

**BOARD OF SELECTMEN'S  
MEETING MINUTES  
6:00/7:00PM MONDAY, JULY 7, 2014  
YORK LIBRARY**

**6:00PM: Work Session - Town Manager Search Committee**

**Present:** Chairman Mary Andrews, Vice Chairman Robert E. Palmer Jr., Torbert Macdonald, Jonathan O. Speers, Ronald Nowell, Town Manager Robert G. Yandow, Recorder Melissa M. Avery and members of the press and public.

**Call to Order**

Chairman Andrews called the meeting to order at 7:00PM.

**Opening Ceremonies**

- A. **Minutes**
- B. **Chairman's Report**

Chairman Andrews stated that the bathhouse project at Short Sands turned out great from what she has heard. Ms. Andrews also read for the public the current openings on Municipal Boards and Committees and urged the public to apply to fill the vacancies.

- C. **Manager's Report**

Town Manager Yandow talked about the current feud between the Governor's office, the State Department of Health and Human Services and local communities regarding Municipal General Assistance programs and stated that the Maine Municipal Association will be taking action to get more answers for the Cities and Towns. Mr. Yandow announced that the Kittery Area Comprehensive Transportation System has allocated \$700,000 to the Town of York's Route 91 project, adding to the \$400,000 approved by the voters, making the total funds for the project \$1,100,000. Mr. Yandow reminded citizens that it is the time of year that we need to start taking the necessary precautions to avoid the threat of Eastern Equine Encephalitis, as such problems come with the season and Vermont has already had positive tests for EEE.

**D. Awards**

1. Bid for Bog Road Field Project

The Parks and Recreation Department received the following bids for the construction of the multipurpose athletic field and parking area on Bog Road:

- |                                     |           |
|-------------------------------------|-----------|
| 1. Shaw Brothers Construction, Inc. | \$438,665 |
| 2. R.J. Grondin and Sons            | \$459,670 |
| 3. NorthEast Earth Mechanics, Inc.  | \$498,800 |
| 4. Brex Corporation                 | \$512,312 |
| 5. Foglio, Inc.                     | \$524,385 |
| 6. Altus Construction, Inc.         | \$609,097 |

Parks and Recreation Director Michael Sullivan recommended per the revised and negotiated agreement with Shaw Brothers Construction, Inc. dated June 25, 2014, that the contract for the Multipurpose Athletic Field and Parking Area at Bog Road go to Shaw Brother's Construction, Inc. of Gorham, Maine in the amount of \$354,883. Funding for this project to include \$377,000 from bonding as approved by the voters and \$17,883 from fundraising through the "Charlie Brown Basketball Classic". Additionally Mr. Sullivan recommended authorizing the use of 516 cubic yards of reclaimed asphalt to be supplied from Public Works reserves at no cost to the project.

Mr. Macdonald stated that he was against the use of the reclaimed asphalt as he feels it is harmful to the sensitive environment in this project. Mr. Macdonald mentioned that the Selectmen have \$20,000 in the Selectmen's Contingency Fund and that the Board could use some of that money towards a safer alternative to the recycled asphalt aspect of the Bog Road project.

Moved by Mr. Nowell, seconded by Mr. Macdonald to award the bid for the Multipurpose Athletic Field and Parking Area to Shaw Brothers Construction, Inc. in the amount of \$354,883 per the revised agreement dated June 25, 2014. Funding for the project to include \$337,000 from bonding as approved by the voters and \$17,883 from fundraising through the "Charlie Brown Basketball Classic". Vote 5-0, motion passes.

**E. Reports**

1. Energy Efficiency Steering Committee Grant Update

Chairman of the Energy Efficiency Steering Committee Wayne Boardman gave the Board of Selectmen an update regarding the Seacoast Energy Initiative Grant. Mr. Boardman announced that the Town of York was awarded \$98,000 for an Energy Renewal Project. The Energy Efficiency Steering Committee has teamed up with the Town of South Berwick on combining Requests for Proposals for solar projects in the two Towns.

Ms. Andrews commended the entire Energy Efficiency Steering Committee on all their hard work over the past few years.

- 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 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:     Helen Rollins  
                              Victoria Simon  
                              David Boyer  
                              Sherry Dabiere

- G. **Approval of Warrant #1**

Moved by Mr. Nowell, seconded by Mr. Macdonald to approve Warrant #1. Vote 5-0, motion passes.

- H. **Public Hearings**

- I. **Endorsements**

Business Licenses:

1. Jennifer Sterns DBA: Shore Road Restaurant and Market
2. 216 Atlantic Keepers, LLC DBA: Atlantic House Inn
3. Michael L. Stotts DBA: Sea Rose Inn

Moved by Mr. Nowell, seconded by Mr. Speers to approve the following licenses: Jennifer Sterns DBA: Shore Road Restaurant and Market for Victualers, located at 10 Shore Road, 216 Atlantic Keepers, LLC DBA: Atlantic House Inn for Hotel/Motel with Cooking Facilities, located at 2 Beach Street and Michael L. Stotts DBA: Sea Rose Inn for Bed and Breakfast, located at 2 Southside Road subject to the taxes, fees and inspections being current and compliant with the usual noise stipulations. Vote 5-0, motion passes.

Transient Seller's License:

1. Hinkle – Southwestern Advantage

Moved by Mr. Macdonald, seconded by Mr. Nowell to approve the Transient Seller's License for Kathleen Hinkle with Southwestern Advantage. Vote 5-0, motion passes.

- J. **Old Business**

## 1. Discussion and Possible Action on Revised Code of Ethics Policy

During a discussion at the June 17, 2014 Board of Selectmen's meeting a decision was made to remove some sections of the existing Code of Ethics Policy. As such, the former Section 6. Decisions Based on merit, has been removed from the updated policy. Additionally, the terms "Special Interest" and "Bias" were removed from Section 8B. Finally, the "Member Statement" was also removed.

Mr. Palmer pointed out that a few instances of the term "special interest" in Section 7C on page 4 need to be removed, accompanying the removal of the definition "Special Interest" previously agreed on.

Mr. Macdonald stated that he feels the "Code of Ethics Policy is an attempt to codify the code of conduct which is antithetical to the freedom of speech".

Mr. Nowell stated that he disagrees with Section 3, as he feels he has the right to voice his opinion on members of Town Boards, Committees, or Commissions, or of Town Staff or Citizens.

Moved by Mr. Palmer, seconded by Mr. Speers to approve the revised Code of Ethics Policy based on the changes made at the June 17, 2014 work session. Vote 3-2, Mr. Macdonald and Mr. Nowell against, motion passes.

## 2. Discussion and Possible Action on the Issuance of a Driveway Permit at 65 Old Post Road

Gene Corey, the listing agent for the property explained that Director of Public Works Dean Lessard issued a Conditional Approval for the proposed driveway at 65 Old Post Road, stating that minimum sight distance of 305 feet be obtained through excavation and tree removal by the applicant. The property owners request that the Board of Selectmen take action and approve the proposed driveway location, without the 305 foot condition.

Moved by Mr. Nowell, seconded by Mr. Macdonald to direct the Town Manager to direct the Director of Public Works to issue a Driveway Exit Permit at 65 Old Post Road with Town Attorney Mary Costigan's recommendations on Warning Signs. Vote 5-0, motion passes.

## **K. New Business**

### 1. Discussion with Senior Center Advisory Board Regarding Future Needs

The Senior Citizen's Advisory Board was not present.

2. Discussion and Possible Action on Process for Negotiation of Time Warner Franchise Agreement

As previously indicated, the Town's Franchise Agreement with Time Warner Cable expires on November 28, 2014.

The Board directed the Town Manager to contact Time Warner Cable and set up a meeting to discuss negotiating a new or extended Franchise Agreement.

3. Discussion and Possible Action on Petitions Submitted Requesting Enactment of an Ordinance for Use of Marijuana by Persons 21 Years of Age or Older

On June 19, 2014 Sherry Dabiere submitted petitions to the Town Clerk requesting that an ordinance be placed before the voters in the Town of York. Specifically, the ordinance, if passed, would allow use and possession of one ounce or less of marijuana by persons 21 years of age or older providing the use or possession were not in a public place. The Town Clerk subsequently verified that the petitions contained 174 signatures of registered York voters.

Moved by Mr. Palmer, seconded by Ms. Andrews to request a legal opinion from the Town Attorney on the legality of the petition submitted requesting "Enactment of an Ordinance for Use of Marijuana by Persons 21 Years of Age or Older" in regards to Section 22 (A) of the Town of York Home Rule Charter. Vote 2-3, Mr. Nowell, Mr. Speers and Mr. Macdonald against, motion fails.

Moved by Mr. Nowell, seconded by Mr. Macdonald to schedule a Public Hearing on the June 28, 2014 Board of Selectmen's Meeting and to send the petition submitted requesting "Enactment of an Ordinance for Use of Marijuana by Persons 21 Years of Age or Older" to the Town Attorney. Vote 3-2, Mr. Palmer and Ms. Andrews against.

4. Discussion and Possible Action for Conflict Waiver from Bernstein Shur

Moved by Mr. Nowell, seconded by Mr. Macdonald to authorize the Chairman to sign the Conflict Waiver from Bernstein Shur. Vote 5-0, motion passes.

5. Special Event Permit: York Hospital Breast Cancer Walk for Hope

Moved by Mr. Macdonald, seconded by Mr. Nowell to approve the Special Event Permit for the York Hospital Breast Cancer Walk for Hope event on Thursday, July 31, 2014 subject to the attached conditions given by Department Heads. Vote 5-0, motion passes.

6. Special Event Permit: New England Classic Tour de Cure

Moved by Mr. Macdonald, seconded by Mr. Nowell to approve the Special Event Permit for the New England Classic Tour de Cure event on Sunday, July 13, 2014 subject to the attached conditions given by Department Heads. Vote 5-0, motion passes.

**L. Other Business**

Mr. Macdonald stated that the Planning Board is reviewing the Police Station Project at this Thursday's meeting. He requested that the Board of Selectmen have a Work Session to discuss and give their input on the Police Station Project.

Mr. Nowell stated that over three weeks ago, the trustees at the Trustees of the York Water District authorized the Water District Superintendent to file a formal complaint against the Director of Public Works Dean Lessard; Mr. Nowell would like an update on the status of that formal complaint. Mr. Nowell also stated that he feels that the intersection on County Road has created a hazard to the current traffic pattern and needs to be addressed.

Ms. Andrews questioned where the "Welcome to York, Maine" sign that used to be on the Spur Road has gone and how we can go about getting it put back up. Mr. Andrews also stated that a member of the Historic Markers Committee brought a concern to her over the maintenance of the Historic Markers that the Committee historically established.

**M. Citizens' Forum**

Public Comment: None

**Adjourn**

Moved by Mr. Nowell, seconded by Mr. Speers to adjourn the meeting at 9:00PM. No objection, so moved.