

## BOARD OF SELECTMEN

### MINUTES

**September 14, 2011**

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

Anthony M. Sasso, Town Administrator

**MINUTES.** Motion made and seconded to approve the minutes from August 24, 2011.  
All in favor.

**DEVEREUX BEACH CORPORATION. Lime Rickey's Lease.** Marc J. Miller, Assistant Town Counsel, appeared before the Board to advise them on the request from Devereux Beach Corporation to exercise their option to extend their lease according to the terms and conditions set forth in the Lease dated December 1, 2006. Paul Petersiel, 11 Humphrey Terrace, Swampscott, and Erica Petersiel, 432 Humphrey Street, Swampscott, appeared before the Board on behalf of Lime Rickey's. The Board discussed menu options and pricing. Mr. Petersiel noted that although food costs have soared over the years he still provides a quality product at competitive prices. Ms. Petersiel addressed the Board's concern with trash at the concession stand as well as along the beach. Ms. Petersiel stated she has been working with the Recreation and Parks Department in this issue and feels it has greatly improved over the past 6 weeks. She will continue to monitor this situation. Motion made and seconded that the Marblehead Board of Selectmen, in accordance with Paragraph 31 of the Lease dated December 1, 2006, and the terms and conditions therein, relative to a concession stand and portion of land at Devereux Beach between the Town of Marblehead and Devereux Beach Corporation, and in response to Devereux Beach Corporation's notice to the Marblehead Board of Selectmen, dated July 20, 2010, exercising Devereux Beach Corporation's option to extend the Lease, grants to Devereux Beach Corporation an extension of the Lease for a period of time from December 1, 2011, through November 30, 2016, and in no event subsequent to November 30, 2016, provided however, Devereux Beach Corporation is not and will not be in breach of the terms and conditions of the Lease. Furthermore, in accordance with said Paragraph 31, effective December 1, 2011, the annual rental reflecting the Boston/Massachusetts/Nashua, New Hampshire Consumer Price Index shall be Thirty-eight Thousand Four Hundred Twenty-five Dollars and Two Cents (\$38,425.02) and payable in quarterly installments of Nine Thousand Six Hundred and

Six Dollars and Eighty Cents (\$9, 606.80), each, on December 1, 2011, March 1, 2012, June 1, 2012 and September 1, 2012, and commencing December 1, 2012, and on each December 1, following during the term of the option, which options expires on November 30, 2016, adjusted in accordance with the Boston, Massachusetts/Nashua, New Hampshire Consumer Price Index, and in no event shall an annual rental be less than the rental for a previous Lease year, December 1, through November 30. All in favor.

**FINANCE. Refunding Bonds.** John McGinn, Finance Director, and Patricia Murray, Tax Collector/Treasurer, appeared before the Board seeking approval to issue \$15.86 million in general obligation school refunding bonds. Interest rates have improved significantly in the past few months and by refinancing this outstanding long term debt on the High School and Veterans Middle School originally issued in 2004, the Town will save just under \$1.3 million in interest payments over the next 13 years. This is a direct savings to taxpayers.

Motion made and seconded that in order to reduce interest costs, the Treasurer is authorized to issue refunding bonds, at one time or from time to time, pursuant to Chapter 44, Section 21A of the General Laws, or pursuant to any other enabling authority, to refund all of the Town's \$25,800,000 General Obligation School Bonds dated August 15, 2004 maturing on August 15 in the years 2015 through 2024 (inclusive) (the "Refunded Bonds") and that the proceeds of any refunding bonds issued pursuant to this vote shall be used to pay the principal, redemption premium, if any, and interest on the Refunded Bonds and costs of issuance of the refunding bonds. All in favor.

Further motioned and seconded that the sale of the \$15,860,000 General Obligation School Refunding Bonds of the Town dated September 21, 2011 (the "Bonds"), to Janney Montgomery Scott, LLC at the price of \$17,833,681.82 and accrued interest, if any, is hereby approved and confirmed. The Bonds shall be payable on August 15 of the years and in the principal amounts and bear interest at the respective rates, as follows:

<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>
2012	\$55,000	2.00%	2019	\$1,530,000	4.00%
2013	60,000	3.00	2020	1,595,000	4.00
2014	60,000	3.00	2021	1,655,000	4.00
2015	1,300,000	4.00	2022	1,720,000	4.00
2016	1,350,000	4.00	2023	1,795,000	4.00
2017	1,415,000	5.00	2024	1,850,000	3.00
2018	1,475,000	4.00			

All in favor.

Further motioned and seconded that in connection with the marketing and sale of the Bonds, the preparation and distribution of a Notice of Sale and Preliminary Official Statement dated August 30, 2011, and a final Official Statement dated September 1, 2011

(the “Official Statement”), each in such form as may be approved by the Town Treasurer, be and hereby are ratified, confirmed, approved and adopted. All in favor.

Further motioned and seconded that the Bonds shall be subject to redemption, at the option of the Town, upon such terms and conditions as are set forth in the Official Statement. All in favor.

Further motioned and seconded that the consent to the financial advisor bidding for the Bonds, as executed prior to the bidding for the Bonds, is hereby confirmed. All in favor.

Further motioned and seconded to authorize the execution and delivery of a Refunding Escrow Agreement to be dated September 21, 2011, between the Town and U.S. Bank National Association as Escrow Agent and Paying Agent. All in favor.

Further motioned and seconded that the Town Treasurer and the Board of Selectmen be, and hereby are, authorized to execute and deliver a continuing disclosure undertaking in compliance with SEC Rule 15c2-12 in such form as may be approved by bond counsel to the Town, which undertaking shall be incorporated by reference in the Bonds, as applicable, for the benefit of the holders of the Bonds from time to time. All in favor.

Further motioned and seconded that each member of the Board of Selectmen, the Town Clerk and the Town Treasurer be and hereby are, authorized to take any and all such actions, and execute and deliver such certificates, receipts or other documents as may be determined by them, or any of them, to be necessary or convenient to carry into effect the provisions of the foregoing votes. All in favor.

**TASK FORCE AGAINST DISCRIMINATION. Committee Update.** Annmarie Hunter, 55 Rockaway Avenue, Loren Weston, 52 Waterside Road, Joe Whipple, 106 Atlantic Avenue, Mike Harper, 11 Seaview Avenue and Monica Tecca, 10 Village Street, appeared before the Selectmen with a committee update.

**“Rachel’s Challenge”**, a multi-media presentation based on the story of Rachel Scott, the first person killed at Columbine High School on April 20, 1999 will be brought to Marblehead High School on October 6, 2011. This character education program, based on a grant from the Marblehead Public Schools, will be presented to all students in 2 school wide assemblies followed by a community event in the evening at 6:30 p.m.

**“No Name Calling Week”** this first time program will be introduced in the schools in October.

**“No Place for Hate” banner.** The Committee requested the Board’s support in placing No Place for Hate Banners and/or posters in all town controlled buildings as a visual reminder and to bring attention to the public. Motion made and seconded to have the Town Administrator locate town controlled buildings to place the “No Place for Hate” banner or poster. All in favor.

Residents are encouraged to contact a member of the Task Force with any questions or concerns they may have. The Task Force meetings are scheduled regularly and open to the public. For more information visit [www.marblehead.org](http://www.marblehead.org).

**GLOVER SCHOOL PROJECT FUNDING AGREEMENT.** Patrick J. Costello, Assistant Town Counsel, and Greg Maass, Superintendent, appeared before the Board to advise them that the supervision and control of the Glover School project will be handled in the same manner as previous school projects in the Town and will follow the Massachusetts School Building Association's extensive requirements and regulations. Motion made and seconded that the Board vote to accept the reimbursement rate and incentive points determined by the Massachusetts School Building Authority for the Glover School Project, as set forth in Exhibit "T" to the Glover School Project Funding Agreement, and, further, that the Chairman be authorized to execute the Glover School Project Scope and Budget Reimbursement Rate Certification on behalf of the Board in its capacity as Local Chief Executive Officer. All in favor.

**LICENSING. Change of Manager. Marblehead Super Foods Enterprises, Inc.** Motion made and seconded to reaffirm the vote of March 23, 2011 to approve the request to change the manager on the Wine and Malt Beverage License w/ Cordials Permit for Marblehead Super Foods Enterprises Inc. d/b/a Hooked Seafood and Grill, 114 Pleasant Street, to Darby T. Attridge subject to approval from the ABCC, receipt of all required fees, forms and CORI approval. 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.

**LICENSING. Warwick Theatre Foundation. Auction Permit.** Motion made and seconded to approve the request from Brian W. LeClair, 12 Fox Run Lane, for an Auction Permit on Saturday, October 22, 2011 at Abbot Hall from 6:00 p.m. – 10:00 p.m. subject to receipt of the requisite fee (\$50). All in favor.

**LICENSING. Warwick Theatre Foundation. One Day Wine Charity Pouring License.** Motion made and seconded to approve the request from the Warwick Theatre Foundation for a one day Charity Wine License on Saturday, October 22, 2011 from 6:00 p.m. to 10:00 p.m. at Abbot Hall and for delivery of the wine at Abbot Hall from 12:00 noon – 6:00 p.m., subject to receipt and review of the letter of solicitation and certificate of good standing, approval from the ABCC and receipt of the required Liquor Liability Insurance. Delivery of the wine shall be coordinated by a Foundation member and at no time left unsupervised. 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.

**CHAMBER OF COMMERCE. Antique Car Show. Parking.** Motion made and seconded to approve the request from Ann Marie Casey, Chamber of Commerce, to use the State Street Wharf on Sunday, September 25, 2011 from 11:00 a.m. – 2:00 p.m. for an antique car show and that no parking spaces at the State Street Landing be blocked and public walkways to and from State Street boat ramp not be blocked. All in favor.

**PERMISSION. Blocking Street.** Motion made and seconded to approve the request from Ali Drayer, 2 Conant Road, to block off part of Emerald Avenue in front of #4 on Sunday, September 18, 2011 from 2:00 p.m. – 5:00 p.m. for a block party. All in favor.

**ABBOT HALL. Permission.** Motion made and seconded to approve the request from Leslie Downie, Symphony by the Sea, to allow water, cookies and coffee to be sold at their concerts on October 15, 2011, November 26, 2011, January 21, 2012 and April 28, 2012. All in favor.

**PERMISSION. Dumpster.** Motion made and seconded to approve the request from Kennedy's Company to place a 30 foot dumpster on the corner of Washington Street alongside 5 Corner Kitchen for a period of 3 weeks, September 15 – October 6, 2011 subject to the proper insurance and approval and required permit from the Fire Chief. All in favor.

**PERMISSION. Blocking Street.** Motion made and seconded to approve the request from Laura Simpson, 15 Mystic Road, to block Mystic Road starting at Florence Road on Saturday, September 17, 2011 from 2:00 p.m. – 8:00 p.m. for a block party. All in favor.

**PERMISSION. Blocking Street.** Motion made and seconded to approve the request from Susan Barone, 9 Pickwick Road, to block Pickwick Road from #9 – 19 on Saturday, October 1, 2011 from 12:00 noon – 6:00 p.m. for a block party. All in favor.

**PERMISSION. Scaffolding. 131 Washington Street.** Motion made and seconded to approve the request from Daniel Sherwood, Sherwood Painting Services Inc., to place scaffolding at 131 Washington Street for a two week period between October 3 – 21, 2011 subject to receipt of the proper insurance, police detail, properly illuminated at night and approval from Chief Picariello that pedestrian safety is met. All in favor.

**PERMISSION. Wicked ½ Marathon, Black Cat 10/20 Miler.** Motion made and seconded to approve the request from Brandi Dion, B&S Fitness Program LLC, to hold the 5<sup>th</sup> Annual Wicked ½ Marathon on September 24, 2011 and the Black Cat 10/20 Miler on March 4, 2012 subject to receipt of the proper insurance and approval from Marblehead Police and Recreation and Parks Department. The Wicked ½ Marathon starts at Bentley School, 25 Memorial Drive, Salem at 7:00 a.m., entering Marblehead and continuing around the neck and back to Salem, with the last runners leaving Marblehead at approximately 9:30 a.m. The Black Cat 10/20 Miler is the same course, starting at 8:00 a.m. at the Bentley School. The last runners doing the 20 miles will leave Marblehead at approximately noon time. All in favor.

**GLOVER ESTATES LLC. Amend Agreement.** Motion made and seconded to approve the amended agreement between Glover Estates LLC and the Town of Marblehead as presented and authorize the Chair to sign on behalf of the Board.

**PERMISSION. Use of Abbot Hall. Marblehead Historical Commission.** Motion made and seconded to approve the request from Chris Johnston, Chairman, Marblehead

Historical Commission, to use Abbot Hall on Thursday, November 3, 2011 and Thursday, November 17, 2011 from 6:30 p.m. – 9:30 p.m. for a lecture series on “Marblehead in the 1600’s given by Robert Booth and Judy Anderson, subject to the usual rules and regulations. All in favor.

**POLICE DEPARTMENT. Indemnification.** Motion made and second to further review the request to indemnify Office Andrew Clark for injuries sustained on September 2, 2011. All in favor.

**STATEWIDE PUBLIC SAFETY MUTUAL AID/PUBLIC WORKS MUTUAL AID.** Motion made and seconded that the Board of Selectmen vote to opt in to the mutual aid agreements, in accordance with MGL c. 40, sec.4J – Statewide Public Safety Mutual Aid Agreement and MGL c. 40. Sec.4K – Statewide Public Works Municipal Mutual Aid Agreement and to authorize the Chair to sign on behalf of the Board. All in favor.

**TRAFFIC AND SAFETY.** Motion made and seconded to deny the request from Carolyn Ryan to forward her letter to Traffic and Safety Advisory Committee as it relates to traffic concerns on Humphrey Street leading to the High School. The Board noted this area has had a traffic study and peer review completed in the past and the town has adopted the safety recommendations.

**CITIZEN’S SCHOLARSHIP FOUNDATION. Phonathon.** A letter was read from Thomas Despres, President, announcing their annual Phonathon on Sunday, October 2, 2011 from 11:00 a.m. – 5:00 p.m.

**CONSERVATION COMMISSION.** A letter was received from Sidney S. Moreland, IV as it relates to a decision, which he disagrees with, by the Conservation Commission which has prevented him from continuing work on his home. The Board noted that the Selectmen are not the appeals board for the Conservation Commission. Motion made and seconded to keep Mr. Moreland’s letter on file. All in favor.

**GLOBAL WARMING.** A letter was received from Ilse Schaeffner, age 12, asking the Selectmen to join the “U.S. Mayors Climate Protection Agreement” a 12 step program that sets reasonable goals for towns to reduce carbon emissions. Motion made and seconded to forward her request to Robert Jolly, Marblehead Municipal Light Department, for further review. All in favor.

**EAGLE SCOUT.** Motion made and second to send a letter of congratulations to Christopher Tufts on achieving the rank of Eagle Scout and to invite Christopher to a future Selectmen’s meeting to present his Eagle Scout project. All in favor.

**VETERANS MEMORIAL SERVICE.** A letter was received from John Sullivan, Solimine Landergan & Richardson Funeral Homes, inviting the Board to the annual Veterans Memorial Service in honor of our deceased Veterans who have served in the

Armed Forces on Saturday, November 5, 2011 at 1:00 p.m. at 426 Broadway Street, Lynn, MA.

**MASSACHUSETTS HISTORIAL COMMISSION. Seaside Park. National Register of Historic Places.** Notification was received from William Francis Galvin, Secretary of the Commonwealth and Brona Simon, State Historic Preservation Officer, informing the Board that Seaside Park was accepted by the National Park Service, Department of the Interior, for listing in the National Register of Historic Places on June 8, 2011.

**MARBLEHEAD DISABILITIES COMMISSION. Appointment.** Motion made and seconded to appoint Laurie Blaisdell to the Marblehead Disabilities Commission and to invite Ms. Blaisdell to a future Selectmen's meeting. All in favor.

Motion made and seconded to adjourn at 8:55 p.m. All in favor.

Kyle A. Wiley  
Administrative Aide