

DENNIS WATER DISTRICT

Board of Water Commissioners

Minutes of Meeting held

December 18, 2008

A meeting, having been duly posted, was held this date at the main offices at 80 Old Bass River Rd., S Dennis. The meeting was called to order by Edward A. Crowell, Chairman at 1:04 PM. Water Commissioner Paul F. Prue and Charles F. Crowell were present along with the following District officials:

David Larkowski, Superintendent

Sheryl A. McMahon, Clerk & Treasurer

Chairman Crowell welcomed Attorney Leslie-Ann Morse of Yarmouthport to the meeting. Attorney Morse had represented the heirs of Albert Crowell in the filing of their petition in Land Court on the sandpit on Old Chatham Road. She had met with the Board on several occasions in order to negotiate the acquisition of the land by the District on behalf of her clients. The land was eventually taken by the District by eminent domain with the consent of the owners. The Land Court petition had not yet been decided at the time of the taking. However, the Crowell family did file a motion to dismiss the case at the request of Attorney Creney. Mr. Prue said that he felt Attorney Morse was very familiar with the many of the title issues of the case that is now pending in the matter of O'Haire vs. Dennis Water District. Mr. O'Haire is suing the District over an acre of land he claims was taken when the District took the land claimed by the heirs of Albert Crowell. Attorney Creney had proceeded with the case and had scheduled a hearing before a Master. Unfortunately, Attorney Creney passed away just before the hearing was to take place. The court has granted a stay in the proceedings until the District arranges for new counsel. The Board discussed some of the issues involving the case with Attorney Morse. On a motion made by Paul F. Prue, and duly seconded, the Board ***UNANIMOUSLY VOTED: to appoint Attorney Leslie-Ann Morse of Yarmouthport as special counsel in the matters of O'Haire vs. Dennis Water District and Lammers vs. Dennis Water District.***

Attorney Morse then left the meeting at approximately 1:40 PM. The Chairman then declared a recess until the arrival of Attorney Veara.

At approximately 1:54 P M, Attorney James Veara of Zisson & Veara, Dennis, was greeted and introduced to the Water Commissioners. The Board members advised Attorney Veara that they were conducting interviews for the appointment of general counsel for the District. Chairman Crowell stated that the need for such services fluctuates greatly and that, with the exception of two outstanding land damage cases, there were only routine types of legal matters or research that may be requested by management. Ms. McMahon advised Attorney Veara that the Board has appointed Attorney Morse as special counsel for the two outstanding land damage suits. The Board members asked a number of questions of Attorney Veara including his past and current experience representing municipal entities. He stated that he currently serves as general counsel for the Towns of Brewster and Truro. Ms. McMahon and Mr. Larkowski asked about his experience with personnel matters and in particular workers' compensation and unemployment claims, as well as possible issues related to regulations imposed on public water supply by federal and state agencies. Chairman Crowell asked what the per-hour rate would be for the District. Attorney Veara quoted a rate of \$180. The Board members thanked Attorney Veara for meeting with them and advised that they intended to conduct one or more additional interviews before rendering a decision.

Attorney Veara left the meeting at approximately 2:46 PM.

At approximately 2:52 PM, the Board members welcomed Attorney Thomas Perrino of Rubin, Rudman, Chamberlain & Marsh, Yarmouthport. Chairman Crowell stated that the need for such services fluctuates greatly and that, with the exception of two outstanding land damage cases which have already been assigned to special counsel, there were only routine types of legal matters or research that may be requested by management. The Water Commissioners interviewed Attorney Perrino regarding his experience with representing a municipality. He stated he has experience mostly on the other side of the fence, meaning he has represented a number of clients on issues before the Town. He also stated that the firm of Rubin & Rudman, LLP is a large firm in Boston and that the full compliment of their talents and expertise would be available to the Board should the need arise. Attorney Perrino was asked similar questions as were asked of Attorney Veara. Attorney Perrino quoted a billable per-hour rate of \$150. It was noted that the District is seeking special legislation to become a wastewater district. Attorney Perrino was asked about any potential conflict as he is a current member of the Town of Dennis Board of Health. He stated that, in terms of the regular business of the Board of Health, he saw no conflicts. He did acknowledge that as the wastewater planning efforts progress, he would be sensitive to the potential for any conflict and assured the Water Commissioners that he would recuse himself as appropriate. The Board members thanked Attorney Perrino for meeting with them.

The Board members discussed the qualifications and experience of each attorney interviewed. There was general consensus that there did not appear to be a need to seek any other candidates because either gentleman was sufficiently qualified to represent the District. During their discussion, the Board members expressed an appreciation for Attorney Perrino's participation in Town government and in civic affairs. On a motion made by Paul F. Prue, and duly seconded, the Board ***UNANIMOUSLY VOTED: to appoint Attorney Thomas J. Perinno of Rubin, Rudman, Chamberlain & Marsh as general counsel for the Dennis Water District for an indefinite term.***

Ms. McMahon advised the Board members that, as discussed during a previous meeting, special legislation to hold a combined District and Town election will not be passed in sufficient time for this year's annual election. There are certain deadlines set by law which are predicated on the election date. Therefore, in order to meet those deadlines, she recommended that the Board call for a Special District Meeting to change the date currently set by the District's bylaw. She noted that obtaining a quorum for the Annual Meeting on a warm spring evening in April was sometimes difficult and that it may be particularly difficult in January. She recommended that the Board consider setting a Special Meeting date in January 2009. She suggested that the meeting pre-empt the regular Selectmen's meeting at 6:00 PM on a Tuesday evening because they are generally well attended by Dennis citizens and it may make it easier to obtain the required 25-voter quorum. On a motion made by Paul F. Prue, and duly seconded, the Board ***UNANIMOUSLY VOTED: to call for a one-article Special District Meeting at 6:00 PM on January 27, 2008 in the Dennis Town Hall Selectmen's Hearing Room then and there to amend Article II, Section One of the District's bylaws by changing the date of the Annual Election from the second Tuesday in May to the fourth Wednesday in April and further that the bylaw provide for the continuation of that day as the Annual District Election unless and until special legislation is enacted that would allow the District to combine its Annual Election with that the Town's.***

On a motion made by Paul F. Prue, and duly seconded, the Board ***UNANIMOUSLY VOTED: to adjourn the meeting at 3:44 PM.***

Respectfully Submitted,

Sheryl A. McMahon, Clerk