

**MINUTES OF THE SELECTMEN'S MEETING
SPECIAL MEETING: JOINT WITH DPW COMMISSIONERS
OCTOBER 10, 2012**

PRESENT: Gregory M. Hanley (Chairman), Lewis W. Stone (Vice Chairman), Willard J. Boulter, Jr. (Clerk), Daniel Trabucco (Selectman), Arthur Boyle (Selectman), Edwin J. Thorne (Town Administrator), Ben Bastianelli (DPW Commissioner), Thomas Irving (DPW Commissioner), Paul Whitman (DPW Commissioner), Eugene Fulmine (DPW Director), John Goldrosen (Legal Counsel), Janet Fahey, Mike Melanson (Pembroke Mariner Express Reporter, Sabrina Chilcott (Executive Assistant)

STORMWATER MANAGEMENT PRESENTATION

Mr. Hanley stated that the BOS had questions about the Stormwater Management Plan proposed by the DPW and voted on at Town Meeting for a \$340,000 appropriation to put Pembroke in compliance with a federal mandate concerning stormwater management. Mr. Goldrosen from Kopelman and Paige was present before the Board and Commission; he stated that early water quality study and testing in the 1970s focused on point sources as it was already recognized that sewage treatment plants and industries introduced byproducts into the water flow and is the genesis of today's regulations through the EPA. Mr. Goldrosen confirmed this is federally driven. In the 1980s the Clean Water Act was amended to go after other types of sources; runoff from other municipal Stormwater systems (MS4) needed to be treated. Mr. Goldrosen stated that the EPA views municipalities as polluters and treats them as sewage treatment plants; as sewage treatment plants must get permits allowing them to discharge subject to serving them quality requirements, that is how municipalities must function or they would be in violation of the Clean Water Act. It began with Phase I with populations over 100,000; then regulations were applied to broader areas in Phase II in 2003 and general permits were issued state wide and individual permits were optional. The general permit had conditions that communities needed to remain in compliance with needed to be completed within five years; some components were a public education program, a public participation program, establish regulations to control illicit discharges to the stormwater system (ie: do not have sewers, do not have combined sewers, just have a stormwater collection system). The goal was to keep stormwater isolated. One set of laws was to have bylaws established to control illicit discharge into the Stormwater system and another to control the quality and quantity of stormwater runoff during new construction and post construction. Mr. Goldrosen stated this was the most important part of Phase II in 2003. Additionally, storm drain mapping should have been done. The intention was that the next phase would begin in 2008 now that the ground work was laid; EPA started to develop a draft permit but it is still not finished. The draft came out in 2010, was published in the Central Register and went through Public Hearings. There was significant push back from municipalities and Towns that were affected so the EPA went back to the drawing board; an updated draft will be coming out in the fall and it is not out yet. Mr. Goldrosen stated that what will be required is unknown but the EPA has indicated that the focus will be on illicit discharge; they want to have a map of the system in GIS format to establish identification system of the catchments and number them. They would like to take samples of runoff to identify problem areas and have an ongoing annual sample program; this annual sampling program was the primary objection Towns had due to potential prohibitive cost factor. Additionally, the EPA hopes to sweep public property and do whatever is necessary to reduce runoff directly from public property. Mr. Goldrosen stated the EPA, from a regulatory perspective, would like to see Towns review their zoning bylaws to reduce the amounts of impervious areas. Mr. Goldrosen addressed fines; the primary cause for fines being assessed to Towns was failure to submit annual reports; the amounts ranged from \$5-10,000. Mr. Goldrosen confirmed that Pembroke has met the guidelines that are in place thus far, although Mr. Goldrosen stated he is unsure of how far along Pembroke is in mapping the system. Should the monitoring requirements be enacted, there will be additional expense and reporting required. DPW Director Eugene Fulmine stated that the DPW has met most of the requirements and has done all of the reporting each year; there are some requirements that lack of funds have prevented completing. Mr. Fulmine stated that the 2010 draft permit is the permit that the Town applied for a grant based upon; the Town will be able to begin sampling outfalls for water quality, further GIS mapping that is currently at 60% and be proactive to stay ahead of the regulations that will impact the Town.

Mr. Irving inquired as to the date that the grant application has to be filed; Mr. Fulmine stated that the deadline for filing is October 15th but the decision needs to be made tonight. Mr. Trabucco pointed out that the EPA is mandating these regulations although the permit is currently in draft form. Mr. Trabucco stated that Pembroke has an opportunity to take advantage of the 2% interest rate now and engineering and testing firms are available now; they won't be when the rest of the Commonwealth gets up to speed. Mr. Bastianelli stated that he has concerns that Pembroke hasn't completed its mapping; he would like to see Pembroke's initial task be to complete the mapping of storm runoff; he stated that the remainder of the grant money may not be necessary. Mr. Boulter stated that Town Meeting voted this article; additionally, he supports protecting the Towns water sources and supports this grant application. Mr. Hanley stated the matter before the Board is the contractor filing the application. Discussion ensued on reasons to support the grant application for \$340,000 at 2%. DPW Commissioners were unanimous in their support. Mr. Boulter, Mr. Trabucco, and Mr. Stone stated they were in support of filing the grant application. Mr. Hanley stated that he agrees with being proactive; however he spoke with Doug Goutro at the EPA who is responsible for assessing fines and certificates of good standing; his contact number is 617-918-1021; he stating that the scope of the permit which is unpublished has not yet been defined. Mr. Hanley stated that Pembroke has time to wait for the final draft of the permit; the risk is to borrow money and have the wrong things done. Mr. Goutro stated the earliest the next draft of the permit will be available is April 2013, but Mr. Hanley stated that this does need to be complied with in its time. Mr. Hanley additionally stated that he spoke with the Massachusetts Water Pollution Abatement Trust and spoke with Nate Keenan in the Treasurer's office; he stated that Pembroke needed a vote at Town Meeting to authorize the appropriation which was done in April 2012 and to have an approvable application. Mr. Hanley stated that the issue here is in the choice of contractor, or who developed the contract. Mr. Hanley stated that according to Nate, MWPAT administers the loan or provides the funds. The loan is qualified by the MassDEP administrator or Don St. Marie, DEP Project Manager, 617-292-5709. He verified that the application must be submitted by October 15th or a years worth of financing is missed. Then there is a period of review and a project approval certificate will be issued at the end of December. Mr. Hanley stated that they do not expect a complete application to be filed on October 15th. Mr. Hanley asked if the consultant needs to be selected at this time; Mr. Keenan stated no. The Town has until January 1 to select a contractor. At this time, Mr. Hanley contacted the Ethics Commission and spoke with Deidre Roney, General Counsel as he had questions. She recommended that the individuals involved in the process contact the Ethics Commission for individual conversations with. Mr. Hanley contacted Mr. Fulmine and apprised him of this fact. Mr. Trabucco questioned the involvement of the Ethics Commission; Mr. Hanley stated that he questioned the fact that EPG, out of their own goodwill and of their own volition, developed a budget for this plan. Mr. Hanley stated further that they offered to write the application for this loan program, which caught the interest of the MWPAT and when RFQs were requested, theirs was the successful candidate. Mr. Trabucco asked if the RFQ was publicly submitted and bid by many contractors; Mr. Hanley agreed it was. Mr. Hanley then asked if EPG provided the \$340,000 loan amount that the Town ultimately asked for; Mr. Fulmine stated that they did help develop the cost estimate of the services that the Town needed based on the criteria of the 2010 draft permit. Mr. Hanley asked if EPG wrote the scope of services on the RFQ that was issued. Mr. Fulmine stated that the original draft was a boilerplate provided to Medfield by EPG amended several times by Town Administrator Ed Thorne to apply to Pembroke's needs. Mr. Hanley asked if EPG was given Special Municipal Employee Status by the Town of Pembroke. Mr. Thorne stated they were not. Mr. Hanley asked if Mr. Fahy is a key employee of EPG; Mr. Irving stated he was not a key employee to the Town of Pembroke on the project for the Town. Mr. Hanley stated Mr. Fahy needs to speak with Deidre Roney to clear up these questions before Environmental Partners Group can file the application for this grant. Mr. Trabucco disagreed and stated that Ms. Roney's email to Carter Fahy of EPG states in its underlined portion "it is not a conflict for your firm to work under the resulting RFP". Mr. Hanley stated that the facts were not presented in their entirety. Mr. Hanley stated that the DPW Commissioners unanimously chose EPG with a second choice of BETA Group; Mr. Hanley stated that the Town should submit their application before October 15th while EPG qualifies the facts discussed tonight with the Ethics Commission and receives an opinion on their eligibility to proceed on this project. If the Ethics Commission is satisfied, they remain the preferred contractor; if not, BETA Group becomes the Town's

choice. Discussion ensued. Mr. Bastianelli, Mr. Irving, Mr. Whitman, and Mr. Trabucco stated that there would be no conflict of interest and Carter Fahy is not involved in the Stormwater project; he will not be a key employee in the project. Mr. Hanley inquired if \$340,000 would suffice for funds; Mr. Thorne stated that the amount was voted at Town Meeting. Mr. Boulter moved to accept the DPW's choice of contractor and, should their first choice be unable to perform the role, accept their second choice of contractor. Mr. Trabucco seconded the motion. Mr. Hanley requested that Mr. Goldrosen review the article and clarify necessary motions; Mr. Goldrosen reviewed the article as voted at Town Meeting and stated that the article authorizes the Board of Selectmen to enter into a project regulatory agreement. Mr. Boulter withdrew and reworded his motion: Mr. Boulter moved to proceed with Environmental Partners Group unless there is a problem with the Ethics Commission and then the DPW Commissioners should proceed with their second choice. Mr. Trabucco seconded the motion. The vote was unanimously in favor. Mr. Boulter moved to authorize the DPW Commissioners to file the application for the MWPAT stormwater grant; Mr. Trabucco seconded the motion. The vote was unanimously in favor.

Mr. Trabucco made the motion to adjourn at 8:40 pm; Mr. Stone seconded the motion. The vote was unanimously in favor. The meeting was adjourned at 8:40 pm.