

DENNIS WATER DISTRICT

Board of Water Commissioners

Minutes of Meeting held

December 27, 2012

There is no digital recording of this meeting available.

A meeting, having been duly posted, was held this date at the Dennis Police Station, Planning Board Hearing Room, Town Hall, 485 Main Street, South Dennis. The meeting was called to order by Paul F. Prue, Chairman at 6:00 PM. Charles F. Crowell was present. Peter L. McDowell was absent. Also present were the following District officials:

Sheryl A McMahon, Clerk & Treasurer

David Larkowski, Superintendent

Public Information & Comment - None

Consideration for granting to Mid-Cape Ice Arena, Inc (Tony Kent) an Annual Water Allowance

Mr. McDowell stated that he had been approach a couple of weeks ago by representatives of the Tony Kent Arena inquiring about any consideration the Water Commissioners could grant regarding the water bill for the skating rink. Mr. McDowell stated that Town did not want to actually build and own the arena but through Town Meeting action supported the rink by donating the parcel of land to a non-profit. The rink was built to provide recreational activities for the kids. Mr. McDowell felt it was appropriate that, considering the "allowances" that were given to the Town as well as some other civic organizations, the District should grant the same discounted price to the Tony Kent area. Chairman Prue read the letter from the Board of Directors.

John Terrio, a member of the Board of Directors, was recognized by the Chairman and spoke in support of the Director's request. He stated that the rink has experienced financial difficulties over the years recent Board's have done an outstanding job of brining things around. Considering that the building is now 25 years old, it is time to re-invest into the rink's capital needs. They will need to replace the Zamboni with new at a cost of \$100,000. Any consideration made on the water bill would be re-invested back into the rink in building and equipment needs.

Mr. McDowell Peter L. McDowell moved to grant an annual allowance of 450,000 gallons to the Tony Kent Arena effective on the next water bill to be issued in February 2013. The motion was not seconded. Mr. Crowell stated that this was the first time that this request has been discussed and he wished to have more time to review. On a motion made by Charles F. Crowell, and duly seconded, the Board ***VOTED 2-0-1 (PLM abstaining): to take the request from the Board of Directors of the Tony Kent Arena under advisement.***

Tony Kent, President of the Board of Directors, spoke in support of the request saying that the money saved would go a long way to help the rink be able to make the upgrades and improvements

necessary to keep customers coming to the enjoy their skating activities. He said that there were many more needs such as painting, etc.

Mr. McDowell stated the Arena was a unique situation, that it is Board of Directors is made up entirely of volunteers. He said that voting this allowance was in keeping with the millions of gallons that the Water Commissioners have granted to the municipal accounts, especially departments like Recreation which includes very large allowances to the baseball fields, and this is not a big deal to grant a simple discount which would represent about a third of the annual bill to the Arena.

Donna McGrath, Treasurer of the Arena, spoke about the financial aspects of the operations. She said that for many years, the rink sponsored fund-raising events which featured such famous skaters as Nancy Kerrigan and Paul Wylie. Those events could raise as much as \$35,000 towards maintaining the rink. When asked, Ms. McGrath reported that the users of the rink is split just about 50/50 between Dennis and Yarmouth residents.

Consider and vote request from Dennis Conservation Trust to participate in a public-private joint acquisition project of approximately 11+ acres of land off Setucket Road, Dennis. Said land lies within Zones of Contribution for public wells. The Trust is asking that the Board consider holding a Special District Meeting by the end of January 2013 to obtain the required District vote.

Chairman Prue requested that the following statement read aloud by him be entered into the permanent record of the meeting:

Ladies & Gentlemen - on the agenda this evening is a request from the Compact of Cape Cod Conservation Trusts for the District to participate in the acquisition of approximately 11 acres of land. Spear heading this acquisition is the Dennis Conservation Trust of which I serve as a Trustee. Previously, I have recused myself whenever the Trust has had a matter come before this Board because I did not want there to be the perception of a conflict of interest. Recently, I was advised by Attorney David Wilson of the State Ethics Commission that I may participate and vote on this matter provided I publicly disclose my relationship with the Dennis Conservation Trust.

I have been an elected Water Commissioner of this District for more than 35 years. In that time I have participated in the District's acquisition of more than 260 acres for water supply and watershed protection and more than 60 acres held in watershed conservation restriction. During all of the deliberations and negotiations for those acquisitions, I have always represented the District voters in a manner which balanced the cost of these acquisitions with the benefits of preserving and protecting the availability and quality of our public water supplies. The benefits sometimes being immediate and others for the future.

As I stated, I am currently a member of the Board of Trustees for the Dennis Conservation Trust and have served in that capacity for more than 10 years. The Dennis Conservation Trust is a private, non-profit 501(3)(c) organization that seeks

to preserve open space within the Town of Dennis. Created in 1988, the Trust has acquired ownership of nearly 370 acres of diverse land types, including uplands, wetlands and beachfront. The Trust also holds perpetual conservation restrictions on another 150 acres. A good portion of this land is within the Zone II of contribution for our public water supply.

I make this disclosure pursuant to General Law Chapter 268A, Section 23(b)(3) in order to dispel any appearance of potential conflict of interest occasioned by my relationship with the Dennis Conservation Trust, that I may be improperly or unduly influenced in the performance of my official duties, or that I would be likely to act or fail to act as a result of my position, or the undue influence of any party or person with regard to my serving as Trustee.

Mr. McDowell referred to the appraisals and believes that they are predicated on the false assumption that the Planning Board would approve the proposed plan as an open space subdivision. He stated that there are no guarantees of that and the appraisals cannot be based on plans that are not approved. He further stated that the original plan called for a 10-lot subdivision and now the plan has been reduced to a 9-lot subdivision. He expressed concern with what is going on at the Dennis Conservation Trust and why would they be agreeing to over pay for the property. Further, Mr. McDowell read sections of the subdivision control by-law from the Town's Zoning By-Laws. He said that it would be quite simple, and well within their rights, for the Planning Board not to approve this plan as it is presented and therefore, the appraisals would be far over stated in value.

Chairman Prue commented that there are a number of large supply wells in the immediate area and the District had purchased land on the west side of the ponds in order to provide protection for the wells that are on the westerly side of Old Bass River Road. This was done as a joint purchase project with the Department of Fisheries and Wildlife.

James McCarthy, Director of the Dennis Conservation Trust, said that the 9-lot subdivision plan was designed by an engineer of a very reputable firm. So, too, were the professional appraisals that were done based on the engineered plan.

Mark Robinson, Executive Director of the Compact of Cape Cod Conservation Trusts, stated that for almost 30 years the Compact has been involved in acquisition of open space. When such projects have involved the participation of towns, negotiations with the owners has always been based on the highest and best use of the land which generally has been as open-space subdivisions. He said that the plan has been reviewed by the Town Planner and he has stated that he could see no reason why it would not be approved by the Planning Board. He further noted that the land closest to the ponds, although it is in a conservation restriction currently, the restriction does not prohibit using the open space in any calculations that support the development of the adjoining acreage (i.e.: the cluster subdivision plan as proposed). He stated that he has participated in many acquisitions involving grants with various state agencies and said that the appraisals based on proposed cluster plan are commonly done without them having to have been pre-approved by Planning Boards. He further stated that these were done in accordance with the state's standards for appraisals. He did state however, that the Town was unsuccessful in obtaining a state grant and that the financing plan will have to rely on the Town's Community Preservation Fund, Dennis Conservation Trust, Dennis

Water District and any others that may participate. He said that the Purchase and Sales Agreement with the sellers expires on March 1st and that is why they were requesting that the Water Commissioners call for a Special District Meeting, preferably by the end of February, and put the matter before the District voters.

Mr. McDowell read directly from the appraisals in which the author states a disclaimer that they are not experts in zoning regulations. He stated that with the “flick-of-wrist” the Zoning regulations could be changed by Town Meeting. He read excerpts from the Code of Massachusetts Regulation 310 as it pertains to the Department of Environmental Protection and the siting and permitting of septic systems.

Chairman Prue said that the question before the Water Commissioners was whether or not to set a date for a Special District Meeting in February. There were no motions offered.

Review and approve 2013 Meeting Schedule

The Board reviewed a draft of the meeting schedule for the ensuing year. Mr. McDowell noted that the meetings from February through May were scheduled for the Town Hall Large Hearing Room and not at the Police Department. He asked that the Treasurer verify why the Commissioners’ meeting could not be held at the Police Department and why they are not given preference over other non-public entities.

Minutes: November 28, 2012

By unanimous consent, the minutes of November 28, 2012, were deferred to a subsequent meeting.

On a motion made by Peter L. McDowell, and duly seconded, the Board **UNANIMOUSLY VOTED: to adjourn at 7:29 PM.**

Respectfully Submitted,

Sheryl A McMahon, Clerk