

ORLEANS SELECT BOARD

March 9 2022

Draft

This meeting was convened via remote participation under the Governor’s Executive Order of March 12, 2020, due to the current State of Emergency in the Commonwealth from the COVID-19 virus with real-time public access provided by Channel 18 on the Town website and cable television.

Present from the Town of Orleans were Select Board Chair Mefford Runyon, Vice Chair Andrea Reed, Kevin Galligan, Mark Mathison, Michael Herman and Town Administrator John Kelly

Chair Mefford Runyon called the meeting to order at 5:00 p.m.

Public Comment (in-person or via zoom)

Rob Whistman (Owner and Operator of Blue Claw boat tours) stated that he had been based out of Meetinghouse Pond with Blue Claw for 14 years and had used the docs for 27 years privately. He also stated that he was federally licensed in addition to having a US Coast Guard 100-ton masters license and always carried insurance on all boats and passengers. He then addressed the board regarding adding parking restrictions to town landings. He noted that he had attended several meetings with the Waterways Committee and understood that parking permits would soon be required for the 4 most heavily used landings. He stated that he did not feel that it was wise or prudent to install fees at the landings at that time. He added that each landing should be considered based on the same criteria and then all landings should be assessed as a whole. He then noted that all user groups of the landings should be notified whether resident or commercial. He noted that a thorough investigation should be done and decisions should only be made based on data. He went on to state that the “blue economy” needed to be protected in Orleans and that imposing restrictions before understanding how they would affect that economy was premature. He went on to address the proposed restrictions specifically and stated that he was concerned that the program required people to have a cell phone to pay.

Mr. Runyon closed the public comment.

Meet With Town Counsel

a. Update on B’Well litigation

Mr. Ford gave a brief background of the appeal and stated that it alleged that the Select Board didn’t follow the requirements of their RFI in making the invitations to two other businesses for HCA agreements. He also briefed the Select Board on a claim brought by Dune Wellness which was denied and had since been removed. He added that an administrative record had been submitted to the court under MA Gen. Law guidelines which triggered a requirement to file briefs which had been filed by the town and B’Well as well as Seaside Joint Ventures. At that point in time the court was still of the opinion that the Select Board had acted appropriately but had taken the case under advisement.

Mr. Galligan noted that the court case could be followed by the public by being accessed online. He also asked if further appeal would be allowed if the judge ruled in the town’s favor and Mr. Ford stated that it could.

b. Review of Draft Short Term Rental General Bylaws

Mr. Ford gave a brief overview of the reasoning for the bylaw and explained that it would need to be approved at Town Meeting. He went through various requirements; registration, compliance, application/registration fees, etc.

Ms. Reed questioned whether one of the restrictions allowed for backdooring of commercialization within a residential district. Mr. Ford stated that the town was not within the authority to regulate ownership and a home could be owned by an individual or a corporation.

Mr. Galligan stated that there should be wording added to note that this bylaw did not in any way change zoning laws. He asked that licensee be defined within the definitions. He also asked that other departments be added to the list of departments for inspections. He also noted that there would most likely be pushback on the ruling for how many occupants could be in each home.

Mr. Mathison stated that he had spoken with the board of Health and questioned whether there was a scientific basis for the occupant limit. Mr. Ford stated that this limit was just a suggestion and could be changed. Mr. Mathison stated that he would like a scientific basis. He noted that the town needed to be sure before they imposed restrictions as they were currently relying heavily on the short-term rental business which they liked that was paying for the sewer system.

Mr. Kelly stated that there needed to be a starting point and that that was at the board's discretion.

Ms. Reed stated that she would like to get feedback from the Fire Department from a safety perspective on the number of occupants.

Mr. Runyon stated that he would like to see wording for how many cars would be allowed. Mr. Ford stated that the cars could be required to be "on-site". Mr. Runyon asked if requiring people to replace a tank with a double walled tank and Mr. Ford advised against this. He also asked if a fee amount needed to be included in the bylaw and Mr. Ford stated that it was important to have an initial fee but that there was a provision that it could be changed. Mr. Kelly stated that any fee would need to be approved by Town Meeting. Mr. Runyon questioned if there had been any discussions on limiting how many short-term rentals any one owner could have and Mr. Ford stated that they had not. Mr. Mathison asked if the town could limit the number of short-term rentals allowed within the town and Mr. Ford stated that the town could. Ms. Reed questioned if a percentage or a number could be established and Mr. Ford stated that he would look into that. Mr. Mathison noted that short-term rentals took away from long-term rentals which furthered the housing crisis. Ms. Reed noted that the Affordable Housing Committee might eventually bring a proposal to the town where Orleans might be 25% Big A Affordable. Mr. Ford suggested that a number cap might be better as an amendment later down the road. Mr. Runyon asked if events could be restricted by this bylaw and Mr. Ford stated that that would be more appropriate for a zoning bylaw. Ms. Reed questioned if working could be added about a "venue" and Mr. Ford stated that a wedding might not currently be allowed by the town's zoning bylaw.

Mr. Ford asked the board if they would like this for the May Town Meeting, and the board seemed to be in agreement that it should be on the warrant for the Fall Town Meeting. Ms. Reed stated that she felt that it was important that the fee schedule adopted should match the costs of implementing the regulations behind the bylaw. Mr. Kelly stated that the town would need to hire more staff and that that was why inspections were not a requirement for year 1. Mr. Ford stated that he would make the

revisions they had spoken about and leave the fee blank as the board needed more insight from the Town Administrator's office.

c. Review of July 4<sup>th</sup> Parade Draft Guidelines

Mr. Ford stated that he saw no real issues with the first 5 rules, but that number 6 showed cause for some concern as it seemed difficult to administer. He questioned the purpose of the rule and suggested working out a system to administer it. He added that he had spoken to the Police Chief and that they would get together to come up with a similar rule that would be easier to administer.

Ms. Reed asked if there would be a downside to emphasizing the event as a family event in the introductory language. Mr. Ford stated that he felt that the committee attempted that in their preamble and felt that it was strong enough.

New Website Update and walk through with Sarah Eaton

Ms. Eaton gave a brief overview of what had been done since the site had gone live. She added that in the coming months, she would be working with all boards and committees to get them up to speed on how to engage with the public through the site. She added that she would be holding community engagement workshops to help citizens with the new site. Next, Ms. Eaton gave a detailed presentation of all aspects of the new site.

Ms. Reed noted how lucky the town was to have Ms. Eaton in that her talents were multi-faceted which had saved the town tons of money in the development of the new website. Ms. Reed added that the website was very customizable and questioned if the website had the capacity to send out newsletters. Ms. Eaton stated that this was possible.

Mr. Herman asked if there would be a section on social media so that people who did not necessarily have social media would be able to see posts where Orleans had been tagged. Ms. Eaton said that this was possible and would most likely use the Police Dept. to test this feature out.

Follow up discussion on Town Landing parking and recommendations for upcoming season

Deputy Chief Sean Diamond gave a background on the technology system being used "VATS" Violation and Ticketing System – a handheld ticketing system. He explained the capabilities of the system and its ability to adapt and grow with the town. He also noted that the system could automatically place holds with the RMV for unpaid citations.

Chief MacDonald went on to outline landings that currently imposed restrictions and/or permits required. He noted that a regulation revision was being recommended for Pricilla Landing which they felt would help the residents when they had guests. He also made a recommendation to restrict trailer parking (no trailer parking) permitted in front of Town Hall. Chief MacDonald then asked for the Select Board to bring back the emergency police order parking bylaw as the obstructed lane violation had not worked well in the past summer.

Nate Sears spoke next and noted that there were 4 locations where parking had been restricted in the prior year and that his department was suggesting restrictions at 15 additional sites for the upcoming season. He focused on Rock Harbor and went through several strategies for this location. He then stated that it was at the Select Board's Discretion as to whether to allow non-residents to hold permits

for restricted locations. Next, he stated that the board would need to decide whether or not to expand parking restrictions to additional town landings. He then presented the board with 4 scenarios: change nothing, except for a few minor revisions which had been outlined, adapt parking restrictions at Rock Harbor, add 15 target locations for a total of 19, with the option to include non-resident permits at those locations, and lastly, continue with the same approach of phasing in resident only locations. He stated that if scenario 4 was adopted, he would suggest beginning with Portinamicut Rd. and making a recommendation to the Conservation Commission to adapt resident only status for the new parking lot at 141 Portinamicut.

Mr. Herman stated that he had spent time with the Shellfish and Waterways Committee over the past few months and their goal was to find a solution that capitalized on existing permit programs with current technology and to implement a daily parking permit program at all town landings (or whatever number was decided on) that prioritized residents, while still being welcoming for visitors and for this program to be clearly stated and easy to understand. They felt that with the town's current technology, that such a program would be easily implemented and trackable and would offer a new revenue source to the town. He stated that nothing would change to the current \$25 resident parking sticker and that these new restrictions did not apply to those residents. He stated that visitors would have the option to purchase daily, weekly or monthly stickers and that the prices were those that had already been established by the town for the 2021 season. He added that there would also be no changes to daily parking passes for the beaches. He noted that this was a rare opportunity that would have no negative effect on residents but would still provide a positive revenue stream while remaining welcoming and fair to visitors.

**Michael Herman moved that the Select Board ask town administration and staff to further explore and research contactless daily parking program and to obtain the public input through hearings, with the goal to enact those programs for the 2022 season, 2<sup>nd</sup> by Mark Mathison. The vote was 1-4 with Michael Herman voting aye, and Andrea Reed, Mefford Runyon, Mark Mathison and Kevin Galligan all voting nay.**

Mr. Runyon asked what the timeline would be for this. Mr. Sears stated that if the town were to adopt a new fee, it would have to be approved at Town Meeting. He then stated that each location would need to be measured and permitted accordingly and that he would want to know the board's decision by the end of April. Mr. Kelly stated that the warrant went to press April 6<sup>th</sup>, so they would need to make a decision before then and the earliest that these fees could go into effect would be after Town Meeting. Mr. Kelly added that he felt that the board should consider expanding the beach enterprise fund to include town landings and have all of that revenue go into one fund.

Mr. Galligan stated that if this was not very well explained to voters prior to Town Meeting, that it would not be approved. He stated that he agreed with the plan, but also felt that it had many moving parts that needed to be ironed out prior to implementation. Ms. Reed stated that she would like to prioritize some areas and provide for the proper infrastructure to provide alternatives so as not to displace too many people. She stated that while she agreed with Mr. Herman, she would like to delay the timeline.

Mr. Herman stated that he would like to vote on it as it was hundreds of thousands of dollars that were being lost and that it had been going on for many years. He added that he was ok with scaling back his plan, but would like to have a goal of the 2022 season. He noted that the town already had the technology to implement the program.

Mr. Mathison stated that the implementation of restrictions at town landings had begun with the issues that the town had experienced at River Road. He recalled that part of that initial process was to investigate who was able to use those town landings and that the goal was not to create a revenue stream, but to ensure that residents who needed to access the town landings could do so. He noted that his mooring fees had gone from \$0 to \$120 for a mooring in 50 years. He then stated that a system needed to be created that didn't over burden the landings, did not take them away from the residents and permit holders, but also ensured that the commercial vendors that used the docks were not negatively affected. He stated that he did not disagree with Mr. Herman, but also knew that it was not realistic to get there by May town meeting.

Andrea Reed moved to move forward with a comprehensive parking program for landings and Nauset Beach, to solve for residents, visitors and daily parking and to look at the technology that the town already had as part of the solution.

Mr. Herman stated that he felt that this motion was the same as what he had proposed earlier and was adamant that if the town/Select Board did nothing to attempt to move any part of this plan forward for the 2022 season, it would be a shame.

Ms. Reed withdrew her motion and stated that she did not understand how Mr. Herman's motion addressed the police chief's concerns for updating existing restrictions.

Mr. Runyon stated that he agreed with what Mr. Mathison had stated that the initial intention was resident access and not revenue, but Rock Harbor had come up as a revenue source and there was a desire to make that a reality. He stated that he felt the board could dive further into this issue at a subsequent meeting but that there were too many issues to be addressed to implement the proposed plan for the summer 2022 season.

Mr. Galligan stated that the motion on the table clearly stated that the goal was to have the plan in place for the 2022 season at all town landings, harbors and beaches and to craft this in a way that it would pass was not possible by May Town Meeting. He suggested passing this off to the various departments to get realistic goals and timelines.

Mr. Runyon asked Mr. Kelly to add this issue to a future agenda for further discussion. Mr. Kelly explained how the general bylaw of the town worked and how any changes would need to go to Town Meeting. He also warned that when any new restrictions were imposed this would push cars into unrestricted residential areas, and that the town would have a new issue to contend with.

Mr. Sears revisited the few recommendations he had mentioned earlier in his presentation and suggested that it might be a good strategy to separate Rock Harbor from the rest of the landings.

Mark Mathison moved that the Select Board follow the recommendations of Chief MacDonald to alter the parking at Pricilla, no trailer parking at Town Hall (as indicated in the presentation), request that the Conservation Commission create resident-only parking at the new parking lot at Portinamicut Rd. with minor exceptions from the Harbor Master, and to bring back the regulation to allow Chief MacDonald to post emergency no parking signs in areas that he deems appropriate, 2<sup>nd</sup> by Andrea Reed.

Ms. Reed questioned where the displaced trailers were supposed to park and Mr. Kelly stated they could park in the gravel lot across the street. The vote was 5-0 with Mefford Runyon, Mark Mathison, Michael Herman, Andrea Reed, and Kevin Galligan all voting aye by roll call.

6:30 p.m Public Hearing on proposed sewer system cost allocation between property taxes and betterments

The public hearing did not begin until 7PM. Mr. Galligan recused himself from items 6 and 7. Ms. Reed also recused herself from items 6 and 7.

Mr. Runyon read aloud the public hearing notice.

Ms. Doane asked Mr. Harrison to share his screen to show the updated betterment calculations. Mr. Harrison explained that his team had been asked to show the betterment costs for the 4 scenarios and gave a brief description of how they had arrived at the numbers for each.

A question came from the audience stating that he usually got notified by the town website and that he had not. Mr. Kelly stated that due to the website changeover, people would need to re-sign up for updates. He added that there had been articles in the Cape Codder and The Cape Cod Times advertising the public hearing.

Mr. Harrison noted that in the current scenario, the betterment numbers for the Downtown area and the Meetinghouse Pond areas were very different, but in scenarios 4 and 5, they began to converge. He noted that scenario 4 had the two phases at the closest betterment projections for all property types.

Ms. Doane stated that Mr. Harrison's presentation was only to illustrate the betterments, and had no bearing on the tax rate. She began her presentation by going over the assumptions used for her calculations and then the basics of the 4 different scenarios up for consideration.

There was a question from the audience asking for clarification on what areas specifically "Downtown" and "Meetinghouse Pond" consisted of. That same individual asked if a betterment was tax deductible. Mr. Runyon stated that the two areas were on maps that had been available for several years. He went on to explain what those areas were with approximate property numbers. Ms. Doane stated that she was not a tax professional and advised the citizen to speak to one regarding his question on betterments. She then explained the two ways in which betterments could be paid back and stated that the betterment would be a component of the tax bill.

There was a question from the audience asking where all of the background information could be found. Mr. Kelly explained where the information could be found on the town website.

There was a question as to whether a betterment would be added to the assessed value of one's home and asked if that would differ by scenario. Mr. Kelly stated that the betterment itself was not part of the assessed value but was a special charge that would be paid for as part of a property tax bill based on the option that a taxpayer chose by which to pay off their betterment.

There was a comment from the audience questioning how the betterment was owed due to the fact that a resident's property value would go up due to being sewerred, but also that their property tax value would not go up and thought that was confusing. Mr. Kelly stated that when any property was re-

valued every three years in MA, that there may come a time when the assessor would start to take the sewerage into consideration, but he did not know what that value would be, but it may happen. He added that properties might be able to expand the number of bedrooms, and businesses might be able to expand and that might increase the overall value. Ms. Doane added that if the town were to accept the scenario of 100% on the tax rate, that there would be no betterments. She also went through a brief example of where to find all wastewater information on the town's website.

Mr. Runyon noted that part of that evening's meeting was to discuss what exactly would be "bettered" by the sewers. He went on to explain what a sewer unit was and how different properties would have different sewer units based on their usage. Mr. Kelly further explained how the water use would play into the sewer units and the values to be used. He stated that if a citizen were to look at their water usage over a three-year average, that they would be able to determine how many sewer units they used. He noted that the larger water users would pay a larger betterment as the Select Board believed that this was the most equitable way to a lot the betterment costs. It was explained that the system would use a three-year average from when the system started, so that at the moment, numbers were projections.

There was a comment from the audience from a gentleman who read from an article that had been in the Chatham Chronical in 2019 that stated "being conservative, there is a change that tax payers will not have to pay a penny for this \$47 million project" – he added that he believe what he had read. He asked if Mr. McClennen could explain where the funds in the state revolving fund were. Ms. Doane noted that this gentleman might be confusing the state revolving fund with the subsidy that the town had received from the Cape Water and Protection Trust Fund (\$14.8 million) she added that that subsidy had come directly off of the top of the current cost estimates. This same gentleman asked if the hotel/motel tax had already been increased from 4-6% and Ms. Doane stated that it had and that this was where the \$1.5 million subsidy to offset the tax rate was coming from. The gentleman asked how much money was in the account currently and Ms. Doane stated \$1.8 million, but that one year of the sewer system had already been funded. She added that for the next 5 years the operations of the sewer system would most likely be used as user fees would not be fully recognized until then. The gentleman asked if short-term rentals were being included in this tax and Mr. Kelly explained that the funds being collected included: short-term rentals, hotel/motel and all funds went into the Sewer Stabilization Fund and that \$1.5 million was the assumed collected annually. This same gentleman asked of the \$47 million, how much would be paid for by the scenarios being presented that evening. Ms. Doane brought up the slide of the modified current Select Board policy to explain. She then went into detail of past meetings where different totals had been approved, explaining how the total was all shown in the slide that she was displaying. The gentleman asked how the town was going to achieve tax payers not paying one penny of the \$47 million, and Ms. Doane again referred to the modified current Select Board policy, which did achieve a \$0 impact to the tax rate. She explained that that same scenario however, did not appear to be fair and equitable to all residents as all residents would be bettered. The gentleman asked if it would make any difference if the betterments for the two phases were combined. Mr. Kelly stated that that had not yet been shown or discussed, but was a possibility. The gentleman asked if the town had anyone working on grants for these projects and referenced how Chatham had done many projects with grants. Mr. Kelly stated that the town had applied for SRF financing which was a 0% interest loan and had they not, they would be paying apx. \$50 million in interest payments. Mr. Kelly added that Meetinghouse Pond had also applied for SRF and were in the intended use plans. He stated that they had also applied for AARPA funds. Ms. Doane stated that this presentation was a "point in time analysis" and that it would not be any more, but could be a lot less based on funding the town received. She added that the first time anyone would see a betterment on their tax bill would be in January of

2025 and that the town was trying to achieve a fair and equitable way to balance these costs amongst all citizens.

A question was asked, if the betterment was paid over 30 years, would the taxpayer pay interest on that? Ms. Doane stated that that would be decided on in the bylaw and that MA Gen. Law allowed for a max of 5% interest rate over and above what the town was paying and added that historically towns asked for a 2% interest rate. He asked if the betterment could follow the property or individual and Ms. Doane stated that the betterment was tied to the parcel, not the property owner.

A gentleman asked if the town would continually go to bid on the interest rate for financing the betterment and Ms. Doane stated that if the town were to charge an interest rate it was generally just to cover their administrative costs and that the only monies that needed to be raised were the debt service fees and generally, they were able to raise enough money to not have to go back out to the market. Mr. Kelly read aloud what the current draft bylaw stated as far as for the financing of the betterment.

A question was asked as to whether the project was on time and on budget and Mr. Kelly stated that it was. The same gentleman noted that 40% of the town would never be sewerred and questioned whether those people would be impacted by the tax. Ms. Doane clarified that the tax impact was town wide, regardless of where you lived.

There was a question asked if the 2% additional interest fee could be less and Mr. Kelly stated that that was correct.

A woman in the crowd asked what would happen in phases 3 and 4 as they were not being discussed at all and asked if one of these scenarios would be applied to future phases. Mr. Kelly stated that the adopted bylaw would apply unless it was amended, which could be done. The woman noted that there was such a large unknown and that the town was asking for a lot of trust as no one knew what the future costs were going to look like. Ms. Doane noted that this was the reason that this was being discussed, as it became apparent that the current policy did not seem fair and equitable to all. She added that it was just another thing that would make the town unaffordable for people. The woman added that she felt that the town was being very unclear in what was being asked of the tax payers.

A gentleman noted that in 2019 the project had been presented based on the concept that phase 1 would be paid for 100% by betterments. He noted that based upon studies, the average "betterment" of sewerred a home was 8010% which equated to apx. \$74k for the average residential unit in Orleans. He stated that this betterment allowed for expansion of one's home. He stated that he felt that the current process was being done hastily and based on projected scenarios and he felt that the betterments should be based on the specific values that would be realized by specific parcels.

A gentleman who stated that his home would never be sewerred but that there would still be studies done in the future where he may be told by the state that his septic needed to be fixed as there was still nitrogen run-off and that this was an unknown for him. He wondered if the town was taking this into consideration as to whether or not someone like him would receive a tax break in the event that such a situation occurred. Mr. Mathison noted that the board had spoken about this concept and spoke to the wastewater revolving fund and possibly allocating some of those funds to the people who would never be on the sewer system to improve their failing septic systems. He added that there could be subsidies to some degree to pay for these situations.

A member of the public noted that whether betterments were good or not would be an interesting philosophical conversation, but deciding what the betterment amount was to each citizen was a different discussion. He stated that if the project was being done all at once it would be a different story but to him, it seemed like the people in phase 1 and 2 were subsidizing the people in all subsequent phases unless the next phases could be assessed retrospectively. He stated that he wasn't arguing against betterments but that each person should pay for their own betterment and not subsidize someone else.

A member of the public stated that he felt that the 484 people who were going to be affected by this project should have a bigger say and urged the board to pick the scenario that spread the benefit to the most people possible, or to only ask for the 484 people who were going to be affected to vote on that warrant article.

A member of the public, David Currier spoke via zoom and noted that the original purpose of this project was to clean up Town Cove and that there were many properties whose wastewater did not contribute to Town Cove, that were still going to have to pay for it. He reminded Mr. Runyon that just because his commercial business would be hooked up to the sewer system did not automatically entitle him to have more seats. He explained that he would have to go in front of the Board of Water and Sewers and pay more money and fees to have more seats. He added, towards the betterment end, that hooking his property up to the sewers would only help to clean up Rock Harbor, which had already been deemed un-cleanable due to the boat traffic. He noted that there would be people who live on Town Cove who would not hookup to the system and would not have to pay any betterments but would be benefitting. He also noted that with the way the sewer rate was being calculated, that the year-round people would not be subsidizing the "problem" which was the summer influx. He added that not only did this pertain to his personal property in Orleans, but also his business, that ran for 12 months of the year, versus businesses located directly on Town Cove who only operated for 6 months and thus would have a lower rate. He went on to lay out the exact dollar amounts that he would have to pay annually as well as over a 30-year span of time. He questioned, when the town was trying to attract young people and families, why they were asking people who had substantially more money to pay substantially less money. He reminisced to the original plan and how he had been at town meeting at the time and did the calculations and stated that it would have cost him \$325 annually and felt that that was fair for everyone to have clean water. He noted that charging local businesses \$674k for a sewer hookup but only charging someone else \$9k, was not fair. He stated that, he would be paying well over \$500k more than a vast majority of other people. He implored the board to look at what they were really asking of full-time residents and business owners by only asking second homeowners and retirees to kick in a small amount.

A member of the public stated that he did not want to lose sight of the fact that this was not an isolated thing and that it would have an effect on affordable housing and the ability for people to continue to live on Orleans.

Alan McClennen spoke to a letter that Herb Kinney had submitted and asked that it be part of the public record. He did not read it aloud, but noted that it said that the town needed to do a lot of work. He noted that the town was spending a lot of money on figuring out how to make the town more affordable and added that the chief of police could not get people to work in the town due to the lack of affordable housing. Mr. McClennen that the town needed to be extremely careful with the betterment options as they would move the town in the direction of having even less affordable housing. He then

gave a specific example of Rock Harbor Village, a project that was federally funded, where people would be charged \$12,500 as a betterment who had limited rents and he assumed that there would be nothing within that project budget that would allow these people to pay that money nor could they be exempted. He noted that in some of these schemes, there would be a betterment for Governor Prence and asked the board to very seriously consider their betterment bylaw. He then presented a map from the packet of the town of Orleans which showed the approved comprehensive wastewater management plan voted on in 2008 and approved by the state and county in 2011. He explained that this map told regulators how the town would comply with the Federal Water Quality Act. He explained what all of the colors on the map meant. He also noted that for the South Orleans area, the town had submitted an application to see if the state regulators would fund alternative methods to sewerage (Permeable Reactive Barriers), and had received \$65 million to implement this plan. He noted that this was submitted as a separate project by the town of Orleans to see if the state would fund that kind of treatment and they did, but the town was not ready to move forward with that project yet. Mr. McClennen noted that the town had managed to stay out of the Conservation Law Foundation due to the fact that they were working in a planned and consistent way. He added that by securing 0% interest loans, the town had saved apx. \$51 million in interest. He stated that the town had looked at 10 different ways to charge betterments and had not yet found one that worked in a fair way. He noted that he felt that 75% of the costs for the project would be paid for by revenue other than the tax base.

A member of the public asked Mr. McClennen whether or not he thought that the town needed to revisit the allocation methodology based on water usage as it seemed that the town had a flaw with people who might be in the same position as Mr. Currier. Mr. McClennen stated that the town had looked at 10 different systems and came up with this option to use water. He stated that it needed to be modified as there were some people who were adversely affected. The member of the public asked if diving up the costs between the real estate tax and betterments might be a better way to deal with the issue at a micro level. Mr. McClennen explained that people could not be treated differently, and that the town would need to establish a universal sewer unit. He further explained that if the town were to use the traditional way of measuring, that a significant number of the 600 condos in downtown would pay double. Ms. Doane read aloud the uniform unit method from MA Gen. Law. Chap 83, Sec. 15. She added that Orleans did not define a single-family residence, but rather a dwelling.

Mr. McClennen explained how other towns in the area had decided to pay for their sewer systems. Chatham had decided to have the entire town pay via taxes, no betterments. Barnstable began with a base betterment on every household of \$17k and added more costs as the system was built by way of the sewer unit. He stated that he did not believe that Falmouth had betterments and noted that Nantucket had betterments in the Shimmo subdivision. He explained that all of the homes in this subdivision were relatively the same and they all paid the same betterment. He went on to state that most towns had shied away from betterments due to the same complexities that Orleans was dealing with that evening. He noted that the complexities lay in the fact that Orleans had 5 different zoning districts with vastly varying lot sizes and uses.

A member of the public asked if the town could raise the tax on short-term rentals and was told that the max was 6% and that is where the town was. That same person asked if the decision could be postponed to Fall Town Meeting. Mr. Runyon explained that the Warrant Article for Meetinghouse Pond could not wait and that the Select Board was not confident that the Meetinghouse Pond phase would pass without knowing how phases 1 and 2 would be paid for. Mr. Kelly further explained that in order to remain in the intended use plan for calendar year 2022, the entire \$32 million appropriation approved by Town Meeting by June 30<sup>th</sup>. The member of the public asked if the bylaw could be changed

after voting on it initially and Mr. Kelly explained that it could be changed at any Town Meeting with a majority vote.

A member of the public asked what would happen if the \$32 million in appropriations did not pass. Mr. Kelly explained that the town would lose its spot on the intended use plan for 2022 and would need to re-apply. Mr. McClennen added that the plan showed that the town hoped to receive apx. \$8 million from the Cape and Island Trust and that Orleans stood a very good chance of getting in at that time, but if they waited for next year, they would not be in the same favorable position. Mr. Kelly clarified that the intended use plan was what made the town eligible for funds from the state revolving fund and 0%.

A member of the public stated that he had been in support of the sewers all along but that he would be much less likely to vote to approve \$32 million if he was going to also have to pay \$56k in betterments.

**Mark Mathison moved to close the public hearing, 2<sup>nd</sup> by Michael Herman. The vote was 3-0-2 with Mark Mathison, Michael Herman and Mefford Runyon voting aye, and Andrea Reed and Kevin Galligan recusing.**

Ms. Doane stated that she felt there was no fair and equitable way to assess a betterment for the town of Orleans. She stated that in her opinion, it made sense for 100% of the cost of the sewer project to be placed on the tax rate was fair and equitable across the board and a betterment bylaw would not ever have to be revisited in the future.

Discussion on setting up funding mechanism to assist property owners with cost of upgrading or replacing on-site septic systems with an innovative/alternative nitrogen removal system

Mr. Kelly stated that Orleans would try to emulate what another town was doing and that the plan would ultimately go to a Town Meeting.

Mr. Herman asked Mr. McClennen about IA systems that took out certain percentages of the nitrogen even if it was 100%. Mr. McClennen stated that the best was 5 parts per million. He stated that the technology simply wasn't there yet. Mr. Mathison questioned whether the county commissioners had voted to allow funding for replacing septic systems as well as connecting. Mr. McClennen stated that this program would probably also receive AARPA funding.

Mr. Mathison spoke to the issue that citizens had who would never be hooked up to the sewer system had reservations about all funding being on the tax rate as they would also be responsible for fixing and/or replacing their septic systems when they failed. He stated that these people wondered who would help them out when they were helping everyone else with the sewer system. He stated that he knew that the town could not use the funds from the sewer project, but felt there should be some other funding mechanism set up so as to have an element of fairness to people. Mr. McClennen explained that the 80/20 split did show that both of those groups would pay the same over a certain amount of time. He added that no one was talking about the fact that if the cost was 100% on the tax rate, the people hooking up to the sewers also had to pay to hook up, and then also pay the operating cost.

Ms. Doane asked if that concept didn't further lend to the best scenario being to put the cost 100% on the tax rate as the user fees for someone connected to the sewer would most likely be greater than someone who would have to keep up their septic system, annually. Mr. Mathison stated that he did not know as he had never seen numbers as to what the true costs were. He emphasized that the town

needed to figure out a way to convince tax payers that it would be worth it to them to pay \$200-\$300 more annually on their tax bill for a system that they could never use. Mr. Runyon stated that even if the town chose not to have betterments, all of the properties on the sewer system would have to pay hookup costs and some would also have to pay for grinders. Mr. Mathison stated that he understood that, but the town still needed to come up with a way to convince voters to agree to pay for a system that they would never use. He stated again that he felt some kind of program to subsidize those who would never have access to the sewer system was needed in order to get the vote of those citizens. Mr. Runyon stated that he felt the town should try to figure out a way to help those people if it was possible. Mr. Runyon then pointed out, that when the current scenario had been voted at town meeting, it was based on a scenario where unsewered people would be paying on average an extra \$200 annually on their tax bill and that this plan had been voted into place. He noted that the scenario with 100% on the tax rate would now be asking voters to pay less than what had been agreed on 4 years prior. Mr. Runyon asked Mr. Herman if he was also in support of helping individuals who would not hook up and he stated that he was.

Mr. McClennen spoke to a chart that he had presented 4 years prior explaining the \$47 million. He stated that 33.6% (\$15.9 million) would be paid for by the tax payers, 22% (\$10.5 million) would come from the existing 6% hotel/motel tax, the betterment policy at that time was 19.2% (\$9.1 million), the clean water trust 25% (\$11.8 million) which was a projection at that time. He noted that if the Chatham Chronical stated that the sewers were going to be free, then that had been a mistake.

Mr. Runyon asked that the letters ready by citizens would be placed in the public record and Mr. Kelly stated that they would.

Mr. Kelly clarified with Mr. McClennen that his board would have a meeting the following Wednesday to discuss sewer charges and asked if he should schedule a meeting with the Select Board for March 23<sup>rd</sup>. Mr. McClennen stated he'd like to see it on the Select Board's agenda for the 16<sup>th</sup>. Mr. Kelly said he would add it and noted that the boards would then need to vote.

#### Review draft warrant article index for Annual Town Meeting in May

Mr. Kelly stated that based on prior discussions, the article for licensing of short-term rentals would be removed for May. It was noted that the bylaw for animal control/leashing would be delayed.

Mr. Galligan noted that the Snow Library Trustees would like to meet with the Select Board before the Warrant Articles were finalized, and Mr. Kelly stated that they were on the agenda for March 16<sup>th</sup>. Mr. Kelly noted that since the town did not have a roof design and/or bids, they were looking to defer that until Fall Town Meeting.

Mr. Kelly added that they would be meeting with Nauset Regional School and OES on March 26<sup>th</sup> at 5:30. He also noted that the \$100 for Snow Library would remain on for now. Mr. Galligan stated that the Trustees might be looking for more than that.

Mr. Runyon asked if bone premiums could be added to the consent calendar and Ms. Doane stated that they needed to be voted on separately as they were an appropriation.

Town Administrator's Report

a. Vote to approve Wetland's Protection Fund expenses for educational brochures  
Ms. Reed asked if the new brochure would be available online and would it be advertised as to where those brochures would be available as printed material. Mr. Kelly stated that he would speak to Mr. Jannell.

**Ms. Reed moved to approve the request from the Wetland's Protection Fund for the purpose of printing occasional brochures for the Conservation Commission, 2<sup>nd</sup> by Mark Mathison. The vote was 5-0-0 with Mark Mathison, Mefford Runyon, Andrea Reed and Kevin Galligan all voting aye.**

Liaison Reports

The board decided to defer until next week due the late hour.

Items for future agendas

These had been briefly discussed during the warrant article discussion.

Adjourn

**Andrea Reed moved to adjourn, 2<sup>nd</sup> by Kevin Galligan. The vote was 5-0-0, with Andrea Reed, Kevin Galligan, Michael Herman, Mefford Runyon and Mark Mathison all voting aye.**

Respectfully Submitted,  
Ashley Stucenski

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Mark Mathison, Clerk

Documents in March 9, 2022 packet: