

October 7, 2010

Special Meeting

Minutes are subject to the approval of the Board of Selectmen.

Present:

First Selectman Mark E. Lyon, Selectmen James L. Brinton and Nicholas N. Solley.
Parks and Recreation Commission Members Sheila Anson, Ray Reich, C.J. Kersten.
Facilitator Henry Martin.
Numerous members of the Press and Public.

Call to Order:

Facilitator Henry Martin opened the meeting at approximately 7:10 p.m. The Agenda: Board of Selectmen and invited members of the Parks and Recreation Commission to explain selection process for Beach House tenant/caretaker to settle FOI Complaint Docket #2010-299 and to accept and answer questions from the public relevant to the FOI Complaint. Mr. Martin explained the objective of the meeting was to implement a joint Memorandum of Understanding agreed to by Wayne Hileman, Complainant and the Board of Selectmen and Parks and Recreation Commission, Respondents. Written minutes and a recording of the meeting will be available to the public and will provide an “after-the-fact” record of the selection process for the Beach House tenant(s) and caretaker(s).

JOINT MEMORANDUM OF UNDERSTANDING

September 22, 2010

Regarding the Connecticut Freedom of Information Commission Docket #FIC 2010-299:

Wayne Hileman, COMPLAINANT

Vs.

Board of Selectmen, Town of Washington

Parks and Recreation Commission, Town of Washington, RESPONDENTS

The COMPLAINANT made the following settlement offer:

That...all of those involved shall appear together in a publicly noticed meeting of their choosing and give a verbal accounting of what happened and when-a complete chronology-(and) agree to answer any questions...

The RESPONDENTS agree to fulfill the requirements of the offer in the following manner:

1. The RESPONDENTS will schedule and conduct a duly noticed Special Meeting of the Board of Selectmen at the earliest mutually agreeable time. The meeting will also include the attendance and participation of Parks and Recreation Commissioners Ray Reich, C.J. Kersten and Commission chair Sheila Anson.
2. The Public Notice of Special Meeting and Official Agenda will indicate that this meeting is being held in fulfillment of a settlement of the aforementioned FOI complaint.
3. In addition to the secretary's official minutes, which will be duly filed with the regular minutes of the Board of selectmen, an audio recording will be made of the meeting, which will be noted in the minutes and made available to the public.
4. The Special Meeting will have as an agenda item a “Full Explanation of the Events surrounding the selection of the Beach House Caretaker/Tenant”.

5. The COMPLAINANT and the RESPONDENTS agree that Hank Martin will be appointed as a third party Facilitator to preside over the meeting. All parties agree in advance to accept and abide by any decisions he makes in regard to the conduct of the meeting.
 6. Each RESPONDENT will have an uninterrupted opportunity to explain their role in this matter.
 7. The Special Meeting Agenda will also include "Questions from the Public". These questions are to be directly related to the aforementioned agenda item.
 8. The Special Meeting will continue until the Facilitator determines that all relevant questions have been asked and answered.
- The COMPLAINANT will accept this as a sufficient substitute for the lack of written records regarding this matter and withdraw the pending complaint (#FIC 2010-299) at the conclusion of the Special Meeting. All parties will consider the Special Meeting to be a curative resolution.

Mr. Martin turned the meeting over to the respondents to each provide a statement:

Mark Lyon, First Selectman:

Mark explained that the selection process for the Beach House tenant/caretaker began in January when Buildings & Property Commission member Nicholas Solley, who had overseen the Beach and Beach House project, informed him that the project was nearing completion. The Selectmen and the Parks and Recreation Commission developed an updated list of duties and responsibilities for the tenant/caretaker. The position was offered to Hank Vallely, who had held it for several years. In late February, he declined. In preparation for this possibility, Mark began going through files and spoke to Mr. Vallely and a previous tenant to determine how this position had been filled in the past. There was one file when Mr. Vallely was selected by Selectpersons Elaine Luckey and Dick Dutton, but no record of it being advertised, etc. Through word of mouth, speaking with staff, etc. several couples and/or individuals were thought of. For a variety of reasons, none of these candidates, once learning more about the requirements and duties wanted to pursue it further. The Selectmen and Parks and Recreation members were hoping for occupancy of the Beach House by April or early May because of the upcoming opening of the beach. In late March, Mark mentioned the position to his son and another couple inquired at the Selectmen's Office. Once David Lyon voiced his interest, Mark removed himself from any involvement. It was his thinking that Parks and Recreation members should be involved in determining who the tenant should be as well as Nick Solley as representative of Buildings and Property Commission. Interviews were set up for the first week in April with David and his girlfriend and the other interested couple.

Nicholas Solley, Selectman & Buildings & Property Commission member:

Nick explained that with the beach opening approaching quickly, he and Ray Reich, Parks and Rec member who has overseen beach operations, felt it was important to have the tenant/caretaker position filled by May 1st. As Mark mentioned, by late March two couples were interested and he and Ray set up appointments to interview on April 5th. Sheila Anson and C.J. Kersten of Parks and Rec were invited to attend. Nick further explained, that because of the sensitivity of having the First Selectman's son as one of the candidates, a day or two before the interviews, he asked Selectman Jim Brinton to stop by if he could. He considered this an ad-hoc selection committee. The interviews were held on April 5th; Jim was able to attend, as was Ray Reich.

Ray Reich, Parks and Recreation Commission member:

Ray explained he has been a member of this Commission for 18 years, this position had been filled previously in the same manner without noticed meetings, advertising, etc. and as time was approaching quickly to open the beach, he felt timing was of the essence. Ray was surprised that Hank Vallely did not accept the position and in hindsight, perhaps he had been allowed too much time to give his decision. There were two couples interested, they were interviewed, their strengths and weaknesses were discussed

and, in what Ray considers an unbiased decision, the choice was evident and made that David and Jessica were the best candidates.

Jim Brinton, Selectman:

Jim voiced his support and agreement with Mark and Nick's statement. Felt it was an informal process, it never crossed his mind that because he and Nick were now both present, it would be considered a Selectmen's Meeting. He felt that he and others involved made a conscious effort to make sure there would be no problem because of David being the First Selectman's son. He believes, from speaking with Tom Hennick of FOI, the Freedom of Information issue was and is not noticing the meeting and having minutes of that meeting available to the public. If the meeting had been posted, the Selectmen would have immediately adjourned to Executive Session to discuss a personnel issue and there would still be no written record of that meeting. The selection process, the position being advertised, etc. is policy and is not considered an FOI issue.

Sheila Anson, Parks and Recreation Commission Chairman:

Sheila introduced herself as a member and chairman of the Parks and Rec Commission and expressed her pride in all volunteer commissioners and volunteers. She explained her commission oversees programs, maintaining facilities, including the Pavilion, Nick Platt Field and beach and boat launch area. Throughout construction of the new facilities at the Lake, Parks and Rec was involved with the Board of Selectmen, and the Building and Properties Commission. All worked jointly on the duties of the caretaker and agreed to be a part of the interview process. Unfortunately a personal matter prevented Sheila from attending but supported the process and had the confidence in those who were. Sheila stated she looked forward to moving ahead after this evening.

C.J. Kersten, parks and Recreation Commission member:

C.J. explained that although he too was to be a part of the interview process, he was not able to attend but fully supported the process and the decision that was made.

Mr. Martin thanked the above Respondents and opened the floor to questions, reminding the public that they were to stick to the issue at hand.

Speakers included:

Luis Pinney, Andy Shapiro, Kathy Gollow, John Buonaiuto, Sharon Morrissey, Diane Baker, Paul Okenquist, Eric Federer, Dick Sears, Sarah Jenkins, Linda McGarr, Sarah Davies, Ray Kozak, Jane Boyer, Mary Castanza, Scott Tilden, Janet Buonaiuto, Ellen Tracy, Janet Wildman, Sharon Martin, Wayne Hileman, Dave Werkhoven, John Meeker and Gary Fitzherbert.

Questions/statements/answers covered:

* Townspeople were aware of the project and that there may be an opportunity for a new tenant.

* What criteria were used in determining the rent? The previous rent was \$2100/annually. Board of Selectmen, after looking at other rents and caretaker arrangements, and considering the duties and responsibilities to be performed felt \$500/month or \$6000/annually plus utilities was reasonable.

* Was the rental amount compared to other rents on the Lake? Were the hours of work calculated? Realtors were consulted, new dwelling, plantings, etc. and the amount of work required was certainly considered.

- * Was the fact that the job of tenant/caretaker was 24/7? Yes.
- * The present tenant/caretaker was chosen in the same manner as all previous tenants.
- * Was the tenant responsible for upkeep of the boat launch as well? Yes but was not a boat launch attendant. The previous tenant was and was paid for that position.
- * Was the beach house counted in Affordable Housing Count because of State monies being used? No. STEAP grant (\$300,000) was not a housing grant. DEP monies (\$100,000) were received for the boat launch project. The entire project was approximately \$550,000.
- * Is the tenant/caretaker considered an employee of the Town? No.
- * Have children or know of others who may have been interested should they have known.
- * Is there a time limit on how long the present tenants can be in the beach house? The lease is for one year and will be reviewed annually.
- * If the tenant is not an employee but was injured while performing duties would he be covered? The Town's general liability would most likely cover but this will be looked into.
- * Informality and expediency is no excuse for the process that was used. What more "transparent" process could there be? Tonight was not the forum for setting policy but all three Selectmen have said they are willing to make changes.
- * Are the Selectmen committed to making these changes in policy and procedures in hiring particularly for the tenant/caretaker position? Yes.
- * Will this be discussed at future Board of Selectmen meetings? Yes.
- * Was the previous tenant/caretaker on premise more often? Yes but he was also the boat launch attendant.
- * What are the duties in the "off-season"? Yearlong job – responsible for the property all year, although may be less hours required during the winter months.
- * Was the idea of "perception" considered when hiring the First Selectman's son? Yes, but felt he should not be given "preferential consideration" nor should he be discriminated against because of his relation to the First Selectman.
- * What about all the other possible candidates that were not given the opportunity – were they discriminated against? Possibly. The process will be done differently in the future.
- * Will the names of the other interested parties be made public? No.
- * When will rules/policies on matters such as this be changed? In the very near future.
- * Will the Board of Selectmen/Parks and Recreation say that henceforth they will post the position when it comes up again, publicize meetings, etc.? Yes.
- * If the lease is not renewed with the present tenant will the policy be changed? Yes.
- * The Selectmen were voted in to make decisions for the townspeople and our trust should be in them.

* Were references/credit checks done? No.

* Why didn't the Board of Selectmen or Parks and Recreation Commission approach the complainant with a settlement offer? Why was it not made more of the Town's business? The First Selectman was contacted by FOI Ombudsman and told that the complainant made an offer to settle by there being a public meeting – no moderator/facilitator was mentioned. Did not think this was in the best interest of the parties involved. Parks and Rec never received an offer, was given information from a reporter.

* The Selectmen and Parks and Rec Commissioners are respectable hard workers, and volunteers and did not try to "hide" anything.

* Can the townspeople be assured there will be more "open government" from now on? Yes.

* Will new policies/procedures comply with FOI? Yes.

Wayne Hileman thanked the Board of Selectmen and the members of the Parks and Recreation Commission for agreeing to this evening's meeting, he considered the settlement offer to be totally fulfilled and would contact FOI and officially withdraw the complaint.

A recording of the meeting will also be available in the Office to the Town Clerk.

Adjournment:

The meeting was adjourned at 8:45 p.m.

Respectfully submitted,
Mary Anne Greene
Selectmen's Secretary