



Town of York

186 York Street
York, Maine 03909-1314

SELECTMEN'S MEETING

6:00/7:00PM MONDAY, DECEMBER 12, 2011

YORK LIBRARY

Town Manager/
Selectmen
(207)363-1000

Town Clerk/
Tax Collector
(207)363-1003

Finance/
Treasurer
(207)363-1004

Code Enforcement
(207)363-1002

Planning
(207)363-1007

Assessor
(207)363-1005

Police Department
(207)363-1031

Dispatch
(207)363-2557

York Beach Fire
Department
(207)363-1014

York Village Fire
Department
(207)363-1015

Public Works
(207)363-1011

Harbor Master
(207)363-1000

Senior Center/
General Assistance
(207)363-1036

Parks and
Recreation
(207)363-1040

Fax
(207)363-1009
(207)363-1019

www.yorkmaine.org

Present: Chair; Tracy Jackson-McCarty, Vice Chair; Mary Andrews, Edward W. Little, Kinley Gregg, Scott Fiorentino, Town Manager; Robert G. Yandow, Recorder; Susan Scott, and members of the press and public.

Call to Order

5:45PM: Executive Session: Real Estate (Pursuant to MRSA Title 1, Section 405 (6)(C))

Moved by Ms. Andrews, seconded by Ms. Gregg to enter into Executive Session: Legal (Pursuant to MRSA Title 1, Section 405 (6) (C) at 5:50PM.

Moved by Ms. Gregg, seconded by Ms. Andrews to exit the Executive Session: Legal (Pursuant to MRSA Title 1, Section 405 (6) (C) at 6:10PM.

Pledge of Allegiance

6:00PM: Work Session - FY13 Budget

Town Manager, Robert G. Yandow, discussed the draft budget noting mandatory increases due to personnel and health insurance as reflected in individual departmental budgets. Until formally approved by the Selectmen, budget figures are subject to change as revenue projections are refined and additional insurance information is received. Projected revenues are expected to remain the same as last year if Selectmen choose to once again include \$790,000 in Fund Balance monies. Mr. Yandow recommends the Selectmen incrementally reduce reliance of those funds which could result in an adverse affect to the Town's bond rating, and in turn review options to address expenditure increases. If monies could be restored to the Public Works budget, road maintenance and repair work as well as additional projects could be implemented allowing the department to catch up on much needed deferred work. Town costs rise if preventative road maintenance does not regularly occur. The Tax Task Force will soon meet to make their yearly recommendation. Mr. Yandow will prepare two budget scenarios illustrating

revenue figures from the Fund Balance for both \$500,000 or \$650,000 to be presented at the upcoming December 19th Selectmen meeting.

Call to Order at 7:04pm

A. Minutes

- November 28, 2011 Selectmen's Meeting Minutes: Moved by Ms. Andrews, seconded by Mr. Little to approve the November 28, 2011 Selectmen's Meeting Minutes. Vote 5-0, motion passes.

B. Chairman's Report

Vice Chairman, Mary Andrews, wished to recognize the Police Department and other Town staff involved in responding to the recent bank robbery. Individuals affected by the robbery were impressed not only by the Police response but also by the emotional/psychological assistance provided. Ms. Andrews read a letter from the Friends of the Cliff Walk Steering Committee who have been engaged in considerable research in determining the public rights to "walk along the ocean" as identified in actual deeds. The Committee will formally contact the Selectmen to schedule a meeting.

C. Manager's Report

Town Manager, Robert G. Yandow, wished to inform the public that Town Hall will no longer have extended Tuesday office hours due to decreased foot traffic as evidenced in the past four to six weeks. Extended hours will be reestablished come spring. If the public cannot visit Town Hall by 4:30pm, Town Hall staff will try to accommodate the public needs by scheduling convenient appointment times.

D. Awards

None.

E. Reports

F. Citizens Forum - The citizen's forum is open to any member of the audience for comments on items listed on this meeting agenda. All comments should be respectful in tone and should be directed to the Chair. 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: None.

G. Approval of Warrant #24

Moved by Ms. Andrews, seconded by Mr. Little to approve Warrant #24, without objection, so ordered.

H. Public Hearings

- **Sale of Town Owned Property:** 5 Passaic Road, 43 Railroad Avenue Extension, 327 Ridge Road, 32 Trafton Street, 26 Juniper Road and 216 Clay Hill Road.

Chairman Jackson-McCarty stated the Selectmen previously visited and viewed all these town-owned properties a year ago, and approved these properties to be placed on the May 2011 Warrant.

Moved by Ms. Andrews, seconded by Ms. Gregg to open the public hearing at 7:12pm, motion passes.

Public Comment: None.

Moved by Mrs. Andrews, seconded by Ms. Gregg to close the public hearing at 7:12pm, motion passes.

I. Endorsements

License Applications

- Alliance Energy, LLC dba Mr. Mike's (Victualers)
- Hannaford Bros. Co. dba Hannaford Food & Drug (Victualers)
- Bonnie and Bill Alstrom dba Morning Glory Inn (Bed & Breakfast)
- Michael and Diane McGrath dba ViewPoint (Hotel/Motel with Cooking Facilities)
- Donna H. Archibald dba Chapman Cottage (Victualers, Liquor and Bed & Breakfast)
- Woods Family Inc. dba Daily Grind (Victualers)

Moved by Mr. Little, seconded by Ms. Gregg to approve the following license applications: Alliance Energy, LLC dba Mr. Mike's (Victualers), Hannaford Bros. Co. dba Hannaford Food & Drug (Victualers), Bonnie & Bill Alstrom dba Morning Glory Inn (Bed & Breakfast), Michael & Dian McGrath dba ViewPoint (Hotel/Motel with Cooking Facilities), Donna H. Archibald dba Chapman Cottage (Victualers, Liquor and Bed & Breakfast), and Woods Family Inc. dba Daily Grind (Victualers) subject to taxes, fees, and inspections being current and compliant with the usual noise stipulations. Vote 5-0, motion passes.

J. Old Business

K. New Business

1. Request for Contingency Funds for Public Safety Antennas

Town Manager Yandow explained that the Police Department had been experiencing unexpected problems with their antennas. A technical consultant confirmed that the antennas might soon fail necessitating the purchase of replacing the structures.

Police Chief Bracy discussed the loss of signal strength for the antennas located at the Chases Pond repeater site. Chief Bracy was originally notified by Fire Chief Balentine (Village Fire Department) of the problem, and then consulted with 2-Way Communications who determined that the loss of signal strength was the result of numerous stress cracks in the fiber glass antennas. The antennas are 16 to 18 years old, and since they were expected to last longer, monies had not been budgeted for replacement. The new police station, once completed, would also use these same antennas. Chief Bracy requests the Selectmen consider approving 2-Way Communications to replace two antennas with \$4,420 from the Selectmen's Contingency Account.

Moved by Ms. Andrews, seconded by Mr. Little to award a contract to 2-Way Communications for replacement of the base fiberglass antennas at the Chases Pond repeater site in the amount of \$4,420.00 with said funds being taken from the Selectmen's Contingency Account. Vote 5-0, motion passes.

2. Discussion of Fires on Town Beaches

Community Development Director, Steve Burns, discussed the draft administrative policy to regulate and limit fires on local beaches. Unlike prior proposals to ban beach fires altogether, fires will be limited to no more than one fire every thirty days, and located solely on Long Sands Beach as consistent with the draft management plan. The plan includes a fee schedule to cover costs associated with Town services including a per-rescue, per-truck or hourly set fee as deemed appropriate. Event sponsors would need to coordinate with Town and public safety officials to determine feasibility of event.

Chief Bridges (Beach Fire Dept.) recommends having the ability to shut an event down should circumstances change including wind conditions which cannot be determined until the day of the event. Expressed

concerns for volunteer staffing affect ability to respond to events. Supports draft policy as written.

Chief Balentine (Village Fire Dept.) supports the draft policy, which provides for fair and uniform guidelines for all Town beach fires.

Police Chief Bracy discussed Town liability when hosting special events which can be reviewed by the Town's insurance carrier.

3. Approval of Purchase and Sale Agreements for Sale of Town-Owned Property

Moved by Ms. Andrews, seconded by Mr. Little to authorize the Town Manager to sign Purchase and Sale agreements with 1. Cynthia Baldwin for the sale of 43 Railroad Avenue Extension; 2. Charles and Judith Wayne for the sale of 327 Ridge Road; 3. Michael Picard for the sale of 216 Clay Hill Road; 4. Jeffrey and Susan Denny for the sale of 5 Passaic Court; 5. Daniel Beaudry for the sale of 26 Juniper Road, and 6. David and Cathy Mirra for the sale of 32 Trafton Street. Vote 5-0, motion passes.

On May 21, 2011, voters approved the Selectmen to dispose of these parcels. Selectmen confirmed that there was no stipulation for the merging of lots once sold.

4. Bids from Realtors for Marketing/Sale of Town Properties

Town Manager Yandow discussed the ten town-owned, developable properties identified by the Selectmen to be marketed by a local realtor. The selection was narrowed down to two realtors including Re/Max Realty One and the Gosselin Realty Group.

Moved by Ms. Andrews, seconded by Mr. Little to reward the bid to the Gosselin Realty Group for the listing and sale of town-owned properties. Vote 5-0, motion passes.

The Selectmen agreed that although they were not the lowest bidder, it was clear the Gosselin Realty Group would work the hardest for the Town as evidenced by the professionalism shown in both the reports. Greg Gosselin visited and studied other properties for comparative purposes, and provided a thorough plan to manage the sale of the properties that would not require the Town Manager to spend valuable time micromanaging the realtor.

5. **Property Redemption Request: 650 York Street (Tax Map 46, Lot 11)**
Moved by Ms. Andrews, seconded by Mr. Little to allow, with stated Conditions, the redemption of Tax Map 0046, Lot 011, 650 York Street by the former property owner. Vote 5-0, motion passes.
6. **Special Event Permit Application: Nubble Light Challenge 7/14/12**
Moved by Ms. Andrews, seconded by Mr. Little to approve the special event permit for the Nubble Light Challenge that will take place on Saturday, July 14, 2012 from approximately 8:00am to 1:00pm. Vote 5-0, motion passes.

Fire Chief David Bridges (Beach Fire Department) spoke about the resources and volunteer manpower required to ensure the public safety of these types of events, and confirmed the ambulance, rescue boat and EMT will be present at this event. As these services are provided at no charge to the event sponsor or attendees, the Town may want to start considering how to compensate the volunteers who dedicate their time to staffing these critical public safety positions.

Town Manager Yandow stated that, absent an established and clearly defined policy, the Town cannot now start imposing fees for events that require Town resources. If there is a need for public safety services, a policy could be considered, approved and instituted.

7. **Games of Chance: 2012 Blanket Letter of Approval**

The Selectmen annually grant a blanket letter of approval to be sent to the Maine State Police Licensing Division allowing designated non-profit organizations to hold games of chance, such as raffles and bingo.

Moved by Ms. Andrews, seconded by Mr. Little to approve the 2012 Blanket Letter of Approval for Games of Chance listed in that attached letter. Vote 5-0, motion passes.

Mrs. Scott, per Selectmen direction, will research providing Games of Chance information and possible inclusion on the blanket letter for other non-profit groups.

L. **Other Business**

- Chairman Jackson-McCarty discussed revising the policy for permitting special events in response to public safety concerns and associated costs. Town Manager Yandow discussed the need for a clearly defined policy to address appropriate usage of town public safety resources for specific

types of events. This issue will be revisited under New Business at a future Selectmen meeting.

- Selectman Gregg questioned whether the York voters, as the legislative body, should have participated in the purchase of the apartment complex by York Housing. Selectmen Little and Fiorentino responded that the property in question was purchased with a conventional mortgage, and as such did not warrant a public vote. Question will be posed to York Housing as to the role, if any, of the legislative body for this purchase.
- Selectman Little stated that Selectman Gregg violated the Selectmen's Policy, Code of Ethics by citing paragraph 3, Conduct of Members: *"Members shall refrain from abusive conduct, from making personal charges or disparaging remarks, or from verbal attacks upon the character or motives of Members of Town boards, committees, or commissions, of Town Staff or the Citizens"*. Selectman Little, further stated that on several occasions, Selectman Gregg made unsubstantiated remarks about, and attacking the character and motives of the Town Manager, Town Staff, the Board of Selectmen and other Town committees. In the November 17th and 18th email exchange with a resident regarding the traffic light at York Street and Organug Road, Selectman Gregg's online statements included "I agree with you that the fix was in. I wasn't in on the fix", "an accurate description of what was being planned was kept from both the Selectmen and the voters in order to secure the voter's approval", "I was duped", and statements that the Town Administration had not been forthcoming with an apology to the resident regarding York's government having "not acted openly."

Selectman Gregg confirmed the subject of the above emails was specific to a stop light that was not placed on the 2010 ballot. She stands by her comments, and charged Selectman Little of previously making disparaging comments about her. She stated she was embarrassed that she misled voters with a positive preference vote regarding the warrant question that specified a drainage, reconstruction and repaving project. Selectman Gregg felt personally offended since, as a member of the Capital Planning Committee in 2010, capital project budgets were reviewed in lump sums. She apologized to the voters that she did not request at that time a budget line item description that hid \$100,000 for a traffic light; Monies which were never divulged to the Capital Planning Committee, the Selectmen or to the voters. Declined to accept the criticisms brought forth by Selectman Little as she strongly believes she was misled with incomplete and purposely withheld information.

Chairman Jackson-McCarty discussed Selectman Gregg's emails noting specific comments that could be deemed offensive. Selectmen are in a position of trust as granted by the voters, and in turn, Selectmen rely on the decisions and the direction of both the Town Manager and Town staff. When this trust is eroded by disparaging comments, respect is lost for the work of the Selectmen and Town staff. Chairman McCarty confirmed the admonishment was not related to the opinion of Selectman Gregg regarding the traffic signal but the ensuing conduct and resulting comments.

Vice Chairman Andrews stated Selectmen are held to a different standard in which one must be careful what is said regardless of one's own opinion. Selectman Gregg made a disparaging comment at this meeting in stating that Manager Yandow deliberately and purposefully withheld information. These types of disparaging remarks have no place on the Board as it lowers how the public may view Mr. Yandow. Although she feels Selectman Gregg is one of the hardest working Selectmen, there are certain standards and codes of conduct to which must be adhered. There is no reason to make these types of charges especially when they cannot be proven.

Selectman Fiorentino stated that Selectman Gregg is one of the hardest working Selectmen, and is extremely passionate about this position and for making government more transparent. Agreed with Selectman Gregg about the subject matter but felt emailed comments should have been curtailed. Selectmen cannot work to undermine other Selectmen and staff, and they did a wonderful job in providing additional information for the traffic light project.

Town Manager Yandow stated that he was not a part of nor had any intention of participating in this discussion. However, in being directly accused of intentionally withholding information, Manager Yandow presented the facts of what was originally discussed with the Capital Planning Committee. During meetings with the Capital Planning Committee it was discussed that funding for all potential options would be included but that no suggestions would be made toward having a traffic light. Money was included in the budget for a traffic light should it be determined by the project engineers and Board of Selectmen that a light was the best option. The project was never designed to necessarily include a traffic light, and no monies were hidden within the budget for same.

Town staff would have been negligent had traffic light funding not been included, and was ultimately determined to be needed.

Chairman Jackson-McCarty expressly confirmed this admonishment was not about Selectman Gregg opposing the traffic light but rather her accusations that the Town Manager hid funds in order for the warrant article to pass. Selectman Gregg did not have to apologize for her opinion on the subject although Selectman Gregg needs to be held accountable for her comments and behavior associated with this discussion. Regardless of the subject at hand, all Selectmen must remain above reproach as adopted in the Code of Ethics, and conduct themselves accordingly.

Moved by Mr. Little, seconded by Ms. Andrews to move the question. Vote 5-0, motion passes.

Moved by Mr. Little, seconded by Ms. Andrews, as based on Robert's Rules of Order and the Selectmen's Code of Ethics, both of which the Selectmen follow, and in accordance that this occur in public, admonish Member Gregg, and that immediately at this meeting, she acknowledge she violated the Selectmen's Code of Ethics by making disparaging and unsubstantiated charges, while the same time offering her sincere apology without qualification to the Town Manager, Town Staff, Town Departments, Selectmen, Committees of York and to the residents who voted for her. Vote 4-0-1 with Ms. Gregg in abstention, motion passes. Selectman Gregg did not apologize.

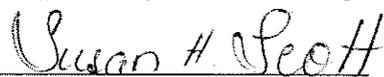
M. Citizens Forum

Public Comment: None.

Adjourn

Moved by Ms. Andrews, seconded by Ms. Gregg to adjourn at 8:56 PM.

Respectfully Submitted By:


Susan H. Scott; Recorder