

SELECTMEN'S MEETING
5:30/7:00PM MONDAY, MARCH 26, 2012
YORK LIBRARY

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

Call to Order

Pledge of Allegiance

5:39pm: Workshop with Friends of the Cliff Walk

Members of Friends of the Cliff Walk: Jim Smith, Dorothy Healey, Joey Donnelly, Mike Whitman, Diane Kleist, Bob Gordon, Tom Rose, Jeff Clark, and Bob Palmer.

Friends of the Cliff Walk was formed in March 2011 with a mission to support and encourage the historic use of the walk. The group is interested in working with the town to facilitate a partnership of good will, and establish parameters for access to the walk in consideration of the land owners. Individual group members spoke to the history of Cliff Walk, the need to engage Town officials and the community in protecting this asset, and possibly putting forth a town ballot question to gauge voter interest in the Cliff Walk.

Further points were discussed:

- Completion of thorough deed research at the York Country Registry of Deeds.
- Cliff Walk path starts at the Y.H. Reading Room extending to Cow Beach.
- Two key properties along Cliff Walk maintain physical (fence and wall) or people obstructions.
- Broad accepted tenants: It is the Public and not the Town that has been deeded the right to traverse the Cliff Walk, and the path is not a place on the ground but a "Right to Pass."
- There is no unique document outlining Cliff Walk issues that have occurred over the past many years.
- Legal/Superior Court - Harkins v. Town of York: Right to pass of the public along each one of the properties along the path but not necessarily along the same path and not necessarily called the Cliff Path.
- Friends of the Cliff Walk need assistance and support directly from the Town in order to maintain and preserve Cliff Walk, and feels that the York government has an obligation to protect the public right to pass on Cliff Walk without exception.

Friends of the Cliff Walk now request Town Officials research and engage legal counsel to address outstanding access issues. The Town previously took legal action, and was represented by attorneys Joseph Hann and Jeffrey Holme from Bernstein and Shur.

Chairman Jackson-McCarty requested the Cliff Walk discussion be scheduled on an upcoming April Selectmen's agenda after further research into the legal opinion provided to Town regarding the Cliff Walk.

A. Minutes

- February 27, 2012 Selectmen's Meeting Minutes: Moved by Ms. Andrews, seconded by Mr. Little to approve February 27, 2012 Selectmen's Meeting Minutes, as amended. Vote 5-0, motion passes.
- February 29, 2012 Special Selectmen's Meeting Minutes: Moved by Ms. Andrews, seconded by Mr. Little to approve February 29, 2012 Special Selectmen's Meeting Minutes, as amended. Vote 5-0, motion passes.
- March 7, 2012 Special Selectmen's Meeting Minutes: Moved by Ms. Andrews, seconded by Mr. Little to approve March 7, 2012 Special Selectmen's Meeting Minutes, as amended. Vote 5-0, motion passes.

B. Chairman's Report

None.

C. Manager's Report

Town Manager, Robert G. Yandow, discussed the ongoing construction on York Street and in York Beach. The process of pavement reclamation, subsequent grading and base paving will start the following day and continue for the next several weeks, weather dependent.

Ms. Andrews extended gratitude from Eldredge Hardwood store's employees for the Fire Department for their efforts.

D. Awards

1. Award Bid for 2012 Parks and Recreation Summer Program Brochure.

Moved by Ms. Andrews, seconded by Mr. Little to award the bid for 2012 Parks and Recreation Summer Brochure to Graphic Image in an amount not to exceed \$6,255 for 48 pages or \$7,055 for 60 pages. Vote 5-0, motion passes.

E. Reports

None.

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: Joey Donnelly
Joyce Stowe
Jim Bartlett
Fred Knox
Jim Smith
Ron Nowell
Lew Stowe
Charles Stacy
Janalee Moquin

G. Approval of Warrant #39

Moved by Ms. Andrews, seconded by Mr. Little to approve Warrant #39, without objection, so ordered.

H. Public Hearings

- **Sale of Town Owned Properties: 60 and 66 Vineyard Lane**

Moved by Ms. Andrews, seconded by Mr. Fiorentino to open the public hearing at 7:53pm, motion passes.

Public Comment: None.

Moved by Ms. Andrews, seconded by Mr. Little to close the public hearing at 7:53pm, motion passes.

- **New Business License: Phillip Stearns, Jr. DBA Shore Road Market (Victualers)**

Moved by Ms. Andrews, seconded by Mr. Little to open the public hearing at 7:54pm, motion passes.

Public Comment: Charles Stacy
Phillip Stearns

Moved by Ms. Andrews, seconded by Mr. Little to close the public hearing at 7:59pm, motion passes.

- **Ordinance Amendments: May 2012 Special General Referendum**
 Moved by Ms. Andrews, seconded by Mr. Little to open the public hearing at 7:59pm. Without objection, so moved.
 - **Public Road Acceptance Ordinance Amendment**
 Public Comment: None
 - **Emergency Management Ordinance Amendment**
 Public Comment: None
 - **Fireworks Ordinance**
 Public Comment: None
 - **Fires on Public Beaches**
 Public Comment: None
 - **Control of Animal Noise**
 Public Comment: Charles Stacy
 - **Commercial Bait House Standards**
 Public Comment: None
 - **Outside Merchandise Display (7a./7b.)**
 Public Comment: Brenda Elwell-Taylor and Georgina McGowan
 - **Parking in York Beach Village Center**
 Public Comment: Joe Lipton and Chuck Stacy
 - **Setback Changes**
 Public Comment: None
 - **Home Occupations**
 Public Comment: None
 - **Refine Residential Use Definitions and Standards**
 Public Comment: None

- **May 2012 Special General Referendum Warrant**
 Moved by Ms. Andrews, seconded by Mr. Little to open the public hearing at 8:21pm. Without objection, so moved.
 Public Comment: Charles Stacy
 Moved by Ms. Andrews, seconded by Mr. Little to close the public hearing at 8:27pm. Without objection, so moved.

- **May 2012 Budget Referendum Warrant**
 Moved by Ms. Andrews, seconded by Mr. Little to open the public hearing at 8:27pm. Without objection, so moved.
 Public Comment: None
 Moved by Ms. Andrews, seconded by Mr. Little to close the public hearing at 8:28pm. Without objection, so moved.

- **May 2012 School Budget Validations Referendum Warrant**
Moved by Ms. Andrews, seconded by Mr. Little to open the public hearing at 8:28pm. Without objection, so moved.
Public Comment: None
Moved by Ms. Andrews, seconded by Mr. Little to close the public hearing at 8:29pm. Without objection, so moved.

I. Endorsements

License Applications

Moved by Mr. Little, seconded by Ms. Andrews to approve the following license applications: Daniel Muccio DBA York Golf & Tennis Club (Victualers, Liquor & Special Amusement), Paul Karoutas DBA York House of Pizza (Victualers), Benjamin J. Lawlor, G.M. DBA The York Harbor Reading Room (Victualers, Liquor & Special Amusement), Don & Erika Seydler DBA Long Sands General Store (Victualers), Philip Lusty DBA Dockside Guest Quarters & Restaurant (Victualers & Liquor), Jeremy Prescott DBA The Kettle Boys Popcorn Co. (Victualers), Tom Robinson DBA York Lobster & Seafood (Victualers & Liquor), Raymond Ramsey DBA Sun n Surf (Victualers, Liquor & Special Amusement), James H. Williams/Longhorn Trading Co. DBA Wild Willy's Burgers (Victualers & Liquor), and Phillip Stearns, Jr. DBA Shore Road Market (Victualers), subject to taxes, fees and inspection being current and compliant with the usual noise stipulation. Vote 5-0, motion passes.

Chairman Jackson-McCarty requested item J(1), Citizen's Petition regarding York Street, be moved up on the agenda in response to the number of public attendees.

J. Old Business

1. Citizen's Petition regarding York Street - Organug Road Traffic Signals - Selectmen Fiorentino is requesting to give previous notice: "At the next meeting I will make a motion to rescind the vote placing the citizen's petition on the May Referendum."

Chairman Jackson-McCarty discussed misconceptions concerning the York Street reconstruction project and the related past warrant articles. She stated that as an elected official thoughtful decisions need to be made with all the information and input provided including recommendations from public safety officials. Ms. Jackson-McCarty discussed process and procedure, and stated that as Chairman of the Selectmen, Ms. Jackson-McCarty stated she rejects Mr. Fiorentino's request to rescind his vote, and will also reject the requests she has had for Ms. Andrews to recuse herself on a re-vote.

Ms. Andrews responded that she asked the Selectmen for 3 different items if she could discuss and vote on this matter. She finds this an affront to her integrity as she followed process guidelines.

Mr. Fiorentino stated he that it was brought to his attention by a former Selectman that he may have unknowingly violated the code and may not have adhered to the Selectmen's code of ethics. Assured fellow Selectmen and the public that since his election last May he has always heard without bias issues at hand and cast a vote with consideration of all the information provided him.

Mr. Little stated he has felt the Selectmen have been very flexible in listening public concerns as well as traffic experts. Commends the Chairman for putting this forward to a town vote but noted concern that a precedence may be set for any item could be brought forward to a town vote. Mr. Little discussed how democracy is a process that is embedded in York's charter that the Selectmen follow.

Ms. Gregg stated that any Selectmen Code of Ethics that does not allow acceptance of a citizen's petition should be thrown out, and that as the Board of Selectmen is a policy board it is member's job to advocate for issues. She disagrees with the way in which this Board interprets the Code of Ethics. Ms. Gregg stated that she voted against the adoption of this policy as it is antithetical to ethics.

K. New Business

1. Approve York Beach MPI Grant Improvements.

Dean Lessard, Director of Public Works, provided an overview of the optional improvements numbered 1-14 that now can be accomplished with the MPI grant of \$500,000. A list of these improvements with associated itemized costs presented for Selectmen consideration.

Motion by Ms. Andrews, seconded by Mr. Little to approve DPW to move forward with the construction of the selected additional infrastructure improvements, items 1-12, in conjunction with the Short Sands and Long Beach Drainage projects. Vote 4-1, motion passes with Ms. Andrews opposed.

Selectmen agreed to extend the meeting end time until 10:15 with Ms. Andrews opposed.

2. Approve Budget Referendum Warrant.

Selectmen agreed to extend the meeting end time until 10:45 with Ms. Andrews opposed.

Selectmen provided the following preference votes for the Budget Referendum Warrant:

Article One: N/A	Article Two: 5-0
Article Three: 5-0	Article Four: 5-0
Article Five: 5-0	Article Six: 5-0
Article Seven: 5-0	Article Eight: 5-0
Article Nine: 5-0	Article Ten: 5-0
Article Eleven: 5-0	Article Twelve: 5-0
Article Thirteen: 5-0	Article Fourteen: 5-0
Article Fifteen: 5-0	Article Two: 5-0
Article Three: 4-1 (KG opposed)	Article Sixteen: 4-1 (TJM opposed)
Article Seventeen: 5-0	Article Eighteen: 5-0
Article Nineteen: 5-0	Article Twenty: 5-0
Article Twenty-One: 5-0	Article Twenty-Two: 5-0
Article Twenty-Three: 4-1 (KG opposed)	Article Twenty-Four: 5-0
Article Twenty-Five: 5-0	Article Twenty-Six: 5-0
Article Twenty-Seven: 4-1 (KG opposed)	Article Twenty-Eight: 5-0
Article Twenty-Nine: 4-1 (KG opposed)	Article Thirty: 5-0
Article Thirty-One: 4-1 (TJM opposed)	Article Thirty-Two: 5-0
Article Thirty-Three: 5-0	Article Thirty-Four: 5-0
Article Thirty-Five: 5-0	Article Thirty-Six: 5-0
Article Thirty-Seven: 5-0	Article Thirty-Eight: 5-0
Article Thirty-Nine: 5-0	Article Forty: 4-1 (KG opposed)
Article Forty-One: 5-0	Article Forty-Two: 5-0
Article Forty-Three: 5-0	Article Forty-Four: 5-0
Article Forty-Five: 5-0	Article Forty-Six: 5-0
Article Forty-Seven: 4-1 (KG opposed)	Article Forty-Eight: 4-1 (MA opposed)
Article Forty-Nine: 4-1 (KG opposed)	Article Fifty: 5-0
Article Fifty-One: 5-0	Article Fifty-Two: 5-0
Article Fifty-Three: 4-1 (TJM opposed)	Article Fifty-Five: 5-0
Article Fifty-Six: 4-1 (EL opposed)	Article Fifty-Seven: 5-0
Article Fifty-Eight: 4-1 (KG opposed)	Article Fifty-Nine: 3-2 (KG/MA opposed)

3. Approve Special General Referendum Warrant

Selectmen provided the following preference votes for the Special General Referendum Warrant:

Article One: N/A*	Article Two: 5-0
Article Three: 4-1 (KG opposed)	Article Four: 5-0

Article Five: 5-0
Article Seven: 5-0
Article Nine: 5-0
Article Eleven: 5-0
Article Thirteen: 5-0

Article Six: 5-0
Article Eight: 5-0
Article Ten: 3-2 (KG/SF opposed)
Article Twelve: 4-1 (KG opposed)
Article Fourteen: 5-0

* Chairman Jackson-McCarty stated that although preference votes are not required for Article One regarding approving the Charter revision, she would not support the document as the final version of the charter was not available for elected officials' review which she found distressing.

Mr. Fiorentino stated he was furious that a final version of the proposed charter had not been presented for Selectmen review in light of valid concerns brought forth on their initial review.

Moved by Ms. Jackson-McCarty, seconded by Mr. Fiorentino approve the Special General Referendum Warrant. Vote 5-0, motion passes.

4. Approve School Budget Validation Referendum

Moved by Mr. Little, seconded by Mr. Fiorentino to not provide a preference vote on Warrant Article One of the School Budget Validation Referendum. Vote 5-0, motion passes.

Moved by Ms. Andrews, seconded by Ms. Gregg approve the School Budget Validation Referendum. Vote 5-0, motion passes.

5. Appoint Election Clerks

Moved by Ms. Gregg, seconded by Ms. Andrews to appoint duly nominated Election Clerks, pursuant to Title 21-A, §503 as listed on the attached herewith. Vote 5-0, motion passes.

6. Special Event Permit Application: Aggieman Triathlon - June 30, 2012

Moved by Ms. Andrews, seconded by Mr. Little to approve the special event permit application without conditions for the Aggieman Triathlon that will be held on June 30, 2012. Vote 1-4, with Messrs. Little and Fiorentino, and Mses. Andrews and Jackson-McCarty opposed. Motion fails.

Due to the late hour, Chairman Jackson-McCarty requests this application be considered at the April 9, 2012 meeting to discuss recommended conditions.

L. Other Business

None.

M. Citizens Forum

Public Comment: Joe Lipton

Adjourn

Moved by Ms. Andrews, seconded by Ms. Andrews to adjourn at 10:55pm.

Respectfully Submitted By:

Susan H. Scott; Recorder