

BOARD OF SELECTMEN MEETING

Tuesday, November 17, 2015

A meeting of the Rockport Board of Selectmen was held at 6:30pm on Tuesday, November 17, 2015 in Conference Room A in Town Hall; present were five selectpersons, the Town Administrator and the Asst. Town Administrator.

6:30 Meeting Called to Order

Executive Session – Approval and Release of Minutes: Selectperson Wilkinson moved that the Board of Selectmen enter into Executive Session for the Approval and Release of all or portions of Executive Session Minutes from 1985 through 2009 subject to all applicable redactions, and reconvene in open session, Selectperson Murphy seconded, Roll Call Vote: Chairperson Battistelli – aye, Selectperson Lucas – aye, Selectperson Murphy – aye, Selectperson Sheedy – aye, Selectperson Wilkinson – aye, all in favor.

Enter Executive Session – approval and release of minutes.
Motion Approved
Roll Call Vote

7:00 Pledge of Allegiance and Moment of Silence

7:05 National Grid Hearing – Selectperson Murphy moved that the Board open a Public Hearing on the petition of National Grid covering the installation of 42’ of secondary conduit to lot #4A Andrews Hollow Road, Selectperson Sheedy seconded, Vote: 5-0.

Open National Grid Hearing
Motion Approved

Peter Glenn from National Grid, 44 River St., was present. He said they are planning on installing one 3” conduit under the road for Lot 4A.

Close Hearing: Selectperson Sheedy moved that the Board of Selectmen close the Public Hearing, Selectperson Murphy seconded, Vote: 5-0.

Close National Grid Hearing
Motion Approved

Selectperson Wilkinson moved that the Board of Selectmen approve National Grid’s petition to install 42’ of conduit from pad 1, crossing the road to private property at 4A Andrews Hollow Road as shown on the National Grid Plan number 19906599, dated October 22, 2015, Selectperson Murphy seconded, Vote: 5-0.

Approve National Grid’s petition on Plan #19906599
Motion Approved

Approval of Minutes of November 3, 2015: Selectperson Lucas moved that the Board of Selectmen approve the minutes of November 3, 2015, Selectperson Murphy seconded, Vote: 4-0; Selectperson Wilkinson abstained as she was not present on 11/3/15.

Approval of 11/3/15 Minutes
Motion Approved

Selectmen Updates and Liaison Reports:

Selectmen Updates and Liaison Reports

- Selectperson Wilkinson spoke about the change of time on the day Santa comes to town, 1pm, not 3:45. Then the Firehouse Trust will have photos taken, then the traditional tree lighting at 4pm. This will coincide with the blood drive and a crafts event at the Community House.
- The Asst. Town Administrator and Chairperson Battistelli attended the carbon monoxide poisoning presentation by Phil Tanson, Capt. of the Pigeon Cove Fire Station, this is Carbon Monoxide Awareness Month. The presentation was well attended. Carbon Monoxide Detectors are available; if residents need assistance they can contact the fire chief.

Public Comment Period: T. Arsenian, 95 Granite St., said he doesn’t believe that Debra Dellacona, Board of Appeals candidate, is qualified based on what was said at the Board of Selectmen meeting. He said needed questions were not asked. He said he visited the Town Administrator to inquire if the position was advertised; he questioned how people

Public Comment Period

would know about available town positions. Selectperson Wilkinson said it has been her experience that the most successful way to recruit members for town committee is by referral of another member recommending someone. Selectperson Sheedy said many members over the years do not have prior experience; but they become an alternate member and learn before they are a voting member. Chairperson Battisteli said another resident was sought out for this position and they had some conversations, that candidate was not in a position to join the board now. T. Mikus, Marmion Way, ROW Committee, stated that this Saturday there is a trail clean-up, volunteers should gather at 9am on Reed's Lane.

Town Administrator's Report:

- 11/12/15 was Elder Abuse Day; the event was well attended,
- the new website is a work in progress,
- information on standardized beach signs was presented to the Board of Selectmen seeking their input, this was an original request from the Old Garden Beach Association. The Board was in favor of the signs but wanted them to be standardized for all beaches.
- The Town Administrator said there has been some confusion and misunderstanding about recent articles in the newspaper regarding a violation of the Open Meeting Law; she wanted to be sure residents know there were no secret meetings. This inspired her to explain all three legal actions: 1) Open Meeting Law complaint; 2) lawsuit regarding clauses in the Long Beach leases, 3) abatement request from the Appellate Tax Board. She said she wanted to make it clear what the town did or didn't do.

1) Open Meeting Violation: Steven Sheehan's request, for records from 1985 to 2015, goes back to before most members were even in office. The more current records were packaged together with the older minutes. The older Executive Session minutes were labor intensive, the Open Session minutes (over 250 pages) were given to S. Sheehan at no charge. He was told, in March, that there might be a charge for the redacting and reviewing of these records, as we were advised by counsel. S. Sheehan filed an open meeting law complaint in April. The Attorney General concluded that the town should not assess in early 2013. Town Counsel drafted the clauses in the lease to protect the tenants and the public's access to the beach. The primary challenge is the provision that allows crossing over lots. The tenant claims this violates his quiet enjoyment of the property he is leasing. Damages of 3 month's rent could be awarded. These are land leases not residential leases. The Class hasn't been certified. The hearing has been rescheduled for 1/5/16.

3) Appellate Tax Board: 75 tenants filed through their prior attorney petitions challenging their tax assessments. A status conference was held this morning. This appears to be a subset of Long Beach tenants.

Action List

- Release all or Portions of Executive Session Minutes from 1985-2009: Selectperson Murphy moved that the Board of Selectmen release the following Executive Session minutes:

- 1985:** 7/25, 9/19, & 10/17/85,
- 1986:** 3/17, 3/20, 3/27, 4/10/86,
- 1987:** 1/15, 1/21, 3/26, 4/2, 4/9, 9/3, 12/17/87,
- 1988:** 1/14, 1/21, 3/3, 3/10, 3/17, 3/24, 4/7, 4/28, 5/19, 5/26, 6/9, 8/4, 8/18/88,
- 1989:** 1/19, 3/9, 4/6, 4/13, 5/4, 5/25, 6/29, 7/13, 7/27, 8/24, 9/7, 9/21/, 9/28, 10/19, 10/26, 11/2, 11/21, 11/30, 12/14, 12/21/89,
- 1990:** 1/04, 1/11, 1/18, 3/15, 4/26, 6/28, 7/12, 7/26, 8/28, 9/4, 9/11, 10/30, 11/1, 11/6, 11/13/90,

Action List:

Release all or
Portions of Exec.
Session Minutes
Motion Approved

1991: 1/15, 2/19, 3/19, 4/9, 4/23, 4/30, 5/7, 7/9, 8/6, 11/12, 11/21, 12/12/91,
1992: 1/7, 2/25, 3/3, 3/9, 3/24, 4/14, 6/2, 7/28, 8/4/92,
1993: 1/29, 3/9, 3/23, 3/24, 4/13, 4/20, 4/27, 7/20, 8/10, 8/18, 9/28, 10/12, 10/26/93,
1994: 1/18, 2/1, 2/8, 2/15, 2/22, 3/1, 3/8, 3/29, 4/12, 6/21, 9/14, 9/20, 10/4, 10/11, 10/18, 10/25/94,
1995: 3/28, 9/5, 10/17, 11/14, 12/12/95,
1996: 3/26, 4/9, 4/16, 4/30, 5/14, 5/21, 5/28, 7/23, 8/6, 10/1, 10/15, 10/29, 11/12, 11/26, 12/10, 12/17/96,
1997: 1/7, 2/4, 2/18, 4/15, 4/29, 5/13, 6/10, 7/22, 8/19, 9/16, 9/30/97,
1998: 3/10, 3/24, 4/7, 4/16, 5/19, 6/2, 6/30, 8/11, 9/8, 9/22, 12/8/98,
1999: 1/19, 2/2, 2/9, 2/16, 3/2, 3/16, 5/11, 6/1, 6/8, 6/22, 6/29, 7/13, 7/27, 8/17, 8/24, 9/7, 9/23, 9/28, 10/5, 10/12, 10/19, 10/26, 11/2, 11/9, 11/19, 11/30, 12/7, 12/14, 12/16, 12/21/99,
2000: 1/04, 1/11, 1/18, 2/8, 2/15, 2/22, 3/7, 3/14, 4/4, 4/11, 4/25, 5/2, 5/9, 5/16, 5/23, 5/30, 6/13, 6/27, 7/11, 7/26, 8/1, 8/8, 8/15, 8/22, 9/5, 10/3, 10/24, 11/7, 11/28, 12/12, 12/19/00,
2001: 1/02, 1/16, 1/23, 1/30, 2/13, 2/20, 2/27, 3/7, 3/13, 4/10, 4/24, 5/1, 5/3, 5/8, 5/10, 6/5, 6/12, 6/26, 7/10, 7/11, 7/24, 8/7, 8/21, 8/28, 9/18, 9/25, 10/2, 10/10, 10/16, 10/18, 10/23, 10/30, 11/20, 12/11, 12/18/01,
2002: 1/8, 1/15, 1/22, 1/29, 2/12, 2/26, 3/12, 3/26, 4/9,4/23, 5/7, 5/21, 6/4, 6/18, 7/2, 7/16, 7/23, 7/30, 8/13, 8/27, 9/3, 9/9, 9/24, 10/8, 10/22, 11/5, 11/19, 12/13, 12/17/02,
2003: 1/7, 1/21, 2/4, 2/18, 3/10, 3/18, 4/1, 4/15, 4/29, 5/13, 5/27, 6/10, 6/24, 7/8, 7/22, 8/5, 8/19, 8/28, 9/2, 9/16, 9/30, 10/14, 10/28, 11/12, 11/25, 12/2, 12/9, 12/16/03,
2004: 1/6, 1/20, 2/3, 2/17, 3/2, 3/16, 3/23, 3/30, 4/13, 4/27, 5/11, 5/25, 6/8, 6/22, 6/30, 7/6, 7/20, 8/3, 8/17, 8/24, 8/25, 8/31, 9/7, 9/14, 9/28, 10/5, 10/12,10/26, 11/9, 11/16, 11/30, 12/7, 12/21/04,
2005: 1/04, 1/13, 1/18, 2/1, 2/15, 3/1, 3/8, 3/15, 3/29, 4/12, 4/26, 5/10, 5/24, 6/7, 6/21, 7/5, 7/19, 8/2, 8/16, 8/30, 9/12, 9/13, 9/27, 10/11, 10/25, 11/8, 11/29, 12/6, 12/20/05,
2006: 1/3, 1/17, 1/31, 2/14, 3/14, 3/28, 4/1, 4/11, 4/25, 5/9, 5/23, 6/6, 6/20, 7/11, 7/25, 8/8, 8/22, 9/1, 9/19, 10/3, 10/10, 10/17, 11/1, 11/14, 11/28, 12/5, 12/19/06,
2007: 1/02, 1/30, 2/6, 2/13, 2/27, 3/13, 3/27, 4/10, 4/24, 5/8, 5/15, 5/22, 6/5, 6/19, 6/26, 7/10, 7/24, 7/31, 8/7, 8/21, 9/4, 9/18, 9/25, 10/2, 10/16, 11/6, 11/20, 12/4, 12/18/07,
2008: 1/8, 2/5, 2/19, 3/04, 3/18, 4/1, 4/15, 4/29, 5/13, 5/27, 6/24, 7/8, 7/22, 8/5, 8/19, 9/2, 9/16, 10/7, 10/21, 11/14, 11/18, 12/2, 12/16/08,
2009: 1/6, 1/27, 2/10, 2/24, 3/10, 3/24, 4/7, 4/28, 5/19, 6/16, 6/30, 7/28, 9/8, 9/14, 9/22, 11/10/09.

Selectperson Wilkinson seconded, Vote: 5-0.

- Appointment of Roger Levine to the Finance Committee: Selectperson Sheedy moved that the Board of Selectmen appoint Roger Levine to the Finance Committee for a two and one half year term to expire on May 1, 2018, Selectperson Lucas seconded, Vote: 4-0. Selectperson Wilkinson abstained as she was not present for the initial interview.
- Appointment of Debra Dellacona to the Zoning Board of Appeals as an Alternate Member: Selectperson Sheedy moved that the Board of Selectmen appoint Debra Dellacona to the Zoning Board of Appeals as an Alternate Member for a one half year term to expire on June 30, 2016, Selectperson Murphy seconded, Vote: 3-0. Selectperson Wilkinson abstained as she was not present for initial interview; Chairperson Battistelli abstained as she left the meeting for the initial interview.
- Appointment of Bruce Cohen to the Board of Health: Selectperson Lucas moved that the Board of Selectmen appoint Bruce Cohen to the Board of Health for a three and one half year term to expire on June 30, 2019, Selectperson Sheedy seconded, Vote: 4-0. Selectperson Wilkinson abstained as she was not present for the initial interview.

Appointment to
Finance
Committee
Motion Approved

Appointment to
Zoning Board of
Appeals
Motion Approved

Appointment to
Board of Health
Motion Approved

- Appointment of
Town Accountant
Motion Approved

 - Appointment of Jennifer Yarid as Town Accountant: Selectperson Lucas moved that the Board of Selectmen appoint Jennifer Yarid as the Rockport Town Accountant, employee at will, effective December 1, 2015 with the standard six month probationary period and to reaffirm the deviation in vacation time as allowed under MGL Ch. 41 section 108N, Selectperson Sheedy seconded, Vote: 4-0. Selectperson Murphy not in the room for vote.

- Approval to hire
DPW Laborer
Replacement
Motion Approved

 - Approval to Hire a DPW Laborer Replacement: Selectperson Sheedy moved that the Selectmen approve the DPW Director's request and the HR Director's recommendation to allow the Department of Public Works to hire a Public Properties worker to fill the vacancy created by the retirement of Stephen Ranta, Selectperson Murphy seconded, Vote: 5-0.

- Annual
Population
Estimate for
ABCC
Motion Approved

 - Annual Population Estimate for ABCC: Selectperson Wilkinson moved that the Selectmen estimate the temporary increased resident population of Rockport as of July 10, 2016 to be 13,000, Selectperson Sheedy seconded, Vote: 4-0.

- Annual Liquor
License Renewal
7th Wave
Motion Approved

 - Annual Liquor License Renewal: Selectperson Lucas moved that the Selectmen approve the on premise all alcohol license renewal for the 7th Wave Restaurant for 2016, Selectperson Wilkinson seconded, Vote: 4-0, Selectperson Sheedy recused herself.

- Annual Liquor
License
Application
Emerson Inn
Motion Approved

 - Annual Liquor License Applications Approval: Selectperson Murphy moved that the Board of Selectmen approve the on premise all alcohol license renewal for the Emerson Inn by the Sea for 2016, Selectperson Sheedy seconded, Vote: 5-0.

- Annual Liquor
License Renewal
Rockport Music
Motion Approved

 - Annual Liquor License Renewal: Selectperson Sheedy moved that the Selectmen approve the on premise all alcohol license renewal for Rockport Music for 2016, Selectperson Murphy seconded, Vote: 5-0.

- Annual Liquor
License Renewal
Yankee Clipper
No vote taken

 - Annual Liquor License Renewal: Yankee Clipper Inn 2016 on premise all alcohol license renewal; no vote taken.

- Brackett's
Oceanview Off-
season Event
Motion Approved

 - Brackett's Oceanview Off-Season Event: Selectperson Lucas moved that the Board approve a request for Brackett's Oceanview Restaurant to hold a Pre-Concert Private function with alcohol on Tuesday, December 15, 2015, Selectperson Murphy seconded, Vote: 5-0.

- Pigeon Cove
Land Leases
Motion Approved

 - Pigeon Cove Land Leases: Selectperson Murphy moved that the Board of Selectmen approve and sign a two year Pigeon Cove Land Leases with Paul Theriault to expire on June 30, 2017 for an annual rent of \$459 and \$111.60, Selectperson Lucas seconded, Vote: 5-0.

- 104 Long Beach
Assignment of
Lease
Motion Approved

 - 104 Long Beach Assignment of Lease: Selectperson Sheedy moved that the Selectmen approve and sign an Assignment of Lease for 104 Long Beach with Mary W. Donohoe of 41 Sutherland Rd., North Attleborough, MA, Selectperson Murphy seconded, Vote: 5-0.

- 104 Long Beach
Family Transfer
Motion
Approved

 - 104 Long Beach Family Transfer: Selectperson Wilkinson moved that the Selectmen approve and sign a Lease for 104 Long Beach with Mary W. Donohoe, Trustee, and Lisa Mooney, Trustee of the Mary W. Donohoe Trust having an address of 41 Sutherland Road, North Attleborough, Massachusetts, Selectperson Murphy seconded, Vote: 5-0.

- Harbormaster
Bldg & Library
Exterior Repairs
Motion
Approved

 - Harbormaster Building & Rockport Library Exterior Repairs Agreement: Selectperson Lucas moved that the Selectmen approve and sign a Contract with Colonial Masonry Restoration, LLC of 6 Cricket Drive, Sturbridge, Massachusetts for the Harbormaster's

Building and the Rockport Public Library Repairs project for the sum of \$57,328.00, Selectperson Murphy seconded, Vote: 5-0.

- Sewer System Rehabilitation Agreement: Selectperson Murphy moved that the Selectmen approve and sign a Contractor Agreement with Insituform Technologies LLC of 253F Worcester Road, Charlton, Massachusetts for the 2015 Sewer System Rehabilitation Project Subarea 6 for the sum of \$561,500.00, Selectperson Murphy seconded, Vote: 5-0.
- Donation of Excess Blasted Ledge: Selectperson Murphy moved that the Selectmen accept the donation of excess blasted ledge from excavation at 2 Prides Lane from Carl Gardner, Jr., Selectperson Wilkinson seconded, Vote: 4-0, Selectperson Sheedy recused herself.
- Declaration of Town Property as Surplus: Selectperson Wilkinson moved that the Selectmen declare the 2004 CAT 420D-IT Backhoe and the 2001 CAT IT28G Loader as surplus Town property, Selectperson Murphy seconded, Vote: 5-0.

Sewer System
Rehab Agreement
Motion Approved

Donation of
Excess Blasted
Ledge
Motion Approved

Declaration of
Town Property as
Surplus
Motion Approved

8:10 Discussion Item

Holiday Gathering for volunteers, staff members and the public: the first choice is Tuesday 12/22 from 3pm to 5pm at the Community House; a possible backup date is Monday the 12/21.

8:45 Selectperson Murphy moved to adjourn, seconded by Selectperson Lucas, Vote: 5-0.

Warrant Signed:

Warrant signed for the Fiscal Year 2015 Payroll and Expenses for the week of November 19, 2015 in the amounts of \$105,546.64 and \$277,553.90 respectively.

Items Signed:

Insituform Technologies, LLC, 2015 subarea 6, Sewer System Rehab
Exterior repairs to Harbormaster's Bldg, and Rockport Library, Colonial Masonry Restoration
104 Long Beach Lease
Lease Assignment 104 Long Beach
Paul Theriault, 2 year lease
Atlantic Pizza, Renewal Cert. 2016
7th Wave, ABCC
Common Victualler License, 7th Wave
The Grand Café at the Emerson Inn, ABCC
Common Victualler, Grand Café at The Emerson Inn
Rockport Music, ABCC
Common Victualler License, Rockport Music
Yankee Clipper, ABCC
Common Victualler License, Yankee Clipper
Alcoholic Beverage Control Commission
Andrews Hollow Road
Jeff Tutein, 2 year lease