

Voted and approved February 2, 2010

BOARD OF SELECTMEN'S MEETING  
Tuesday, January 19, 2010  
7:00 PM at Edwards Public Library

**Present:** David McDougall, Chairman  
Douglas Blanchard, Vice Chairman  
Michael Phelan  
Jess Dods  
Ann Roy

Also Present: Diana Schindler, Town Administrator

**PLEDGE OF ALLEGIANCE**

Call to Order

**SCHEDULED APPOINTMENTS**

**7:15 p.m. EXECUTIVE SESSION M.G.L. CHAPTER 39, S23B #3 POLICE UNION CONTRACT**  
Has been cancelled

**I. TOWN ADMINISTRATOR'S REPORT**

Community Development Block Grant (to be signed)

The Select Board reviewed the Community Development Block Grant. Ms. Schindler explained PVPC moved the target area since the last hearing from January 12, 2010

**MOTION:** to sign the new updated community development strategy (PHELAN, ROY)  
Voted and approved 5-0

**MOTION:** To authorize to submit the proposed FY2010 Southampton/Western Pioneer Valley Community Development Fund II grant application to the Massachusetts Department of Housing and Community Development in an amount not to exceed \$800,000 as detailed in the public hearing and to include the implementation of a housing rehabilitation program and a housing planning study. (PHELAN, ROY)  
Voted and approved 5-0

**MOTION:** Authorization for the Chair of the Select Board to sign all required forms, documents and authorizations pertaining to the proposed FY2010 Southampton/Western Pioneer Valley Region Community Development Fund II grant application.(PHELAN, ROY)  
Voted and approved 5-0

The Board signed the grant.

**II. BOARD OF SELECTMEN UPDATES**

Upcoming Events/Meetings

- Select Board Meeting January 26, 2010, February 9<sup>th</sup>, 16<sup>th</sup> and 23<sup>rd</sup>
- March 11<sup>th</sup> 5:00 p.m. Last Day to file nomination papers
- March 24<sup>th</sup> 7:00 p.m. Town Caucus
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**III. OLD BUSINESS**

Searle Property Conservation Restriction

Selectman Blanchard recently asked to hunt on the Searle property and he was declined by the Searles. Hunting and Fishing were allowed only upon request.

Selectman Blanchard stated he visited the Community Preservation Committee meeting as well as the Conservation Commission's meeting regarding hunting on the Searle property. Chairman McDougall recommended any requests to hunt should go thru the Conservation Commission so they can tally their needs.

**IV. NEW BUSINESS**

Timber Cutting Permit & Bylaw

Present: Charlie McDonald, Chairman of Conservation Commission

Chairman McDougall stated there are concerns regarding the timber cutting that the Conservation Commission are dealing with. Conservation Commission had a call from an abutter, who is adjacent to the property. The property in question is 100 County Road. Mr. McDonald informed the Board, he took pictures and he spoke with Department Conservation Recreation dcr and they came out the next day. Sean Libby completed an investigation and said what they were doing was legal. Mr. McDonald contacted the DEP and they back to him and asked what the town wants to do about this, because they can work with us; they may have some remediation effort that can be developed between the town and DEP. Mr. McDonald also spoke with David Garstka, Tree Warden.

Mr. McDonald received a copy of the town's bylaw and stated it has not been observed. Mr. McDonald further stated it was suppose to go the highway dept. From lack of communication, he found from a discussion of one of the Con Com meeting, once he receives the forestry plan he is to distribute it to highway department and the Select Board and it was not done in this case, and in fact it hasn't been done with the last three or four.

Selectman Blanchard asked can they make the people post a bond. Ms. Schindler replied no.

Robert Floyd (in audience) informed the Select Board of what the Con Com has done in the past. He stated the Con Com hired a independent consultant to look at the logging plan. Mr. Floyd stated these two individuals come to the Select Board three years ago and tried to get the Con Com to weigh in on the stream and call it a non perennial stream. Mr. Floyd stated the Con Com has twenty one days and the forestry would mail it on the twentieth day, they were able to go back and review. Mr. Floyd stated unless the Con Com weighs in independently and looks at the plan they are clear after tree weeks.

Chairman McDougall asked if they could automatically monitor the timber plans.

Selectman Blanchard stated the Board used to do it.

Ms. Schindler stated the service forester has ten days from the time they get it to approve or disapprove if they do not it is automatically approved. The applicant is supposed to send a copy to the Con Com. Ms. Schindler spoke with Pat Cantor, Kopelman & Paige, who stated in the 1990 the definition of agriculture changed to include forestry, so the town's bylaws that states the town regulates agriculture is no longer enforceable, and they created MGL132 that says DCR regulates forest cutting plans. Ms. Schindler stated Pat Cantor suggests the town writes up conditions, and ask the service forester to incorporate

those conditions into every plan and then they can look at the plans. She stated the town cannot regulate the plans. Ms. Schindler never spoke with Sean Libby but stated Tom Ryan was workable, he has worked with the Con Com. Ms. Schindler stated our bylaw is referencing timber cutting, it is about the road and not the timber cutting itself. She also referenced 40A under Zoning says cannot require a special permit. Our bylaw was passed in 1982.

Mr. McDonald stated they cut down trees that were on the Town's property. He asked the Board what the town would do about the entrance. Mr. McDonald stated they brought in soil. Mr. McDonald stated the DEP indicated they may give them support on an enforcement order, and some abutters claimed they were not informed; no information was giving to the highway department.

Selectman Phelan stated as far as he sees it the town's bylaw is still in place, they should issue a cease and desist.

Mr. McDonald stated he will talk to DEP, they may want remediation, and he will get back to the board.

Ms. Schindler would like Charlie to talk to Sean Libby about getting those incorporated in the plans. Ms. Schindler stated she spoke with Ed Cauley regarding new bylaws for Right of Entry etc.

Mr. McDonald would like to see the town looking into the wetland bylaw. Chairman McDougall would like to document this case, for future reference.

#### 105 Whiteloaf Road

Ms. Schindler updated the Board regarding the resident of 105 Whiteloaf Road. Mr. McDonald stated he believes she purchased the house in 2007 and the concern of the Con Com is the amount of water from that mountain. He further stated the wetlands itself is modest. Mr. McDonald stated they have had very extensive planning board meetings, and storm water management was addressed, and a lot of abutters were present. Mr. McDonald stated this house had water in it and she may be the third owner of the house. He further stated Mr. Oleksak had been there and they seem to have high water table. Ms. Schindler stated she is looking for information and she feels something was done inappropriate. Ms. Schindler stated the resident told her that she has cracks in the walls and the floors and she continuously has water seepage. Mr. McDonald stated there are detention ponds that surround her house; they are behind her house and on one side.

Ms. Schindler stated she has a public records request and she has ten days to get the records.

The Board asked Ms. Schindler to contact Kopelman & Paige.

#### Master Planning Committee

**MOTION:** To nominate Jess Dods to the Master Planning Committee (PHELAN, BLANCHARD)

Voted and approved 4-0  
Selectman Dods abstained

Garden Community

Selectman Dods stated earlier this year there was a request from a resident for the Town to begin a Garden Community he asked the Board would like to reconsider that request.

Fire Department Survey

Selectmen Phelan and Dods went to the fire station on Thursday at 7:00 and there were only three staff members present. They were told that most of the people do not show up until 7:30 and some may not show up, so they decided to mail out the surveys.

Goals & Objectives

Public Participation

Selectman Dods stated he has spoken with Catherine Baum reporter from the Gazette and she spoke with her editor and they are willing to write an article about Town Meeting, she will write it just before our town meeting.

**V. OTHER CORRESPONDENCE AND SIGNATURES**

Nothing at this time

**VI. MINUTES OF MEETINGS, APPROVAL & SIGNATURES**

**MOTION:** To approve the minutes of November 24, 2009 with the correction of the time that Selectman Phelan arrived 7:30 p.m. (BLANCAHRD, ROY)

Voted and approved 5-0

**MOTION:** To approve the minutes of December 1, 2009 as written. (BLANCHARD, ROY)

Voted and approved 5-0

**MOTION:** To approve the minutes of December 15, 2009 as written. (BLANCHARD, ROY)

Voted and approved 5-0

**MOTION:** To approve the minutes of December 22, 2009 (BLANCHARD, ROY)

Voted and approved 5-0

**VII. OPEN TIME FOR PUBLIC**

Having no further business, the meeting was adjourned at 9:30 P.M.

Respectfully submitted

Regina Shea-Sullivan

This meeting was not video recorded.