

Sippewissett Association
Meeting Minutes - May 22, 2007 (Approved 09/10/2007)

Present: Arthur Gaines, Peter Waasdorp, Bernard Burke, Margaret Goud Collins, Carolyn Powers, Katherine Abrams, Michael Eder, Barbara Eck, Susan Cohan
Absent: Kathleen Taylor, Maureen Conte, Sam Trotz

The meeting which was held at the home of Carolyn Powers began informally at approximately 7:15 PM. Pres. Katie Abrams distributed drafts of the articles she is submitting for the Newsletter. These covered, notes from the President, notes about Board Member nominations and a Summary of the activity of the traffic study.

Review of SA Meeting Minutes – April 10, 2007

Corrections: \$1000 SippOwissett contribution has not yet been sent.
'DCPC' should be a separate highlighted item. This has been tabled for now.
Barbara moved to accept the minutes as corrected. VOTED.

Treasurer's Report – Mike Eder

\$1.79 in interest has been posted. Current balance is between \$8,000 and \$9,000.

Mike is trying to get the EIN number reactivated. He noted SA hasn't filed a tax return for a number of years.

Action items:

- Mike is to send \$1000 to SippOwissett homeowners group.
- Mike is to get a valid EIN.
- Taxes are to be filed regularly.

Old Business

Membership Report – Barbara Eck

There are 151 current members, 5 of whom are complimentary, yielding 146 paying members for 2006/2007. Thirteen members have not renewed for the upcoming year resulting in 133 dues paying members for 2007/2008. Last year we had 135 members, the previous year 148; we can observe a trend of attrition. We need to initiate outreach to reverse this trend. Suggested outreach activities: 1. speaking to neighbors about the group, 2. targeted mailings.

Action items:

- Barbara will provide membership list to Irwin. The list is to be made available to board members to facilitate one-on-one outreach.
- Membership mailing will be one week after the newsletter mailing (see newsletter mailing schedule below).

501(3)(C) Application Status – Maureen / Kathy

Katie reported that Maureen and Kathy are working on an article for a bylaw change. This requires a legality review by a CPA which has not been done to date.

Katie stated that 501(3)(C) status will impact how SA interacts with other organizations; ie, we would not be able to donate to non-501(3)(C) organizations. Also, with this status the number of required filings increases significantly. SA needs to decide whether we really want this status. If we don't decide soon enough before the Newsletter goes out, (notice of change requires notification), then a vote by the membership couldn't occur for another year. Tonight's meeting attendees agreed they are not inclined to continue pursuing the 501(3)(C) status.

Action items:

- Katie will discuss with Maureen and Kathy.

Traffic Control Update – Katie

Sgt. DeCosta did a survey on two weekdays in February, from 6 AM – 5 PM.
Results: number of cars 280+, range of speeds 21 - 41 mph, Avg. speed 29.7.
He agreed to send a patrol car one day in May and one day in June in the hope that police presence will slow people down a bit. He is willing to continue working with us.

Summer Newsletter – Kathy

(From Kathy to Katie) Maureen is working on her article, others are done.

Action items:

- Newsletter is scheduled to be delivered by June 10 to Barbara and scheduled to be in the mail by June 15.

Beebe Woods Update – Maureen(not present)

No update.

Woodneck Beach Update – Maureen(not present)

(Peter provided an update.) Two groups have been qualified to submit proposals. RFPs have gone out to do a study and provide a plan for improving the beach. ConCom or the Town Administrator will decide which RFP to accept.

Planned dredging will be going forward.

SippOwissett Update - Arthur

Arthur reviewed the current status of the dispute. Please see his Newsletter article submitted May 20th for a written update. (The article is provided for convenience at the end of these notes.)

Peter indicated that ConCom is behind the SippOwissett homeowners.

Attendees were concerned that the DEP has tended to cave in and not stand up for environmental protection. Should/can this be raised as an issue by SA?

New Business

SA Board Nominations – Barbara Eck

Barbara presented new board and officer candidates.

SA needs to have a board of year-rounders who can attend most meetings.

Maureen was volunteered to change her elected year=2005 to even out future annual board turnover.

Peter moved to accept nominations, Arthur seconded. VOTED.

Annual Meeting: June 30

Meeting will be at Cape Codder meeting room.

Setup at 9:00, Coffee 9:30, 10:00-noon meeting.

We should have total seating for 50.

Ideas for program: Joann Muromoto, Maggie Geist, Mark Rasmussen, someone from FACES, someone from Woods Hole to speak about global warming, Nancy Todd to speak about sustainable farming/living, Bill Hough to speak about how the Falmouth Enterprise decides what is sufficiently important to report on.

Action items:

- Katie will work on getting a speaker.

- Katie will check on getting chairs either through library or renting.
- Peter, Arthur and Irwin will help with chairs.
- Barbara will get cider/cold drinks and cups.
- Katie will get coffee and Munchkins.

Summer Social

Date t.b.d.

Action items:

- Katie will ask Klein-Robbenharrs (Geraldine+John) or the Scarpolinis to host.

Other Non-agenda Business

Clarifying the role of SA to facilitate membership outreach

It could help us attract members if we could be clearer in stating our role in situations that arise in which we have an interest but only a specific neighborhood has legal standing.

The issues of the Sweeney case are larger in nature, not specific to SippOWissett. Any older community with deeded rights that are not ironclad are at risk of development that can override those rights. Should SA be raising this as an issue?

Open space vs. development issues, preserving marshes and beaches are brought up at the SA board and are in the realm of the SA. But does SA have any legal standing? No. In the Sweeney case SippOWissett Association is driving this situation.

Katie felt SA is a place to come to when there are larger issues. SA role may be a bit more passive than the neighborhood role.

Peter stated every week ConCom deals with issues where people are trying to push development to the max. Mike suggested perhaps we should work on trying to close loopholes in the conservation-related bylaws.

Action items:

- Continue this discussion.

Bike Path

Peter indicated there will be no bikepath entrance near Palmer Ave/Sippewissett Rd. You will be able to get on near the library.

Arthur moved to adjourn, Peter seconded. The meeting adjourned at 9:17 PM.

Submitted by:
Susan Cohan, Acting Secretary
Sippewissett Association

Update on SippOwisset: Meeting the Threat to Develop Open Space
Arthur G. Gaines, Jr.

On March 7, 2007 the Massachusetts Department of Environmental Protection (DEP) issued a “Superseding Order of Conditions” over-ruling the Falmouth Conservation Commissions (ConCom’s) denial of an application to develop open space in Sippewissett. The DEP’s decision specifically applies to provisions of the Massachusetts Wetlands Protection Act (WPA) invoked by the ConCom, not to local bylaws. Contrary to the ConCom, who delivered their Denial Order in May 2006, and to our position, the DEP states the project “adequately protects the interests of the Wetland Protection Act.”

In response, the Committee of SippOwisset* Homeowners (COSH) has appealed the DEP decision in a 79-page document supporting the Town’s position. Although the Town is automatically a party to our DEP appeal, Town Counsel Frank Duffy has decided not to pursue this course of action but rather to focus on a parallel appeal to the Barnstable County Superior Court, discussed below. In our DEP appeal we cite six provisions of the WPA violated in the proposed development project. The first level of the appeal involved a “Pre-Screening Conference” held in Boston on May 10, which was attended by the developer (Applicant), Mr. Joseph Sweeney, his attorney (Glenn Wood of Rubin & Rudman), and their engineering consultant. Our group was represented by our executive committee. In addition a Senior Counsel, Rebecca Cutting, represented DEP. Falmouth Conservation Agent, Jennifer McKay attended as an observer. Administrative Judge Ann Lowrey was the Presiding Officer.

One objective of the meeting was to seek legal means to simplify addressing or to eliminate the appeal. In collaboration with DEP, the Applicant submitted a “Motion to Dismiss” our appeal, alleging several technical shortcomings. We have since responded with a 17-page document in which we make the case that the Motion is *pro forma* and without substance. Nevertheless, if the Administrative Judge grants the Applicant’s Motion, we still have further appeal options. If the Motion is dismissed our appeal will probably be “stayed” pending the outcome of the Town’s appeal to Barnstable County Superior Court, scheduled to be initially heard during August 2007. In past appeals by this Applicant, the Superior Court has consistently ruled in favor of the Falmouth ConCom. If this were to happen again the DEP’s Superceding Order of Conditions would become irrelevant, as would our need to appeal it. If the Court rules in favor of the Applicant, then our DEP Appeal would proceed, being heard in the Division of Administrative Law Appeals (DALA).

A second objective of the pre-screening conference was to explore a possible compromise among parties. The meeting outcome in this regard was less clear. For the first time, however, Mr. Sweeney hinted he might be willing to negotiate a settlement with us. Though only a nuance, this may represent a possible change in the tone of our interactions. It is obviously too early to suggest optimism.

The disputed project centers in the Haynes "SippOwisset" development of 1897, one of several early Falmouth subdivisions. Its 130-acre plan, embracing Gunning Point and the Cape Codder area, consists of eight roads, 193 numbered building lots, and open spaces. The principal open space, and site of the disputed project, is a 6.8-acre parcel along the shore that includes wetlands, a barrier beach, and a 3.4-acre coastal pond. The Town has acknowledged the open-space status of this property by assessing it as a "reservation", valued at about five percent of the land value of nearby house lots. Mr. Sweeney's proposals to build there, in essence, represent an attempt to create a buildable lot where none presently exists. If successful, the value of the lot could increase by a factor of nearly 100 over his purchase price.

Accompanying Mr. Sweeney's recent proposal for a 5-bedroom house comes the threat of denied waterfront access for lotowners, whose lifestyle and property value are rooted in use of open space at the beach. Aside from the DEP and the Superior Court matters, our Committee is pursuing other avenues to resolve this 26-year long struggle. One is a suit filed in the Massachusetts Land Court challenging Sweeney's right to deny access by lot owners to the waterfront at SippOwisset. This suit includes several arguments, including adverse possession, rights conveyed by estoppel, and access by deeded rights. Repeated offers over the years to Mr. Sweeney to purchase the parcel for conservation purposes have gone unanswered.

Our Committee is comprised of volunteers. However, certain essential legal and engineering services are incurring significant costs. To meet these expenses, the Committee has mounted a fund-drive directed at both the lot owners in the SippOwisset subdivision as well as others who see the threats we face as of broader significance. To date we have received contributions from 87 families, with individual pledges and contributions ranging from \$40 to \$5,150. The Sippewissett Association has contributed \$3,000 for information dissemination purposes.

Comments, questions, and contributions can be sent to Committee of SippOwisset Homeowners, P.O. Box 232, Falmouth, MA 02541-0232. Our executive committee includes Dr. Carl Bowin (548-5566); Dr. Maureen Conte; Dr. Arthur Gaines (548-2157) and Mr. Hartley Hoskins (548-0179). We need and welcome your participation.

*"Sippewissett" refers to a vaguely defined area of Falmouth bordering on Buzzards Bay. "SippOwisset" refers specifically to the 130-acre Haynes 1897 subdivision, labeled "SippOwisset".