sort of special event supported by their towns; he thinks we should request the funds from Town Meeting.

Dr. Kemp suggested placing a line item in the budget at the Annual Town Meeting to subsidize any shortfall. Mr. Foster said that a \$10,000 line item would allow the Town to gauge the feelings of the Town regarding subsidizing the fireworks; they could have a cancellation clause in the contracts if the money was not forthcoming. Mr. Henry said that he supports Dr. Kemp's suggestion that they transfer the money from the FY09 reserve fund to be used in the same fiscal year (July 2008).

Mr. Henry moved Dr. Kemp's suggestion; the motion was seconded and carried unanimously.

Mr. Blanchette said that he would like to read a letter he received from Joan Wing, EMT, in defense of the Emergency Medical Services refuting recent articles in the *Tri-Town Observer*.

"This letter is in response to recent discussions at Selectmen's meetings regarding the 'Marion Emergency Medical Service' and the 'Marion EMT Association'. I feel that our integrity and credibility have been unfairly questioned. In fact, our outstanding group should be commended for their exceptional work.

"The negative comments regarding the 'Marion EMT Association' were uncalled for and false. The statement that the Town provides the equipment for the ambulance is incorrect. The association provides the majority of the ambulance equipment, except for the ambulances, at no cost to taxpayers. The association's investments have earned over \$120,000, while maintaining the original generous bequest in 1989 of \$38,610. Subsequent donations (from 1989 to present) have been placed in the association's checking account and have never been invested. These modest donations together with investment proceeds have been used over the years to purchase many pieces of needed equipment. Purchases made by the 'Marion EMT Association' include the following:

"Two-way portable radios, pagers, stretchers, semi-automatic defibrillators (AFDs), paramedic monitor/defibrillators (costing from \$7,600 to \$14,000 each), a child's car seat, backboards, evac-u-splints, suction units, pulse-oximeters, pedi-boards, and stair chairs. The association also spent over \$12,000 to purchase furniture and fixtures for the EMS office. Over \$50,000 has been donated to ambulance drives over the years with \$24,000 donated to the current drive.

"Instead of criticism, the association should be commended.

"There is a line item in the Town's EMS budget for supplies not equipment. The supplies include such things as immobilization collars, oxygen, defibrillator pads (for all of the paramedic, EMT, police, Town hall and Harbormaster defibrillators) and batteries for pagers, radios, defibrillators and other battery operated items. Also included in this line item would be monitor/defibrillator and glucometer supplies.

"The 'Marion Emergency Medical Service' has provided outstanding care to our residents for over 30 years. The impact of negativity has been devastating to my colleagues and to me personally and it is time to turn that around.

"Sincerely,

"Joan C. Wing

"Treasurer, Marion EMT Association"

Mr. Blanchette noted that the Board had recently voted unanimously to have Mr. Dawson and himself meet with representatives of the Emergency Medical Services and Fire Department to discuss several issues and come back and report to the Board as to their findings. Mr. Blanchette noted that, unfortunately, one of the Selectmen, Mr. Henry, had a private interview with one of the newspapers, which resulted in one person from the Board disseminating a view before we had an opportunity to hold the meetings. Mr. Blanchette said that, because of that, he received the letter from Mrs. Wing, which he wanted to be part of the record. Mr. Henry said that he felt compelled to comment on Mr. Blanchette's comment. Mr. Blanchette said that he would like to have an open forum among the Board members, after we have held an investigation; it is not appropriate to have a discussion until all the information is received. Mr. Henry said that he has never refused an interview on any topic that wasn't in executive session. Mr. Blanchette asked Mr. Henry why he had then voted the process which had been agreed to? Mr. Henry objected that his vote does not, in any way, limit his ability to speak to the press. Mr. Blanchette objected to Mr. Henry's interview interfering with the meetings and discussions which had been planned and agreed to.

Joseph Monger, owner of the Sippican Café, requested the Board pro-rate the fee for an alcohol license which would only be in force for the remainder of 2007. Mr. Henry suggested Mr. Monger begin serving alcohol on his new license January 1, 2008; Messrs. Blanchette and Jeffrey concurred.

Mr. Jeffrey moved to adjourn at 9:32 p.m.; the motion was seconded and carried unanimously.

Regional Sanitarian


Jonathan F. Henry, Clerk

Date approved: 1/8/08