BOARD OF SELECTMEN

MINUTES

October 9, 2013

Board met in session at 7:30 p.m. in the Selectmen's Meeting Room at Abbot Hall
Present (constituting a quorum):

Jackie Belf-Becker, Chair
Harry C. Christensen, Jr.
Judith R. Jacobi
Bret T. Murray
James E. Nye

Jeff Chelgren, Town Administrator

MINUTES. Motion made and seconded to approve the minutes from September 18, 2013. All in favor. Motion made and seconded to approve the minutes from September 26, 2013. 3 voted in favor, Mr. Christensen and Mr. Murray voted present.

POLICE DEPARTMENT. Hold Harmless Agreement. Salem State College. Chief Robert Picariello appeared before the Board seeking approval to enter into an agreement with Salem State University for police services. The Town currently has agreements with Salem and Swampscott for police services. This agreement is for police services to include traffic direction and /or other police duties under the direction and assignment of the Marblehead Police Department acting through the Marblehead Chief. Motion made and seconded to execute the Hold Harmless and Indemnity Agreement between the Town of Marblehead and Salem State University and to authorize the Chair to sign on behalf of the Board. All in favor.

POLICE DEPARTMENT. Human Resource Request. Chief Picariello appeared before the Board as it relates to the Human Resource List which will be available in November. Motion made and seconded to approve the request from Chief Picariello to seek a list from Human Resources to vet out possible candidates to bring forward to the Board of Selectmen at a future date. All in favor.

MARBLEHEAD CHAMBER OF COMMERCE. Requests. Deb Payson, Marblehead Chamber of Commerce, Executive Director, and Dee Vigneron, Board Member, appeared before the Board seeking permissions for the annual Christmas Walk and Parade. Motion made and seconded to approve the following requests:
Annual Tree Lighting - Friday, December 6, 2013 at the National Grand Bank parking lot. Event starts at 6pm, tree lighting at 7pm.
43rd Annual Christmas Walk Parade – Saturday, December 7, 2013. Parade to start at State Street Landing at 11:45 a.m. and continue onto Washington Street and down

Atlantic Avenue (approximately 12:30 – 1:00 p.m.) turn right on Gerry Street, right on Pleasant Street, continue to the National Grand parking lot.
Holiday Wreaths and Garland. Hang approximately 140 holiday wreaths and garland pole wraps throughout the central business district starting the week of November 18, 2013 subject to approval from the Marblehead Municipal Light Department and receipt of the required Certificate of Insurance. Wreaths and garland shall be removed by January 7, 2014. All in favor.

POLICE DEPARTMENT. 43rd Annual Marblehead Christmas Walk Parade. Tree Lighting. Street Closings. Motion made and seconded to approve the request from Chief Picariello for the following street closings and traffic changes for the 43rd Annual Marblehead Christmas Walk Parade and tree lighting:
Tree Lighting Friday, December 6, 2013, 7:00 p.m. – National Grand Parking Lot, In the event of an overflow crowd that creates a public safety concern the Chief is authorized to close either Pleasant Street between School Street and Spring Street or Essex Street between Atlantic Avenue and Pleasant Street. In either case, traffic will be interrupted only if necessary.
Saturday, December 7, 2013, Santa's arrival at Clark Landing and Parade. The parking lot at Clark Landing to be closed entirely at 8:30 a.m. until such time as it is safe to reopen. Staging for the parade will be on Front Street between the Boston Yacht Club and State Street (including Darling Street,) at about 10:30 a.m., then stepping off from Clark Landing on a route including State Street, Washington Street, Atlantic Avenue, Gerry Street and Pleasant Street.
Saturday, December 7, 2013,Christmas Walk Parade. Close Front Street between Water Street and State Street and Darling Street in its entirety from 10:00 a.m. until 12:30 p.m. to facilitate the staging and departure of the Parade. All streets along the parade route will be controlled by police officers as needed to facilitate the safe passage of the parade. All in favor.

LICENSING. Wine and Malt. 114 Pleasant Street. Ben Rhodes, 8 Mohawk Road, appeared before the Board on behalf of Joe Costanzo to update them on the status of the transfer of the Wine and Malt Beverage License at Joey Dee's, 114 Pleasant Street. Mr. Rhodes stated he is working with the prospective applicant to get the required paperwork completed and submitted to the Board for consideration.

LICENSING. Common Victualler License. 114 Pleasant Street. Junji Aoki, 6 Bellingham Court, Middleton, appeared before the Board seeking a Common Victualler License at 114 Pleasant Street. Motion made and seconded to approve the application for a Common Victualler License for Aoki LLC d/b/a Junji, 114 Pleasant Street, manager: Junji Aoki, hours of operation Sunday through Saturday 11:30 a.m. – 11:30 p.m. subject to receipt of all applicable inspection sign offs and all fees paid. Seating Capacity = 27. All in favor.

OLD AND HISTORIC DISTRICTS COMMISSION. Appeal. 1 Mechanic Street. David S. Ritchie, 1 Mechanic Street, appeared before the Board seeking to appeal a decision by the Old and Historic Districts Commission. Lisa L. Mead, Special Town

Counsel, Old and Historic Districts representative and Charles Hibbard, Chair, appeared before the Board. Chairman Belf-Becker opened the Public Hearing on the Appeal of a determination by the Old and Historic District Commission by David Ritchie, 1 Mechanic Street, Marblehead, for the property at 1 Mechanic Street, Marblehead. Said Appeal was filed on September 5, 2013. Pursuant to Section 10 of Chapter 101 of the Acts of 1965, appeals of the Old and Historic District Commission may be taken to the Board of Selectmen. The standard of review by the Board of Selectmen has been determined by the Supreme Judicial Court and is as follows: The decision of the Commission may not be disturbed by the Board of Selectmen unless the decision is based on legally untenable grounds, is unreasonable, is whimsical, capricious, or arbitrary. The Chair then asked to hear from the petitioner, Mr. Ritchie. Mr. Ritchie presented his statement to the Board requesting that the Board overturn the vote of the OHDC with regards to his window. The Chair asked to hear from the Commission. Attorney Mead spoke on behalf of the Commission and outlined their opposition to the appeal by David Ritchie in regards to his window. There were no questions from the Board. The Board discussed the following: Was the window within the purview of the Commission? Yes. Is the Location of house in district? Yes. Is the position of window in public view? Yes. The Chair then stated the purpose of the Old and Historic District Commission bylaw which is to promote the educational, cultural, economic, and general welfare of the public through the preservation and protection of historic buildings, places, and districts of historic interest in the town of Marblehead, through the maintenance of such districts as landmarks in the history of architecture and as a tangible reminder of the early days of the commonwealth and said town. The Chair stated that the standards for the Commission's review of the application were met. Has Mr. Ritchie carried his burden of proof by proving substantial evidence that the commission's decision was unreasonable, arbitrary, capricious, whimsical, or based on legally untenable grounds? Motion made and seconded to deny the request of Mr. Ritchie and uphold the Commission's Determination. Moved by Mrs. Jacobi, seconded by Mr. Nye. Following the motion the Board's discussion included a statement from Mr. Christensen. All in favor. Motion made and seconded to direct Town Administrator to draft the Board's decision accordingly. Moved by Mrs. Jacobi, seconded by Mr. Nye. All in favor. Motion made and seconded to allow the chair to execute the decision on behalf of the Board. Moved by Mrs. Jacobi, seconded by Mr. Nye. All in favor. Hearing closed.

DEPARTMENT OF PUBLIC WORKS. Temporary Parking Restrictions. Roundhouse Road. Motion made and seconded to approve the request from Dave Donahue, Director of Public Works, to temporarily make the Bessom Street end of Roundhouse Road, on the railroad –right-of-way, as well as the One-Way, upper portion of Anderson Street, a **NO PARKING, TOW ZONE** area for the purpose of the annual clean-up and repairs on the following dates: October 22, 2013 and October 23, 2013 from the hours of 7:00 a.m. – 3:00 p.m. Rain dates will be October 24, 2013 and October 25, 2013. All in favor.

ABBOT HALL. Permission to Use. Marblehead Festival of Arts. Motion made and seconded to approve the request from Maggie Raftus, Marblehead Festival of Arts, to use Abbot Hall for the 2013 Winter Artisans' Market on the following dates and times

subject to the usual rules, regulations, fees and receipt of the required Certificate of Insurance:

Friday, December 6, 2013	5:30 p.m. – 9:30 p.m.
Saturday, December 7, 2013	6:30 a.m. – 6:30 p.m.
Sunday, December 8, 2013	8:30 a.m. – 7:30 p.m.

All in favor.

OLD TOWN HOUSE. Permission to Use. Marblehead Festival of Arts. Motion made and seconded to approve the request from Lynne DeVoe, President, Marblehead Festival of Arts, to use the Old Town House for the annual 4th of July Festival Art Photography Exhibit on the following dates subject to the usual rules, regulations, fees and receipt of the required Certificate of Insurance: 2014 – June 27 – 11, 2014. All in favor.

WINTER PARKING BAN. Motion made and seconded to have the winter parking ban commence at 12:01 a.m. on Monday, December 2, 2013 and continue until April 15, 2014. No parking is allowed on any street for a period of time longer than one (1) hour between the hours of midnight and 7:00 a.m. In the case of a snow emergency prior to December 2, 2013 all cars will be required to be off the public way and the winter parking ban would be in effect immediately. All in favor. This information will be posted on the Town's website, www.marblehead.org, at the entrances to Town, on MHTV and in all local newspapers. No Warning Tickets will be given.

POD CONTAINER. Waldron Court. Motion made and seconded to approve the request from Joyce Galonsky to place a POD container at 4 Waldron Court from October 18 – 21, 2013 subject to approve from the Chief and receipt of the required Certificate of Insurance. All in favor.

CONTRACT. Quadrant Health Strategies. Motion made and seconded to approve the contract with Quadrant Health Strategies, agreement for services, as presented and authorize the Chair to sign on behalf of the Board. All in favor.

ABBOT HALL. Permission to Use. Eagle Scout Ceremony. Motion made and seconded to approve the request from Patrice Fox to use Abbot Hall on Friday, November 29, 2013 from 3:30 p.m. – 6:30 p.m. for an Eagle Scout Ceremony subject to the usual rules, regulations, fees, receipt of the required Certificate of Insurance and to waive the rental fee for this event. All in favor. Motion made and seconded to send a letter of congratulations to Ian McIver and to ask him to come before the Selectmen at a future date to present his Eagle Scout project. All in favor.

PERMISSION. Pipe/Pump Staging. Pleasant Street. Motion made and seconded to approve the request from F.E. Ferris Contractor, 8 Cowell Street, to set up walk through pipe staging and pump staging on the sidewalk in front of 11 Pleasant Street for 7 – 10 days subject to approval from the Chief, receipt of the required Certificate of Insurance and that the pipe staging meets all safety requirements. All in favor.

CONTRACT. Old Burial Hill. Motion made and seconded to award the contract for the Old Burial Hill restoration work to Monument Conservation Collaborative of Norfolk, CT for the base bid and first three alternates in the amount of fifty five thousand and seventy five dollars ($55,075.00) and authorize the Chair to sign on behalf of the Board. All in favor.

CONTRACT. Old Burial Hill. Vote to award the contract for the painting of the gazebo at Old Burial Hill to Tom's Painting of Marblehead, MA in the amount of two thousand two hundred and fifty Dollars ($2,250.00) and authorize the Chair to sign on behalf of the Board. All in favor.

CONTRACT. **Old Burial Hill**. Motion made and seconded to award the contract for the reroofing of the gazebo at Old Burial Hill to Bohn Construction of Marblehead MA in the amount of three thousand two hundred and ninety five dollars ($3,295.00) and authorize the Chair to sign on behalf of the Board. All in favor.

CONTRACT. Police Department. Laptops. Vote to award a contract to Patrol PC of North Attleboro MA for eight lap top computers furnish and installed together with all software, accessories and incidentals in the amount of Thirty nine thousand three hundred and fifty five and fifty two cents ($ 39,355.52). All in favor.

VETERANS MEMORIAL SERVICE. Solimine, Landergan & Richardson Funeral Homes. The Annual Veterans Memorial Service, held in honor of deceased veterans who have served in the Armed Forces, will be held on Saturday, November 2, 2013 at 1:00 p.m. at Solimine, Landergan & Richardson Funeral Home, 426 Broadway Street, Lynn, MA. Refreshments will be served following the service. For more information call 781-595-1492.

MARBLEHEAD MUNICIPAL LIGHT DEPARTMENT. Resignation. Appointment. Notice was received from Phil Sweeney, Chair, that Wilbur Bassett has resigned from the Marblehead Board of Light Commissioners. Mr. Sweeney requests a joint meeting with the Board of Selectmen to fill the vacancy on the Commission. Letters on interest to serve on the Marblehead Light Commission should be sent to both the Board of Selectmen, Abbot Hall, 188 Washington Street, and Phil Sweeney, Chair, Marblehead Municipal Light Department, 80 Commercial Street. Deadline to submit letters of interest in November 6, 2013 at 5:00 p.m. The date for the joint meeting is to be determined.

DEPARTMENT OF PUBLIC WORKS. Thank you. A letter was received from Jan P. Smith thanking Dave Donahue, DPW Director, for the repairs to the Town fence in front of her property.

NAMING OF SHIP. A letter was received from Paul H. Sayles advising the Board that he has sent a letter to the Secretary of the Navy proposing that Marblehead be considered a name for one of the new Littoral Control Ships.

DIVISION OF MARINE FISHERIES. A letter was received from Wayne O. Attridge, Chief Shellfish Constable informing the Board that pursuant to notification by the MA Division of Marine Fisheries the area designated as Area N21.2 or commonly known as Devereux and Tuckers Beaches are conditionally approved and open for the recreational harvesting of surf clams. The period of this approval is from October 1, 2013 to April 30, 2014 when the area will close for the season.

APPRECIATION. Friends of the Council on Aging. Bingo Fundraiser. Motion made and seconded to send a letter of appreciation to the Friends of the Council on Aging for their recent Bingo Fundraiser.

BAYSTATE ROADS SCHOLAR. Motion made and seconded to send a letter of congratulations to Art Graves, DPW Assistant Director, for receiving the "Baystate Roads Scholar" award. This award is given for attending a series of workshops sponsored by UMASS Amherst and the Mass Highway Association Program. All in favor.

CONDOLENCE. Motion made and seconded to send a letter of condolence to Betty Hunt on the passing of her husband. All in favor.

FAMILY MEDICAL LEAVE ACT. Request. Motion made and seconded to authorize the Town Administrator, in consultation with the Town's Labor Counsel, to review and execute a recently submitted Family Medical Leave Act (FMLA) application on behalf of the Board. All in favor.

OPEN MEETING LAW / CONFLICT OF INTEREST. Workshop. Assistant Town Council Lisa L. Mead will hold an open workshop for all Elected Official, Town Employees, Committee's, Commissions and Boards on the Open Meeting Laws and Conflict of Interest on Wednesday, November 6, 2013 at 7:00 p.m. in the Dining Room at the Council on Aging.

EXECUTIVE SESSION. Motion made and seconded to go into Executive Session under M.G.L. c. 30A, Sec. 21(a)(6) for the purpose of discussing the value of real property where the public discussion of same may have a detrimental effect on the negotiating position of the public body. Votes may be taken, and if they are, votes will be released at a time deemed appropriate by counsel. The Board will not reconvene in open session. On a polled vote the Board votes as follows: Mr. Murray, in favor; Mr. Christensen, in favor; Mrs. Jacobi, in favor; Mr. Nye, in favor; Mrs. Belf-Becker, in favor.

Adjourned to Executive Session at 8:30 p.m.

Kyle A. Wiley
Administrative Aide