

## BOARD OF SELECTMEN

### MINUTES

**March 8, 2017**

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

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

John J. McGinn, Town Administrator

**PUBLIC HEARING. Grant of Location Request. Ocean Avenue and Flint Street Electrical and Utility Lines.** A Public Hearing was held on the petition for a grant of Location Request, Ocean Avenue and Flint Street, Electrical and Utility Lines. Present at the meeting were: Dave Flewelling Comcast Massachusetts, E. Everette Bryan, Verizon New England, Hoyt Ludington, 216 Ocean Avenue, Attorney Robert C. McCann, representing Shoreline Improvement Fund, LLC, Andrew Hadden, General Manager, Marblehead Municipal Light, Hill Danforth, 17 Flint Street. Attorney McCann presented the Grant Location Request to the Board with the Light Department, Comcast and Verizon support. 12 letters of support were submitted for the record. No one spoke in opposition, Jim Schaye, 222 Ocean Avenue, spoke in favor of the application. The following votes were taken:

That permission be and hereby is granted the **VERIZON NEW ENGLAND INC.** to lay and maintain underground conduits and manholes, with the wires and cables to be placed therein, under the surface of the following public way or ways as requested in petition of said Company dated the 8th day of February, 2017.

**OCEAN AVENUE:** From Jointly-Owned Pole # 92 located on Southerly side; place approximately 1260 feet of underground conduit and Hand-Hole No(s) 1-9 in an Easterly direction to Jointly-Owned Pole # 9/13 on Southerly side.

**FLINT STREET:** From intersection with Ocean Avenue, place approximately 178 feet of underground conduit & one Hand-Hole #10 on Westerly side to Jointly-Owned Pole #252/14

Substantially as shown on plan marked – **Verizon N.E., Inc.** No. P2017-4A0G1WF, Dated February 8, 2017, - filed with said petition. Also that permission be and hereby is granted said **VERIZON NEW ENGLAND INC.** to lay and maintain underground conduits, manholes, cables and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as it may desire for distributing purposes. The foregoing permission is subject to the following conditions:-- The conduits and manholes shall be of such material and construction and all work done in such manner as to be satisfactory to such municipal officers as may be appointed to the

supervision of the work, and a plan showing the location of conduit constructed shall be filed with the Town when the work is completed. Said Company shall indemnify and save the Town harmless against all damages, costs and expense whatsoever to which the Town may be subjected in consequence of the acts or neglect of said Company, its agents or servants, or in any manner arising from the rights and privileges granted it by the Town.

In addition said Company shall, before a public way is disturbed for the laying of its wires or conduits, execute its bond in a penal sum of Ten Thousand Dollars (\$10,000.00) (reference being had to the bond already on file with said Town) conditioned for the faithful performance of its duties under this permit.

Said Company shall comply with the requirements of existing ordinances and such as may hereafter be adopted governing the construction and maintenance of conduits and wires, so far as the same are not inconsistent with the laws of the Commonwealth. All in favor.

Motion made and seconded, WHEREAS, Marblehead Shoreline Improvement Fund, LLC, 17 Flint Street, Marblehead, MA 01945, (hereinafter known as the PETITIONER) has petitioned for permission to construct upon, along, under or across the public way(s) of the Town of Marblehead, the following:

Removal of existing above ground electric and utility lines, including Comcast and Marblehead Municipal Light, along Ocean Avenue in specified locations and the installation of new underground utility lines in place thereof at specified locations above and under the ways of the Town of Marblehead.

AND WHEREAS, notice has been given and a hearing held on said petition as provided by law;

NOW THEREFORE BE IT ORDERED that the PETITIONER be and hereby is granted permission by the Board of Selectmen to complete the construction described above, all in accordance with the following conditions:

1. PETITIONER shall locate and complete all work as shown by plan(s) entitled "Marblehead Shoreline Improvement Fund, Marblehead Massachusetts, Ocean Avenue Underground", prepared by PLM Electric Power Engineering, 35 Main Street, Hopkinton, MA 01748, dated October 15, 2016 consisting of three (3) sheets entitled respectfully: Proposed Layout Sheet 1, Proposed Layout Sheet 2, Ductbank Details. The location of the pipe bank may be adjusted in the field at the direction of the Town Engineer after test pits to determine the location of existing utilities are performed;
2. PETITIONER shall comply with the requirements of the existing bylaws and such as may hereafter be adopted governing the construction;
3. PETITIONER shall perform all work to the requirements and satisfaction of the Department of Public Works and the Marblehead Municipal Light Department or other such officer(s) as may be hereafter appointed by the Town;
4. PETITIONER shall execute an indemnification and release agreement in favor of the Town of Marblehead prior to the commencement of construction and before any street opening permits are issued on a form issued by the Town of Marblehead;

5 . PETITIONER, shall, in addition to any other insurance requirements related to any permits administered by the Department of Public Works or the Marblehead Municipal Light, provide an insurance certificate from the project contractor listing the PETITIONER and the Town of Marblehead as additional insureds;

6. PETITIONER, shall provide an as-built plan showing the location of the pipe bank as constructed.

All in favor.

**PUBLIC HEARING. ALL ALCOHOLIC BEVERAGE LICENSE. Zhu & Chen, Inc., Transfer of Stock/New Directors/Officers/Stockholders, Change of Manager.**

Attorney Chris Coleman, and Huabin Niu, 39 Smith Street, appeared before the Board seeking permission to Change the Manager, Transfer/Issue Stock and Change of Officer/Director/Stockholder on the All Alcoholic Beverage License held by Zhu & Chen, Inc. No one spoke in opposition or in favor of the applicant. The following votes were taken:

**CHANGE OF MANAGER.** Motion made and seconded to approve the application from Zhu & Chen, Inc. d/b/a Imperial Mandarin, 165 Pleasant Street to change the name of the Manager on the All Alcoholic Beverage License to Huabin Niu, 39 Smith Street, subject to receipt of the required forms, fees, and approval from ABCC and CORI. On a polled vote the Board voted as follows: Mr. Murray, in favor; Mr. Christensen, in favor; Mrs. Jacobi, in favor; Mr. Nye, in favor; Mrs. Belf-Becker, in favor.

**TRANSFER AND ISSUANCE OF STOCK/ CHANGE OF**

**OFFICER/DIRECTOR/STOCKHOLDER.** Motion made and seconded to approve the application from Zhu & Chen, Inc. d/b/a Imperial Mandarin, 165 Pleasant Street, to Transfer and Issue Stock and Change Officer/Director/Stockholder on the All Alcoholic Beverage License, subject to receipt of the required forms, fees, and approval from ABCC and CORI. On a polled vote the Board voted as follows: Mr. Murray, in favor; Mr. Christensen, in favor; Mrs. Jacobi, in favor; Mr. Nye, in favor; Mrs. Belf-Becker, in favor.

**PERMISSION. Use of Public Property. Village Street.** Mark Finn, The Hunter Group, appeared before the Board seeking permission to use a portion of the parking lot on Village Street for the purpose of placing approximately 4 boxes, 12' x 30', containing units for a home being built on Willow Road. Motion made and seconded to approve the request from Mark Finn, The Hunter Group, to use a portion of the town owned parking lot on Village Street for no more than 1 week subject to approval from Harbors and Waters, Town Engineer and receipt of the required Certificate of Insurance. All gates, surfaces, fences and any town owned materials must be put back/replaced to its original or better condition upon completion of the project. This must all be completed prior to May 5, 2017. Any extension of time will require approval by the Town Administrator and the Harbormaster. All in favor.

**ABBOT HALL/OLD TOWN HOUSE. Permission to Use. MVMS.** Motion made and seconded to approve the request from Libby Moore, Head of Program, to use Abbot Hall and the Old Town House on Wednesday, June 14, 2017 for the annual 8<sup>th</sup> Grade Headers in History event and to erect a tent on the east and west lawns of Abbot Hall

subject to the receipt of the required Certificate of Insurance and proper permits for the tents. All in favor.

**PERMISSION. POD Placement.** Motion made and seconded to approve the request from Adam Kellner, 6 Symonds Court, to place a POD container at 6 Symonds Court for 1 day, date to be determined, during daytime hours only, and to be picked up that evening, subject to approval from Chief Picariello and receipt of the required Certificate of Insurance. The POD container is not allowed to stay on the street overnight. All in favor.

**CONTRACT. July 4<sup>th</sup> Fireworks Display.** Motion made and seconded to award the contract for the July 4, 2017 Fireworks Display to Atlas Pyro Vision Entertainment Group, Inc., of Jaffrey, New Hampshire and authorize the Chair to sign a contract on behalf of the Board. All in favor.

**PERMISSION. 5K. Stepping Stones for Stella.** Motion made and seconded to approve the request from Melissa Stern, Stepping Stones for Stella, to hold the 2<sup>nd</sup> annual 5K Freedom Run on Saturday, June 18, 2017 from 8:00 a.m. - 11:00 a.m. and a 1 mile run subject to approval from Chief Picariello, Municipal Light Department and receipt of the required Certificate of Insurance and Police Details as required. No permanent markings are allowed on the streets and any temporary markings must be removed at the conclusion of the event. All in favor

**PERMISSION. Road Race. Dollars for Scholars.** Motion made and seconded to approve the request from Jennie Sheridan, Dollars for Scholars, to hold the 6th annual 5K and family walk on Sunday, June 4, 2017 from 8:00 am to 12 noon subject to approval from Chief Picariello, Recreation and Parks, receipt of the required Certificate of Insurance and Police Details. No permanent markings are allowed on the streets and any temporary markings must be removed at the conclusion of the event. The event will start and end at Devereux Beach. All in favor.

**PERMISSION. Triathlon by Sea. Jewish Community Center of the North Shore.** Motion made and seconded to approve the request from Andrew Dalton, Event Director, JCC of the North Shore, to hold the 17<sup>th</sup> Triathlon by the Sea event on Sunday, May 14, 2017 from 8:00 a.m. – 11:00 a.m. and to restrict parking at the intersection of Atlantic and Community Road, all subject to approval from Chief Picariello, receipt of the required insurance and police details. No permanent markings are allowed on the streets and any temporary markings must be removed at the conclusion of the event. All in favor.

**PERMISSION. Chamber of Commerce. Art Walk.** Motion made and seconded to approve the request from Beth Ferris, Chamber of Commerce, to hold the annual town-wide Art Walk on Saturday, May 20, 2017 and Sunday, May 21, 2017 subject to receipt of the required Certificate of Insurance. All in favor.

**PERMISSION. Abbot Hall. MLT.** Motion made and seconded to approve the request from Bobby Kerrigan, Marblehead Little Theatre, to sell bottled water and prepackaged candy and snacks at their upcoming performance of 1776 at Abbot Hall April 7 – 9, 2017. All in favor.

**CONTRACT. Abbot Hall Chair Lift.** Motion made and seconded to amend the contract with Kneeland Construction for the Abbot Hall Chair Lift project by increasing the amount by an amount not to exceed two thousand two hundred seventy four and 42/100 dollars (\$2,274.42) and the time for performance by 32 days (substantial completion 4/15/2017) and authorize the Chair to sign the order on behalf of the Board. All in favor.

**BOSTON POST CANE.** Motion made and seconded to bestow upon Helen “Nellie” DeLorenzo, as the oldest citizen of Marblehead, the honor of the Boston Post Cane and to prepare a citation to commemorate the occasion of her 105<sup>th</sup> Birthday which took place on February 20, 2017. All in favor.

**POLICE DEPARTMENT. Appointment. Deferral.** Motion made and seconded to defer the action of the Board on January 25, 2017 appointing Nicholas Fratini as a police officer until the next available Police Academy start date. All in favor.

**APPRECIATION.** Motion made and seconded to send a letter of appreciation to F. Webb Russell, Harbormaster, for his years of service to the Town. All in favor.

**EXECUTIVE SESSION.** Motion made and seconded to adjourn to Executive Session under M.G.L. c. 30A, Sec. 21 for the purpose of discussing pending litigation with respect to the landfill, and for the purpose of discussing strategy with respect to litigation, namely Velji v. Burke, et al., Land Court Docket No. 16 MISC 000563 (GHP), and 263-269 Pleasant Street, LLC v. Barlow, et al., Land Court Docket No. 16 MISC 000330 (AHS), where an open meeting may have a detrimental effect on the litigating positions of the Town. 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 voted as follows: Mr. Murray, in favor; Mr. Christensen, in favor; Mrs. Jacobi, in favor; Mr. Nye, in favor; Mrs. Belf-Becker, in favor.

The Board adjourned to Executive Session at 8:20 p.m.

Kyle A. Wiley  
Administrative Aide