

**BOARD OF SELECTMEN'S
MEETING MINUTES
6:00PM/7:00PM MONDAY, OCTOBER 7TH, 2013
YORK LIBRARY**

6:00PM: Executive Session - Discussion with Town Attorney Regarding Kittery Water District Quitclaim Deed

6:45PM: Sohier Park Committee Interview

7:00PM: Call to Order

Chairman, Ronald Nowell called the meeting to order at 7:00PM

Present: Chairman, Ronald Nowell, Vice Chairman, Kinley Gregg, Scott Fiorentino, Mary Andrews, Torbert Macdonald, Town Manager, Robert G. Yandow, Recorder, Melissa M. Avery and members of the press and public

Opening Ceremonies

A. Minutes

None

B. Chairman's Report

Chairman Nowell let the public know that he met with the First Parish Cemetery regarding the possibility of a parking lot for Town Hall at 190 York Street and during that meeting they pointed out that according to State Statute there is a 25 foot setback requirement from cemetery boundaries for any kind of construction. Mr. Nowell has asked that the following question be forwarded to Maine Municipal Association for a legal opinion: "Can a municipality lay-out a public right of way closer than 25 feet from a cemetery boundary?"

Mr. Nowell also mentioned that there is a situation on Mountain Road with citizens living in a property acquired by the Town for back taxes that are thought to be unhealthy living conditions that needs to be addressed.

Portland Press Herald recently had a negative article on Time Warner Cable to which Mr. Nowell referred to because of complaints he receives regarding the same issues in the article.

C. Manager's Report

Town Manger, Robert G. Yandow made an announcement that the Town Clerk's Office in Town Hall will be closed on November 5th due to the election held at the High School and also that absentee ballots are now available to pick up until October 31st.

Mr. Yandow reminded the public to take advantage of the Town's Hazardous Waste Day on October 26th from 9:00AM to 1:00PM at the Transfer Station on Witchtrot Road and to call the Department of Public Works at 363-1010 to register for the event.

The Town Manager made note of the Selectmen's meeting schedule during October, November and December as it does not fall on the regular meetings dates due to holidays.

Mr. Yandow encouraged citizens to attend the three meetings put on by the York Community Dialogue for the public to discuss the possible purchase of the Davis Property on York Street. Those meetings are on the following dates: October 11th at 7:00PM, October 26th at 10:00AM and November 2nd at 10:00AM.

D. Awards

None

E. Reports

1. Town Assessor's Annual Report

Rick Mace, Town Tax Assessor gave the Selectmen a few facts from his annual Assessor's Report of which he previously submitted to the Board: The current tax rate is \$10.43; The total taxable value of the town is up 5 million dollars totaling \$3,855,034.16; The Town assessed 28 million dollars in new construction this year; The Town had 282 property sales this year with an average selling price of \$475,878.

F. Citizens' Forum – The Citizens' Forum is open to any member of the audience for comments on items listed on this meeting agenda. All comments should be brief and to the point. Questions that require extended answers or that cannot be readily answered will be referred to the Town Manager for follow-up. Anyone who wishes to submit a written request for future agenda items can do so on the form available at this meeting or may obtain the form through the Town Manager's Office.

Public Comment: Jim Carmody
Peter Ashley
Charles Stacey
Mike Micciche
Sam Horn

G. Approval of Warrant #14

Moved by Ms. Gregg, seconded by Mr. Fiorentino to approve Warrant #14. Vote 5-0, motion passes

H. Public Hearings

None

I. Endorsements

Business Licenses:

1. TCF Corp DBA Clay Hill Restaurant (*Victualers/Liquor/Special Amusement*); Located at 220 Clay Hill Road

Moved by Mr. Macdonald, seconded by Ms. Gregg to approve TCF Corp, DBA Clay Hill Restaurant, located at 220 Clay Hill Road for Victualers, Liquor and Special Amusement subject to taxes, fees and inspections being current and compliant with the usual noise stipulations. Vote 5-0, motion passes.

J. Old Business

None

K. New Business

1. Discussion of Next Steps for Police Station/Connector Road Project

On September 25, 2013 the Town Manager sent a memorandum to the Board of Selectmen entitled "Police Station and Connector Road Projects - Next Steps". The memorandum addressed a number of police station/connector road issues; however one focus of the memorandum was the clear cutting that occurred to allow for two large stock piles on site, one rock pile and one loam pile. The US Army Corps of Engineers has mandated that the Town restore the area that had been damaged by the clear cutting; however the two large stockpiles are encumbering the area that needs to be restored. The material in the stockpiles was intended to be used in the construction of the connector road but the Board of Selectmen has not authorized SMRT to finalize plans for the connector road as of yet. At the end of the memorandum three questions were posed pertaining to the connector road and the US Army Corps of Engineers mandated restoration of the environmentally disturbed area near the police station site. The three

questions are as follows: 1) Is the Board of Selectmen going to approve finalizing plans for the connector road as currently designed? If not, the issue of the two stock piles needs to be addressed immediately. As indicated previously in the September 25, 2013 memorandum, and in the August 15, 2013 memorandum, the cost to relocate the two stockpiles so the mandated restoration can be accomplished ranges from \$147,200 to \$590,200. 2) If the Board of Selectmen does not approve finalizing plans for the connector road as currently designed does the board have an alternative to the existing design or does the board want to scrap the whole idea of Route One access? 3) Is the Board of Selectmen going to approve a partial restoration of the 1.8 acres based on the draft proposal by Steve Burns dated April 8, 2013? If the draft proposal for alternative uses, or a similar proposal, is approved the amount of restoration would be reduced to approximately one acre. All costs for restoration of the area will be borne by PC Construction, so the proposed alternative use should be judged on its own merits, not in connection with restoration costs.

Mr. Macdonald in reference to question one, said that he feels the overwhelming rejection of the proposed traffic light at the intersection of the Connector Road and Route One was not in indication that they felt there did not need to be a traffic light at a possible future intersection there, but that it was the handle by which they could say “no” to that road configuration.

Ms. Andrews stated that the Town never envisioned paying for the proposed traffic light that it came about as a decision by the Planning Board that would be at the expense of the State. Ms. Andrews has received comments from several citizens that they feel the Town needs to move forward with what the voters approved and the voters did not approve a road in by York’s Wild Kingdom that would cost more money at this point. Ms. Andrews agreed that the project needs to move forward or else the Town will be stuck with a lot more costs and she will not agree to go back to the voters for more money.

Ms. Gregg inquired of the Town Manager of what the status of the request to the Army Core of Engineers for an extension on the removal of the rocks was; he replied stating that he had not yet received anything from them. Ms. Gregg commented that she thought the rock removal should be bid out to do better on price and Mr. Yandow explained that PC Construction gave those estimates to give a general basis of knowledge for what the potential costs may be but that it would be possible to bid out the rock removal. Ms. Gregg commented on a statement in the Town Manager’s memo dated September 25th, 2013 regarding the funds for the material relocation not being taken from the Police Station budget, stating that she felt it should come from the Police Station budget because that project was the genesis for why the rocks were stored there. Town Manager Yandow explained that the \$147,000 figure does not relocate the piles; it moves part of a pile out of the way, the other two options actually move the piles either onsite or off site.

Mr. Fiorentino feels the State, rather than the Town should pay for the proposed traffic light on a State road and that is why the constituents voted against it after previously voting to approve the Police Station and the Connector Road.

Chairman Nowell stated that Dave Marshall, former member of the Board of Selectmen approached the board volunteering to act as a good faith negotiator between the Horns and the Town. Since that time neither the Horns nor the Selectmen have heard from or been able to contact Mr. Marshall. Secondly, Mr. Nowell commented that he feels the Town should not pay for the mistakes of the contractors because nowhere in the construction plans, contracts or discussions was there an order for PC Construction to construct the stock piles, that they did that on their own and created environmental violations. He also commented that Gorham Sand and Gravel claimed that SMRT's plan was not specific enough to show the vernal pool, to which he did not agree with, which resulted in the filling of the vernal pool.

The Town Manager recommended that based on tonight's discussion and issues that are still outstanding, that the board not take a vote but move it to the October 21st meeting as there might be additional information that can be generated and deemed useful in the decision making process, to which the Board agreed.

2. Appointment of Election Warden and Set Polling Hours

Moved by Mr. Macdonald, seconded by Ms. Andrews to appoint David N. Ott as the Warden for the November 5, 2013 Referendum Election and further, to set polling hours on that date as 8:00AM until 8:00PM. Vote 5-0, motion passes.

3. YVFD's Request to Sponsor and Host the Maine State Federation of Firefighters' Convention

On September 18, 2013 York Village Fire Department Chief, Chris Balentine requested the Board of Selectmen's endorsement on sponsoring and hosting the Maine State Firefighters Convention in York on September 16-18, 2016.

Moved by Mr. Macdonald, seconded by Mr. Fiorentino to approve the Board of Selectmen's Endorsement of the York Village Fire Department's bid to sponsor and host the Maine State Federation of Firefighters Convention in September of 2016. Vote 5-0, motion passes.

4. Discussion and Possible Action on Chamber of Commerce Purchase and Sale Agreement

The Chamber of Commerce has submitted a Purchase and Sale Agreement to the Town offering to purchase 2.02 acres of Town owned land located next to the Chamber at 571 US Route One for \$150,000. The Chamber has indicated that they are interested in expanding the farmer's market as they do not have sufficient space for all the vendors that would like to participate.

After the Board discussed possible deed restrictions and other possible non-profit uses with Chris Kehl, a member of the Chamber Board, they decided to wait on an amended Purchase and Sale Agreement to be formally submitted and act on that.

5. Discussion and Possible Action on Carry Forwards from FY13

Moved by Mr. Macdonald, seconded by Mr. Fiorentino to approve carrying forward the recommended funds from FY13 to FY14 referred to in the memo and accompanying spreadsheet from Town Manager Yandow, dated October 4, 2013.

Moved by Ms. Gregg, seconded by Ms. Andrews to amend the motion to remove the Village Plan Carry Forwards. Vote 3-2. Ms. Gregg and Mr. Macdonald opposed, motion passes.

Moved by Mr. Macdonald, seconded by Mr. Fiorentino to approve carrying forward the recommended funds from FY13 to FY14 referred to in the memo and accompanying spreadsheet from Town Manager Yandow, dated October 4, 2013 with the Village Plan Carry Forward removed. Vote 4-1, Ms. Gregg opposed, motion passes.

6. Discussion and Possible Action on Kittery Water District Quitclaim Deed

Ms. Gregg commented that she was going to oppose the motion due to the fact that the Kittery Water District has been paying the tax bills for the property sent to them by the Town of York for the past 50 years.

Moved by Mr. Macdonald, seconded by Ms. Andrews in regards to the Kittery Water District lawsuit to authorize the Town Attorney to schedule mediation and conduct any discovery necessary prior to the mediation. The Town Attorney is authorized to speak with the Water District Attorney regarding restrictions of the land for a golf course. Vote 4-1, Ms. Gregg opposed, motion passes.

The Town Attorney asked that the Board select two members of the Board to attend the mediation with the Kittery Water District. Mr. Macdonald volunteered himself and recommended the chair be the other member present.

Moved by Mr. Macdonald, seconded by Ms. Gregg to appoint Chairman Nowell, Selectmen Macdonald and Town Tax Assessor, Rick Mace to attend the mediation process. Vote 4-0-1, Mr. Nowell abstains

7. Property Redemption: 4 Hemlock Avenue

Mr. Macdonald and Ms. Gregg commented on the Tax Collectors proposal of assessing additional monies to cover the work of the redemption the former property owners were approved last year and did not follow through with. Town Manager Yandow met with Mr. Goldman and he explained that there was a serious illness that came about which caused the redemption to take a back seat.

Moved by Mr. Macdonald, seconded by Ms. Gregg to approve the redemption of Tax Map 0032-0014-I; 4 Hemlock Avenue, as requested, subject to the attached conditions being met and that all taxes, interest and administrative costs are paid in full by no later than December 6, 2013. Vote 5-0, motion passes

8. Special Event Permit: York Village Marketfest

Moved by Mr. Macdonald, seconded by Ms. Andrews to approve the Special Event for the York Village Marketfest on October 18th and 19th. Vote 5-0, motion passes

9. Special Event Permit: Turkey Trot 5K

Moved by Mr. Macdonald, seconded by Ms. Gregg to approve the Special Event Permit for the York Parks and Recreation's "Turkey Trot 5K" on November 30, 2013. Vote 5-0, motion passes

10. Special Event Permit: Drive Through Nativity

Moved by Ms. Gregg, seconded by Mr. Macdonald to approve the Special Event Permit for The Journey to Bethlehem Annual "Drive Through Nativity" on December 14th, 2013. Vote 5-0, motion passes

11. Pole Permit: Old County Road/Barrells Lane Extension

Ms. Gregg expressed concern over the road names on Central Maine Power's application not matching the Town's road names.

Moved by Mr. Macdonald, seconded by Ms. Andrews to approve the Pole Location Permit for 1 pole on Old County Road/Barrells Lane Extension in a southeasterly direction, 50 feet from pole #4. Vote 4-1, Ms. Gregg opposed, motion passes

L. Other Business

Ms. Andrews made the comment that she has mentioned before and feels the Board needs to get the process started for lowering the speed limit on Route One. Mr. Nowell asked the Town Manager to find out what is necessary to request the speed limit change from the State.

M. Citizens' Forum

Public Comment: Sam Horn
Charles Stacey
David Brinkman

Adjourn

Moved by Mr. Macdonald, seconded by Ms. Gregg to adjourn the meeting to adjourn at 10:02PM

Respectfully Submitted,

Melissa M. Avery, Recorder