



*Town of York*  
186 York Street  
York, Maine 03909-1314

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)363-4444

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  
(207)363-1036

Parks and  
Recreation  
(207)363-1040

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

www.yorkmaine.org

**BOARD OF SELECTMEN'S  
MEETING AGENDA  
6:30PM/7:00PM MONDAY, NOVEMBER 14, 2016  
YORK LIBRARY**

**6:30PM:** Committee Interviews

**Call to Order**

**Opening Ceremonies**

**A. Minutes**

1. October 3, 2016 Meeting Minutes
2. October 24, 2016 Meeting Minutes

**B. Chairman's Report**

**C. Manager's Report**

**D. Awards**

1. Police Station Purchases
2. Paving Bid Award

**E. Reports**

1. Chief Bracy – Police Department's Response to Emerging Drug Problems

**F. Citizens' Forum** – The Citizens' Forum is open to any member of the audience for comments on any matter. 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.

**G. Public Hearings**

**H. Endorsements**

1. Games of Chance

**I. Old Business**

1. Discussion & Possible Action: Long Sands Bathhouse Project

2. Discussion: Identify Minor Charter Amendments for May 2017
3. Discussion & Possible Action: Marijuana Legalization Act and implications for May 2017
4. Discussion & Possible Action: Revised Charge for Tax Task Force

**J. New Business**

1. Discussion: Proposed Uses for Excess Sohier Park Gift Shop Revenues
2. Discussion & Possible Action: RFP for Real Estate Services (for non-commercial properties only)
3. Discussion: Utilities Subcommittee Update
4. Discussion & Possible Action: Criminal Forfeiture
5. Discussion & Possible Action: Real Estate Matters
6. Discussion & Possible Action: Temporary Housing – 10 Old Quarry Road
7. Discussion & Possible Action: Committee Appointments

**K. Future Agendas**

**L. Other Business**

**M. Citizens' Forum**

**Adjourn**

**BOARD OF SELECTMEN'S  
MEETING MINUTES  
5:30/6:00/6:30/7:00PM MONDAY, OCTOBER 3, 2016  
YORK LIBRARY**

**5:30PM:** Executive Session: Pursuant to M.R.S. § 405.6.F (Poverty Abatement – Case #16-05 and #16-06)

**Present:** Chairman Robert E. Palmer, Jr., Vice Chairman Jonathan O. Speers, Dawn Sevigny-Watson, Todd A. Frederick, Michael L. Estes, Town Manager Stephen H. Burns, Director of Human Resources Liam Gallaher.

Moved by Mr. Speers, seconded by Ms. Sevigny-Watson to enter into executive session. Without objection, so ordered.

Moved by Mr. Speers, seconded by Ms. Sevigny-Watson to exit out of executive session. Without objection, so ordered.

**6:00PM:** Executive Session: Pursuant to M.R.S. § 405.6.D (Collective Bargaining Contracts)

**Present:** Chairman Robert E. Palmer, Jr., Vice Chairman Jonathan O. Speers, Dawn Sevigny-Watson, Todd A. Frederick, Michael L. Estes, Town Manager Stephen H. Burns, Director of Human Resources Liam Gallaher.

Moved by Mr. Speers, seconded by Ms. Sevigny-Watson to enter into executive session. Without objection, so ordered.

Moved by Mr. Speers, seconded by Ms. Sevigny-Watson to exit out of executive session. Without objection, so ordered.

**6:30PM:** Workshop with the Tax Task Force

**7:00PM:** Regular Meeting

**Present:** Chairman Robert E. Palmer, Jr., Vice-Chairman Jonathan O. Speers, Dawn Sevigny-Watson, Todd A. Frederick, Michael L. Estes, Town Manager Stephen H. Burns, and member of the press and public.

**Call to Order**

Chairman Robert E. Palmer, Jr. called the meeting to order at 7:00PM.

**Opening Ceremonies**

**A. Minutes**

**B. Chairman's Report**

Chairman Palmer announced that the Board of Selectmen will have a "Public Officials Tent" at Marketfest in the village and invited the public to come talk with them and tell them what is on their minds.

**C. Manager's Report**

Town Manager Stephen H. Burns announced that the Maine Turnpike Authority will have a public hearing at 7:00PM on Wednesday night at the MTA Turnpike Maintenance Facility on Spur Road.

**D. Awards**

1. Bid Award: Heavy Plow Truck Chassis – Public Works

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to award the FY17 Heavy Duty Plow truck Chassis to Liberty International Trucks in the amount of \$66,000.00. Vote 5-0, motion passes.

2. Bid Award: 2 Ton Truck – Public Works

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to award the FY2017 Heavy Duty Plow Truck Chassis to Liberty International Trucks in the amount of \$66,000.00. Vote 5-0, motion passes.

3. Bid Award: Truck Body/Snowplow Installation – Public Works

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to award the bid for the Dump Body/Snowplow Installation to H.P. Fairfield, LLC in the amount of \$82,999.00. Vote 5-0, motion passes.

4. Bid Award: 1 ½ Ton Diesel Truck – Parks and Recreation

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to award the bid for the Parks and Recreation Department's 1 ½ ton truck to include chassis, body and plow to Starkey Ford of York, Maine in the amount of \$55,063.00. Vote 5-0, motion passes.

5. Bid Award: Radio Tower – Police Department

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to award the bid for radio equipment to Two Way Radio Communications, Inc. in the amount of \$77,043.56, consistent with Planning Board approval. Vote 5-0, motion passes.

6. Bid Award: Radio Equipment – Police Department

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to award the bid for radio equipment to Two Way Radio Communications, Inc. in the amount of \$13,991.72. Vote 5-0, motion passes.

**E. Reports**

1. Mary-Anne Szeniaowski – November Election
2. Rozanna Patane – Report on LED Interior Lighting Project, Weatherization Program, and Energy Use Data Gathering Process

**F. Citizens' Forum** – The Citizens' Forum is open to any member of the audience for comments on any matter. 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: Peter Wagner  
Audrey Gottlieb

**G. Public Hearings**

1. Long Beach Avenue – Final Design

Moved by Ms. Sevigny-Watson, seconded by Mr. Frederick to open the public hearing. Without objection so ordered.

Public Comment: Gordon Eldridge  
Jim Carmody  
Sue Larson  
Elaine Goselin  
Dave McCarthy  
Don Seidler

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to close the public hearing. Without objection, so ordered.

**H. Endorsements**

Business Licenses:

- Eaton’s Neck, LLC DBA: Lighthouse Inn and Carriage House (Innkeeper, Food Service); located at 20 Nubble Road
- Maryjane Merritt DBA: The Union Bluff Hotel (Food Service, Liquor, Special Amusement, Innkeeper, Coin-Operated Amusement); located at 8 Beach Street
- Two Beach Street, LLC DBA: Atlantic House (Innkeeper); located at 2 Beach Street

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to approve the following business licenses: Eaton’s Neck, LLC DBA: Lighthouse Inn and Carriage House (Innkeeper, Food Service); located at 20 Nubble Road , Maryjane Merritt DBA: The Union Bluff Hotel (Food Service, Liquor, Special Amusement, Innkeeper, Coin-Operated Amusement); located at 8 Beach Street, and Two Beach Street, LLC DBA: Atlantic House (Innkeeper); located at 2 Beach Street all subject to taxes fees and inspections being current and compliant with the usual noise stipulations. Vote 5-0, motion passes.

**I. Old Business**

1. Discussion and Possible Action: Collective Bargaining Agreement, York DPW Association

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to approve the collective bargaining agreement between the Town of York and the York Department of Public Works Association dated July 1, 2016 through June 30, 2019. Vote 5-0, motion passes.

2. Discussion and Possible Action: CMP Easement at 36 Main Street

The Town is still waiting on a final draft of a survey, so this item was not addressed.

3. Discussion and Possible Action: Long Beach Avenue Final Design

Moved by Ms. Sevigny-Watson, seconded by Mr. Frederick to approve the proposed Long Beach Avenue complete streets road design, including the bike and pedestrian improvements, parking changes, and sea wall design elements. Also moved to approve the Department of Public Works to finalize the proposed design and solicit construction bids in conjunction with the proposed Long Sands Beach Bathhouse expansion. Vote 5-0, motion passes.

4. Discussion and Possible Action: Long Sands Bathhouse

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to approve the Long Sands Bathhouse project as approved by the Planning Board and authorize the

Bathhouse Building Committee to put the project out to bid. Vote 5-0, motion passes.

5. Discussion and Possible Action: Authorization for Design and Permitting for Garage at new Police Station

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to authorize Geoff Aleve of Civil Consultants to design and obtain all of the necessary permits and approvals for construction of a new garage facility for the police station located at 9 Hannaford Drive, in an amount not to exceed \$15,000 from the supplemental contingency fund. Vote 5-0, motion passes.

6. Discussion and Possible Action: Celtic Contract for LED Streetlights

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to approve the contract modification dated September 21, 2016 extending the existing contract to June 30, 2017, modifying the implementation schedule and increase the consulting flat fee for services by \$5,000 as proposed by Celtic Energy to be paid out of FY17 Contingency Fund. Vote 5-0, motion passes.

**J. New Business**

1. Discussion and Possible Action: Tax Task Force

The Board discussed the possibility of changing the charge for the Tax Task Force. The Board gave the Town Manager some direction and things they would like to see in a possible charge and he will bring a draft back to them at a later meeting.

2. Discussion and Possible Action: Adopt Hazard Mitigation Plan

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to approve the resolution adopting the 2015 York County Hazard Mitigation Plan for the Town of York. Vote 5-0, motion passes.

3. Discussion and Possible Action: Poverty Abatements

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to deny the Abatement Request for Case # 16-05 made pursuant to MRSA Title 36 § 841.2. Vote 5-0, motion passes.

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to deny the Abatement Request for Case # 16-06 made pursuant to MRSA Title 36 § 841.2. Vote 5-0, motion passes.

4. Discussion and Possible Action: Pole Location Permits

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to approve the Pole Location Permits for 1 pole on Beech Ridge Road, 1 pole on Clay Hill Road, and 2 poles on Witchtrot Road as described in the applications from Central Maine Power. Vote 5-0, motion passes.

5. Discussion and Possible Action: Special Event Permits

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to approve the following Special Event Permit applications subject to all, if any, conditions given by Department Heads: Parks and Recreation's Festival of Lights Parade on December 3, 2016, Parks and Recreation's November Lighting of the Nubble on November 26, 2016, Parks and Recreation's Turkey Trot 5K on November 26, 2016, Parks and Recreation's Halloween Hop and Parade on October 28, 2016, KRG Memorial 5K on October 16, 2016, York Art Association's Fall Art Day on October 15, 2016, and First Parish Church's Drive Through Nativity on December 17, 2016. Vote 5-0, motion passes.

**K. Future Agendas**

The Selectmen would like to reschedule their joint workshop with the Planning Board soon.. They would also like to see three surveys go out to the public regarding energy efficiency plans, trash and recycling, and the multigenerational needs assessment. The Selectmen would also like to see a new needs assessment done on Town Hall.

**L. Other Business**

**M. Citizens' Forum**

Public Comment: Brent Maynard  
David Brinkman  
Spiro Paras

**Adjourn**

Moved by Mr. Frederick, seconded by Ms. Sevigny-Watson to adjourn the meeting at 10:00PM. Without objection, so ordered.

Respectfully Submitted,

Melissa M. Avery  
Assistant to the Town Manager

**BOARD OF SELECTMEN'S  
MEETING MINUTES  
6:00PM/7:00PM MONDAY, OCTOBER 24, 2016  
YORK PUBLIC LIBRARY**

**6:00PM:** Committee Interviews

**7:00PM:** Regular Meeting

**Present:** Chairman Robert E. Palmer, Jr., Vice-Chairman Jonathan O. Speers, Todd A. Frederick, Dawn Sevigny-Watson, Michael L. Estes, Town Manager Stephen H. Burns and member of the press and public.

**Call to Order**

Chairman Robert E. Palmer, Jr. called the meeting to order at 7:00PM.

**Opening Ceremonies**

**A. Minutes**

1. August 8, 2016 Meeting Minutes
2. August 22, 2016 Meeting Minutes
3. September 12, 2016 Meeting Minutes

Moved by Mr. Speers, seconded by Ms. Sevigny-Watson to approve the August 8, 2016, August 22, 2016 and September 12, 2016 Meeting Minutes, as amended. Vote 5-0, motion passes.

**B. Chairman's Report**

No Chairman's Report.

**C. Manager's Report**

Town Manager Stephen H. Burns planning a site visit at the new police station for the Selectmen at 5:00PM this Thursday. He also gave a reminder from the Town Clerk that November 3<sup>rd</sup> is the last day to pick up absentee ballots for the November 8<sup>th</sup> election.

**D. Awards**

1. Bid Award: Crack Sealing

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to award the FY2017 Crack Seal Bid to Sealcoating, Inc. in the amount of \$1.06 per pound. Vote 5-0, motion passes.

E. **Reports**

1. Michael Whitman - Update on the York High School Auditorium Project
2. Dean Lessard – York Village Parking Study Results

F. **Citizens' Forum** – The Citizens' Forum is open to any member of the audience for comments on any matter. 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: Brian Chabot  
David Brinkman  
Name

G. **Public Hearings**

1. Amendment of the Traffic Safety Ordinance

Moved by Mr. Frederick, seconded by Ms. Sevigny-Watson to open the public hearing. Without objection, so ordered.

Public Comment: None

Moved by Mr. Frederick, seconded by Ms. Sevigny-Watson to close the public hearing. Without objection, so ordered.

H. **Endorsements**

Business License:

- Stonewall Kitchen (Food Service, Liquor); located at 2 Stonewall Lane

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to approve the following Business License: Stonewall Kitchen for food service and liquor, located at 2 Stonewall Lane, subject to taxes, fees and inspections being current and compliant with the usual noise stipulations. Vote 5-0, motion passes.

I. **Old Business**

1. Discussion: YBFD Truck Repair and Use of Contingency Account

On August 22 the Board of Selectmen discussed the possibility of using carry-forward funds for the repair of significant rust damage to the frame of Engine 5. After discussion with the Town Attorney, it has been brought forward that carry-forward funds can't be used for this purpose, so the repair would need to be funded by contingency. The Town Manager suggests no transferring the contingency money yet, instead he would like to see how the Beach Fire Department budget tracks through the rest of the fiscal year and see if it comes in under budget and making funds available for the repair.

2. Discussion and Possible Action: CMP Easement at 36 Main Street

Moved by Mr. Frederick, seconded by Ms. Sevigny-Watson to grant a utility easement to Central Maine Power on the property located at 36 Main Street to provide service in the existing utility easement corridor to service the proposed new Town communications town, and to direct the Town Manager to execute the necessary documents. Vote 3-2, Mr. Speers and Mr. Estes against, motion passes.

3. Discussion: Update on Parking Kiosk and Ticketing Systems

The Police Department reviewed four national parking kiosks vendors and has led them to believe that the Hectronic Kiosk in conjunction with United Public Safety Hand Held Computer would be the best choice for York. The Board asked that the Police Department bring the vendors in and have the Selectmen see the kiosks and talk with the representatives. This will be brought back to the Selectmen for action on November 14.

**J. New Business**

1. Discussion and Possible Action: County-Wide Deputy Sheriff Authority

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to approve the resolution by this Board to hereby authorize the police officers of the town who have met the requirements of Title 25, Section 2804-C and 2804-E, the authority to exercise county wide deputy sheriff authority pursuant to, and authorized by the MRSA Title 30 Section 2674. Vote 5-0, motion passes.

2. Discussion and Possible Action: FY16 Carryforwards

Moved by Ms. Sevigny-Watson, seconded by Mr. Estes to propose the carryforward of the recommended funds in the amount \$277,209.23 from the FY16 Budget Year to the FY17 budget as recommended by the Town Manager. Also the remaining balances, after balance clarification, of the outside police detail and police vehicle line items, as well as the cliff path legal line. Vote 5-0, motion passes.

3. Discussion and Possible Action: Amend the Traffic Safety Ordinance to establish “No Parking” zones on Milbury Lane

Moved by Ms. Sevigny-Watson, seconded by Mr. Frederick to adopt the changes to the Traffic Safety Ordinance as proposed. Vote 5-0, motion passes.

4. Discussion and Possible Action: Regulation Issues

- a. Transient Sellers

Per the Town Manager’s request the Town Planner discussed with the Selectmen the state laws surrounding Transient Sellers and the Town’s rights to regulate it within the town.

- b. Short-Term Rental Properties

Per the Town Manager’s request the Town Planner also discussed with the Selectmen some issues that the Town is facing regarding Short-Term Rental Properties in Town. The Board agreed that a Short-Term Rental subcommittee from the Planning Board would be a great start to address those issues.

- c. Marijuana Legalization

The Town Planner also addressed some issues that may follow the possible approval of the Marijuana Legalization Act at the November election. Issues included zoning and business licensing amendments.

5. Discussion: 3-Year Planning Policy Outlook

Per the Town Manager’s request the Town Planner provided the Selectmen with a working list and discussed ordinance and Comprehensive Plan initiatives for upcoming consideration.

6. Discussion and Possible Action: Non-Union Personnel Policy Amendment regarding Direct Deposit

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to approve the proposed changes to the Non-Union Personnel Policy’s Section III; Article A – Wage/Salary Plan, Section VII: Sexual Harassment Policy and Appendix A: Information and Communications Resources Acceptable Use Policy as reflected in the attached memorandum. Vote 5-0, motion passes.

7. Discussion and Possible Action: Board and Committee Appointments

- a. Multi-Generational Community Center Needs Assessment Committee

- b. Village Revitalization Steering Committee
- c. Design Review Board
- d. Parks and Recreation Board
- e. Assessment Review Board
- f. Tax Task Force

Moved by Mr. Speers, seconded by Ms. Sevigny-Watson to appoint Amy Phalon as a Regular Member to the Design Review Board, Denny Sayward as a Regular Member to the Parks and Recreation Board, Michael Modern as an Alternate Member to the Parks and Recreation Board, Barbara Kinsman as a Regular Member to the Assessment Review Board, Marjory Stewart as a Regular Member to the Tax Task Force, Christine Hartwell as a Regular Member to the Village Revitalization Steering Committee, Stuart Dawson as a Regular Member to the Village Revitalization Steering Committee, Ron McAllister as a Regular Member to the Village Revitalization Steering Committee, Antonia Desoto as a Regular Member to the Village Revitalization Steering Committee, Peter Smith as a Regular Member to the Village Revitalization Steering Committee, Edward Claus as a Regular Member to the Multigenerational Community Center Needs Assessment Committee, Tracy Keirns as a Regular Member to the Multigenerational Community Center Needs Assessment Committee, Edward Claus as a Regular Member to the Multigenerational Community Center Needs Assessment Committee, with terms expiring June 30, 2019. Vote 5-0, motion passes.

**K. Future Agendas**

- 1. Joint Meeting with Planning Board, 6:00 to 7:30, November 17<sup>th</sup>, Senior Center

Mr. Frederick asked that the Police Chief come in and talk with the Board regarding the local drug crisis, and if there are any tools that they could help with.

**L. Other Business**

**M. Citizens' Forum**

Public Comment: Fred Knox

**Adjourn**

Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to adjourn the meeting at 10:15PM. Without objection, so ordered.

**Executive Session:** Pursuant to: Title 1 M.R.S § 405.6.C (Real Estate)

**Present:** Chairman Robert E. Palmer, Jr., Vice-Chairman Jonathan O. Speers, Michael L. Estes, Dawn Sevigny-Watson, Todd A. Frederick and Town Manager Stephen H. Burns.

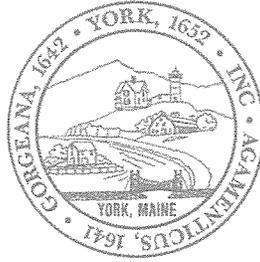
Moved by Ms. Sevigny-Watson, seconded by Mr. Speers to enter into executive session. Without objection, so ordered.

Mr. Palmer recused himself for a portion of the Executive Session.

Moved by Ms. Sevigny-Watson-, seconded by Mr. Speers to exit out of executive session. Without objection, so ordered.

Respectfully Submitted,

Melissa M. Avery  
Assistant to the Town Manager



## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: November 9, 2016	<input checked="" type="checkbox"/> ACTION
DATE ACTION REQUESTED: November 14, 2016	<input type="checkbox"/> DISCUSSION ONLY
SUBJECT: 2017 Paving Bid Award	

### DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:

On October 19, 2016 Libby Scott, Inc. the Town's existing paving contractor submitted a new paving proposal to the town. The new proposal reduces the paving price by \$3 per ton to \$66.90 per ton for the 2017 season. Last Fall Libby Scott, Inc. was awarded the town's paving work for 2016 with a price of \$69.90. The previous award and price is good thru the end of November 2016. The new proposal would reduce the town's paving cost by \$3 per ton for the remaining FY 2017 projects. It would also extend the paving price of \$66.90 per ton until the end of the year. The estimated cost savings to the Town of York for the 2017 paving season in approximately \$37,000.

Included with this form is Libby's Scott's proposal.

**RECOMMENDATION:** Award the 2017 Town paving bid to Libby-Scott, Inc.

**PROPOSED MOTION:** I move to award the 2017 paving bid to Libby-Scott, Inc. in the amount of **\$66.90 per ton.**

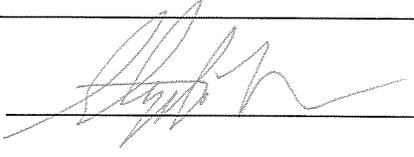
**FISCAL IMPACT:** Libby-Scott Inc's proposed price per ton for paving is \$66.90. The following table shows the life cycle impact of current funding levels.

Maint. Paving	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	FY2017	FY2018
Price Per Ton	\$64.50	\$66.50	\$72.00	\$70.50	\$70.50	\$71.90	\$69.90	\$66.90
Percentage Increase	0%	+3.0%	+8.3%	-2.4%	0%	+2.0%	-2.8%	-4.3%
Price Per Mile (5,280'*21'*2")	\$87,410	\$90,120	\$97,397	\$95,368	\$95,368	\$97,262	\$94,556	\$90,498
Funding Level	\$492,600	\$417,600	\$537,409	\$512,409	\$512,409	\$550,000	\$860,000	\$860,000
Miles Paved (Est.)	4.23 mi.	4.14 mi.	4.52 mi.	4.03 mi.	4.03 mi.	4.24 mi.	6.82 mi.	7.31 mi
Miles Paved (Act.)	4.19 mi.	4.11 mi.	1.06 mi.	4.74 mi.	7.99 mi.	5.23 mi.	8.87 mi.	
Paving Cycle	32 years	32 years	125years	28 years	17 years	25 years	15 years	19 years

DEPARTMENT LINE ITEM ACCOUNT: 288.000.9606

BALANCE IN LINE ITEM IF APPROVED:

PREPARED BY: Dean Lessard

REVIEWED BY: 

.....

P.O.Box 817  
Wells, Me. 04090  
207-676-4466 Fax 676-4469  
libbyscott@maine.rr.com  
www.libbyscott.com

# LibbyScott Inc.

October 19, 2016

Town of York  
York, Maine

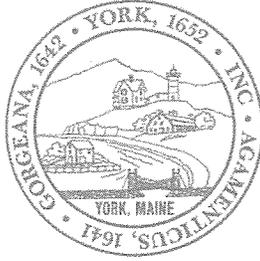
We are pleased to quote you the following 2017 season:

- |                                    |                 |
|------------------------------------|-----------------|
| 1. Machine place surface mix       | \$ 66.90 ton    |
| 2. Machine place base mix          | \$ 64.90 ton    |
| 3. Hand placed                     | \$ 135.00 ton   |
| 4. Tack coat                       | \$ 7.35 gal     |
| 5. Butt joints                     | \$ 25.00 sy     |
| 6. Reclaim                         | \$ .90 sy       |
| 7. Reclaim mobilization            | \$ 250.00 each  |
| 8. Grading crew based on 10 hr day | \$ 2,285.00 day |

Steve Libby



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## REQUEST FOR ACTION BY BOARD OF SELECTMEN

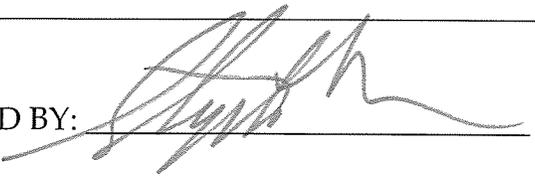
DATE SUBMITTED: November 10, 2016	<input checked="" type="checkbox"/> ACTION
DATE ACTION REQUESTED: November 14, 2016	<input type="checkbox"/> DISCUSSION ONLY
SUBJECT: Games of Chance	

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: Annually the Board of Selectmen approves a blanket letter that is required by the State of Maine, which lists establishments within the Town of York wishing to engage in "Games of Chance", giving them the ability to schedule raffles, bingo games and other events that include games of chance.

RECOMMENDATION:
PROPOSED MOTION: I move to approve the 2017 Blanket Letter of Approval for Games of Chance

FISCAL IMPACT: N/A
DEPARTMENT LINE ITEM ACCOUNT: N/A
BALANCE IN LINE ITEM IF APPROVED: N/A

PREPARED BY: \_\_\_\_\_

REVIEWED BY: 

November 14, 2016

Maine State Police Licensing Division  
164 State House Station  
Augusta, ME 04333-0164

RE: Blanket Letter of Approval to Operate Games of Chance

To Whom It May Concern:

The Town of York Board of Selectmen voted at their November 14, 2016 meeting to approve a Blanket Letter of Approval to Operate Games of Chance and/or Bingo/Beano Games for the following organizations for calendar year **2017**:

- American Legion Post #56
- American Legion Auxiliary
- Elks Lodge #2788
- Knights of Columbus Council #11940
- Parents for York Wrestling
- Saint Christopher's Church
- VFW Post # 6977
- York Beach Fire Department
- York Village Fire Department
- York Chamber of Commerce
- York Jr. Wildcats
- York Kiwanis
- York Little League
- York Music Boosters
- York Rotary Club
- York Athletic Boosters
- York High School Activities

Please feel free to contact me should you need anything further.

Sincerely,

Melissa M. Avery  
Assistant to the Town Manager  
[mmavery@yorkmaine.org](mailto:mmavery@yorkmaine.org)  
Town of York, Maine  
186 York Street  
York, ME 03909  
(207) 363-1000

**ESTABLISHMENTS REQUESTING LETTER OF APPROVAL  
FOR GAMES OF CHANCE**

American Legion Post #56  
647 US Route One  
York, ME 03909

York Chamber of Commerce  
1 Stonewall Lane  
York, ME 03909

York High School Activities  
1 Robert Stevens Drive  
York, ME 03909

York Middle School Activities  
30 Organug Road  
York, ME 03909

York Jr. Wildcats  
c/o York Middle School  
30 Organug Road  
York, Maine 03909

York Athletic Boosters  
c/o York High School  
1 Roberts Stevens Drive  
York, Maine 03909

Elks Lodge #2788  
1704 U.S. Route One  
P.O. Box 711  
York, ME 03909

York Kiwanis  
P.O Box 454  
York, Maine 03909

Knights of Columbus Council #11940  
P.O. Box 172  
York Harbor, ME 03911

York Little League  
P.O. Box 696  
Cape Neddick, ME 03902

Parents for York Wrestling  
c/o York High School  
1 Robert Stevens Dr.  
York, ME 03909

York Music Boosters  
c/o York High School  
1 Stevens Drive  
York, Maine 03909

Saint Christopher's Church  
4 Barrell Lane  
York, ME 03909

York Rotary Club  
P.O. Box 806  
York, ME 03909

VFW Post #6977  
P.O. Box 201  
York Beach, ME 03910

York Village Fire Department  
1 Firehouse Drive  
York, ME 03909

York Beach Fire Department  
P.O. Box 70  
York Beach, ME 03910



## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: November 10, 2016	<input checked="" type="checkbox"/> ACTION
DATE ACTION REQUESTED: November 14, 2016	<input type="checkbox"/> DISCUSSION ONLY
SUBJECT: Building Committee Workshop with Selectmen	

### DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:

The Municipal Building Committee received two bids for the Long Sands Bathhouse project; Hardy Pond Construction from Portland, Maine in the amount of 1,275,800 and H.L. Patten Construction Company from Kittery, Maine in the amount of \$1,349,000. These proposals were considerably higher than anticipated and well over the \$600,000 allotted for the project. We will not be recommending a bid award at this time.

Needless to say the committee was quite surprised and a bit taken back by both proposals. While we were advised that the market had become quite volatile since the project was first proposed, we were also advised that the scope of the project was in line with the approved budget.

We contacted both bidders to clarify some issues and verify their bids. Hardy Pond responded and subsequently met with representatives of the Town and Steve Bradstreet on Monday November 7<sup>th</sup>. H.L. Patten has yet to respond despite repeated requests and attempts to contact them.

We used the meeting with Hardy pond to try and gain as much information as possible. Our goal was to gain and understanding for why there was such a discrepancy between our own projections and the proposals we received. We felt it important to determine if the building design and scope warranted the high price tag or if the volatile market and project logistics were driving the costs.

Some of the things discussed;

- ✓ We were told that the market is extremely volatile, contractors are busy and we should expect anywhere from a 25% to 50% increase from that of a year ago.
- ✓ Winter construction is difficult, the concrete work requires the building to be tented and heated.
- ✓ Difficulty finding sub-contractors that aren't booked out for several months. We were advised to re-bid the project now if we wanted to begin construction next fall.
- ✓ We were advised that the time allotted for bidding and construction was adequate, however the start time was short notice given contractors work load.

We suspect that these issues combined with what was probably a tight budget to begin with have all contributed. Keep in mind that much of the building design was determined through the public participation, permitting and approval process.

At this point the Building Committee would like to request a workshop with the Board of Selectmen to discuss potential design changes as well as options for securing a contractor and negotiating a contract. The Committee realizes we have more work to do, we are optimistic and committed to this project and look forward to a successful conclusion.

RECOMMENDATION: We recommend that the Board of Selectmen meet with the Bathhouse Building Committee in a workshop session to discuss options for moving the project forward.

PROPOSED MOTION: I move to have the Town Manager establish a date and time for a workshop session with the Bathhouse Building Committee to discuss options for moving the project forward.

FISCAL IMPACT:

DEPARTMENT LINE ITEM ACCOUNT:

BALANCE IN LINE ITEM IF APPROVED:

PREPARED BY:



REVIEWED BY:



DOCUMENT 004113 - BID FORM - STIPULATED SUM (SINGLE-PRIME CONTRACT)

1.1 BID INFORMATION

- A. Bidder: Hardy Pond Construction
- B. Project Name: Long Sands Beach Bathhouse.
- C. Project Location: Long Beach Avenue.
- D. Owner: Town of York, York, Maine
- E. Construction Manager: Ransom Consulting, Inc., 400 Commercial Street, Suite 404, Portland, Maine.
- F. Construction Manager Project Number: 151.06011.

1.2 CERTIFICATIONS AND BASE BID

- A. The undersigned Bidder, having carefully examined the Procurement and Contracting Requirements, Conditions of the Contract, Drawings, Specifications, and all subsequent Addenda, as prepared by Ransom Consulting, Inc., having visited the site, and being familiar with all conditions and requirements of the Work, hereby agrees to furnish all material, labor, equipment and services, including all scheduled allowances, necessary to complete the construction of Task 1, according to the requirements of the Procurement and Contracting Documents, for the stipulated sum of:

- 1. One million two hundred seventy five thousand eight hundred Dollars (\$ 1,275,800).
- 2. The above amount may be modified by amounts indicated by the Bidder on the attached Document 004322 "Unit Prices Form".

1.3 BID GUARANTEE

- A. The undersigned Bidder agrees to execute a contract for this Work in the above amount and to furnish surety as specified within ten days after a written Notice of Award, if offered within 10 days after receipt of bids, and on failure to do so agrees to forfeit to Owner the attached cash, cashier's check, certified check, U.S. money order, bid bond, or Approved Letter of Credit, as liquidated damages for such failure, in the following amount constituting five percent (5%) of the total bid amount above:

- 1. Surety bond attached Dollars (\$ \_\_\_\_\_).

The Town of York Selectmen have authorized that a letter of credit (LOC) satisfactory to the Town of York may be used in lieu of cash or bond as surety.

- B. In the event Owner does not offer Notice of Award within the time limits stated above, Owner will return to the undersigned the cash, cashier's check, certified check, U.S. money order, or bid bond.

1.4 SUBCONTRACTORS AND SUPPLIERS

A. The following companies shall execute subcontracts for the portions of the Work indicated:

- 1. Site Work: Curtis Earthworks
- 2. Concrete Work: Concrete Craftsman / TMA Concrete
- 3. Masonry Work: Meyer + Son
- 4. Roofing Work: Yerodsoe Builders
- 5. Carpentry Work: /
- 6. Plumbing Work: Atlantic Comfort Systems
- 7. HVAC Work: /
- 8. Electrical Work: All Electric

1.5 TIME OF COMPLETION

A. The undersigned Bidder proposes and agrees hereby to commence the Work of the Contract Documents on a date specified in a written Notice to Proceed to be issued by the Owner, and shall fully complete the Work by May 15, 2016.

1.6 ACKNOWLEDGEMENT OF ADDENDA

A. The undersigned Bidder acknowledges receipt of and use of the following Addenda in the preparation of this Bid:

- 1. Addendum No. 1, dated 10-13-16
- 2. Addendum No. 2, dated 10-14-16
- 3. Addendum No. 3, dated 10-24-16
- 4. Addendum No. 4, dated \_\_\_\_\_
- 5. Addendum No. 5, dated \_\_\_\_\_

1.7 CONTRACTOR'S LICENSE

A. The undersigned further states that it is a duly licensed contractor, for the type of work proposed, in the State of Maine, and that all fees, permits, etc., pursuant to submitting this proposal have been paid in full.

1.8 SUBMISSION OF BID

- A. Respectfully submitted this 28 day of Oct., 2016.
- B. Submitted By Hardy Pond Construction (Name of bidding firm or corporation).
- C. Authorized Signature: [Handwritten Signature] (Handwritten signature).
- D. Signed By: Deirdre Wadsworth (Type or print name).
- E. Title: President (Owner/Partner/President/Vice President).
- F. Witness By: Daphne Millay (Handwritten signature).
- G. Attest: D. Millay Frank Carr (Handwritten signature).
- H. By: FRANK CARR (Type or print name).
- I. Title: ASSISTANT SECRETARY (Corporate Secretary or Assistant Secretary).
- J. Street Address: 7 Tec Drive.
- K. City, State, Zip Portland ME 04103.
- L. Phone: 797-6066.
- M. License No.: \_\_\_\_\_.
- N. Federal ID No.: 01-0454157 (Affix Corporate Seal Here).

END OF DOCUMENT 004113

DOCUMENT 004322 - UNIT PRICES FORM

1.1 BID INFORMATION

- A. Bidder: Hardypond Construction
- B. Project Name: **Long Sands Beach Bathhouse.**
- C. Project Location: **Long Beach Avenue.**
- D. Owner: **Town of York, York, Maine.**
- E. Engineer: **Ransom Consulting, Inc., 400 Commercial Street, Suite 404, Portland, Maine.**
- F. Engineer Project Number: **151.06011.**

1.2 BID FORM SUPPLEMENT

- A. This form is required to be attached to the Bid Form.
- B. The undersigned Bidder proposes that the sum of the amounts below equal the Contract Sum presented in the Bid Form.
- C. Contractor may bid on any or all of the Tasks presented, below.

1.3 UNIT PRICES – BATHHOUSE CONSTRUCTION

- A. Unit-Price No. 1: Mobilization and Demobilization.
  - 1. Six thousand Dollars (\$ 6,000 ) per lump sum.
- B. Unit Price No. 2: Traffic Control.
  - 1. five thousand four hundred Dollars (\$ 5,400 ) per lump sum.
- C. Unit-Price No. 3: Erosion and Sedimentation Control..
  - 1. three thousand five hundred Dollars (\$ 3,564 ) per lump sum.  
SIXTY FOUR
- D. Unit-Price No. 4: Demolition.
  - 1. fourteen thousand nine hundred Dollars (\$ 14,900 ) per lump sum.
- E. Unit-Price No. 5: Underground Electric Service.
  - 1. Six thousand Dollars (\$ 6,000 ) per lump sum.
- F. Unit-Price No. 6: 6" Sanitary Piping

1. Sixteen thousand three hundred Dollars (\$ 16,300 ) per lineal foot.

G. Unit-Price No. 7: Sanitary Manhole

1. Three thousand four hundred Dollars (\$ 3,450 ) per each.  
fifty

H. Unit-Price No. 8: TideFlex Valve

1. Nine hundred twenty Dollars (\$ 920 ) per each.

I. Unit-Price No. 9: 2" Water Service

1. Twelve thousand three hundred Dollars (\$ 12,300 ) per lump sum.

J. Unit-Price No. 10: Concrete Slabs adjacent to Building (see attached exhibit)

1. thirty Dollars (\$ 30 ) per square yard.

K. Unit-Price No. 11: Landscaping

1. four thousand eight hundred Dollars (\$ 4,800 ) per lump sum.

L. Unit-Price No. 12: Hardscaping Elements

1. forty three thousand Dollars (\$ 43,000 ) per lump sum.

M. Unit-Price No. 13: Building Construction

1. Six ~~thousand~~ hundred fifty thousand Dollars (\$ 650,000 ) per lump sum.

N. Unit-Price No. 14: Plumbing

1. one hundred thirty eight thousand Dollars (\$ 138,000 ) per lump sum.

O. Unit-Price No. 15: Electrical

1. Ninety thousand Dollars (\$ 90,000 ) per lump sum.

P. Unit-Price No. 16: Dewatering

1. Three thousand two hundred Dollars (\$ 3,240 ) per lump sum.

Q. Unit-Price No. 17: Salvage Value

1. N/A Dollars (\$ \_\_\_\_\_ ) per lump sum.

1.4 UNIT PRICES – MASTER PLAN CONSTRUCTION ITEMS

A. Unit-Price No. 18: Remove and Reset Granite Curb

1. Forty one Dollars (\$ 41 ) per lineal foot.

B. Unit-Price No. 19: New Granite Curb

1. Thirty four Dollars (\$ 34 ) per lineal foot.

C. Unit-Price No. 20: Concrete Sidewalks and Ramps (see attached exhibit)

1. Thirty Dollars (\$ 30 ) per square yard.

D. Unit-Price No. 21: Seawall Reconstruction

1. Four thousand Dollars (\$ 4,000 ) per lineal foot. <sup>37500 \$/16250</sup>

E. Unit-Price No. 22: Electrical Conduit

1. N/A Dollars (\$ ) per lineal foot.

1.5 ADDITIONAL ALTERNATES TO CONTRACT

A. Alternate 1: Reduce extent of roof over walkway on East façade, as shown in structural and architectural drawings. Provide alternate lighting on East façade as indicated in electrical and architectural drawings and specifications.

1. Seventeen thousand three hundred Dollars (\$ 17,300 ) per lump sum. ~~46,700~~

B. Alternate 2: Remove cupola and all related components as shown in structural and architectural drawings.

1. four thousand six hundred ninety seven Dollars (\$ 4,697 ) per lump sum.

C. Alternate 3: Remove (2) rolling overhead security doors as indicated on drawings.

1. six thousand seven hundred Dollars (\$ 6,700 ) per lump sum.

D. Alternate 4: Remove storage platforms as indicated on structural and architectural drawings.

1. one thousand Dollars (\$ 1,000 ) per lump sum.

E. Alternate 5: Replace Drawing L1 Site Layout and Planting Plan, L2 Grading Plan, and L3 Detail Sheet – BASE BID with Drawing L1A Site Layout and Planting Plan, L2A Grading Plan, and L3 Detail Sheet – ALTERNATE BID. This alternate includes the modification of paving materials, on-site changing stalls, etc.

1. fifty eight thousand Dollars (\$ 58,000 ) per lump sum.

1.6 SUBMISSION OF BID SUPPLEMENT

A. Respectfully submitted this 28 day of October, 2016.

- B. Submitted By: Hardy pond Construction (Insert name of bidding firm or corporation).
- C. Authorized Signature:  (Handwritten signature).
- D. Signed By: Deirdre Wadsworth (Type or print name).
- E. Title: President

END OF DOCUMENT 004322

DOCUMENT 004113 - BID FORM - STIPULATED SUM (SINGLE-PRIME CONTRACT)

1.1 BID INFORMATION

- A. Bidder: H.L. Patten Construction Co. Inc.
- B. Project Name: **Long Sands Beach Bathhouse.**
- C. Project Location: **Long Beach Avenue.**
- D. Owner: **Town of York, York, Maine**
- E. Construction Manager: **Ransom Consulting, Inc., 400 Commercial Street, Suite 404, Portland, Maine.**
- F. Construction Manager Project Number: **151.06011.**

1.2 CERTIFICATIONS AND BASE BID

- A. The undersigned Bidder, having carefully examined the Procurement and Contracting Requirements, Conditions of the Contract, Drawings, Specifications, and all subsequent Addenda, as prepared by Ransom Consulting, Inc., having visited the site, and being familiar with all conditions and requirements of the Work, hereby agrees to furnish all material, labor, equipment and services, including all scheduled allowances, necessary to complete the construction of Task 1, according to the requirements of the Procurement and Contracting Documents, for the stipulated sum of:

- 1. One Million Three Hundred Forty Nine Dollars (\$ 1,349,000.<sup>00</sup>).
- 2. The above amount may be modified by amounts indicated by the Bidder on the attached Document 004322 "Unit Prices Form".

1.3 BID GUARANTEE

- A. The undersigned Bidder agrees to execute a contract for this Work in the above amount and to furnish surety as specified within ten days after a written Notice of Award, if offered within 10 days after receipt of bids, and on failure to do so agrees to forfeit to Owner the attached cash, cashier's check, certified check, U.S. money order, bid bond, or Approved Letter of Credit, as liquidated damages for such failure, in the following amount constituting five percent (5%) of the *total* bid amount above:

- 1. Sixty Seven Thousand Four Hundred Fifty Dollars (\$ 67,450.<sup>00</sup>).

The Town of York Selectmen have authorized that a letter of credit (LOC) satisfactory to the Town of York may be used in lieu of cash or bond as surety.

- B. In the event Owner does not offer Notice of Award within the time limits stated above, Owner will return to the undersigned the cash, cashier's check, certified check, U.S. money order, or bid bond.

1.4 SUBCONTRACTORS AND SUPPLIERS

A. The following companies shall execute subcontracts for the portions of the Work indicated:

- 1. Site Work: H.L. Patten
- 2. Concrete Work: Howse Foundations
- 3. Masonry Work: Fred Meyer & Sons
- 4. Roofing Work: MT Murphy
- 5. Carpentry Work: H.L. Patten
- 6. Plumbing Work: Rhodes Plumbing
- 7. HVAC Work: Haley's Metal
- 8. Electrical Work: Bridges Electric

1.5 TIME OF COMPLETION

A. The undersigned Bidder proposes and agrees hereby to commence the Work of the Contract Documents on a date specified in a written Notice to Proceed to be issued by the Owner, and shall fully complete the Work by May 15, 2016.

1.6 ACKNOWLEDGEMENT OF ADDENDA

A. The undersigned Bidder acknowledges receipt of and use of the following Addenda in the preparation of this Bid:

- 1. Addendum No. 1, dated 10-13-16
- 2. Addendum No. 2, dated 10-14-16
- 3. Addendum No. 3, dated 10-24-16
- 4. Addendum No. 4, dated \_\_\_\_\_
- 5. Addendum No. 5, dated \_\_\_\_\_

1.7 CONTRACTOR'S LICENSE

A. The undersigned further states that it is a duly licensed contractor, for the type of work proposed, in the State of Maine, and that all fees, permits, etc., pursuant to submitting this proposal have been paid in full.

1.8 SUBMISSION OF BID

- A. Respectfully submitted this 28 day of October, 2016.
- B. Submitted By H.L. Patten Construction (Name of bidding firm or corporation).
- C. Authorized Signature: Howard L. Patten (Handwritten signature).
- D. Signed By: Howard L. Patten (Type or print name).
- E. Title: President (Owner/Partner/President/Vice President).
- F. Witness By: [Signature] (Handwritten signature).
- G. Attest: Martha J. Patten (Handwritten signature).
- H. By: Martha J. Patten (Type or print name).
- I. Title: Corporate Secretary (Corporate Secretary or Assistant Secretary).
- J. Street Address: PO Box 450, 6 Spencers Way.
- K. City, State, Zip Kittery ME 03904.
- L. Phone: 207 439 2008.
- M. License No.: NA.
- N. Federal ID No.: 01 045 2477 (Affix Corporate Seal Here).

END OF DOCUMENT 004113

DOCUMENT 004322 - UNIT PRICES FORM

1.1 BID INFORMATION

- A. Bidder: H.L. Patten Construction Co. Inc.
- B. Project Name: **Long Sands Beach Bathhouse.**
- C. Project Location: **Long Beach Avenue.**
- D. Owner: **Town of York, York, Maine.**
- E. Engineer: **Ransom Consulting, Inc., 400 Commercial Street, Suite 404, Portland, Maine.**
- F. Engineer Project Number: **151.06011.**

1.2 BID FORM SUPPLEMENT

- A. This form is required to be attached to the Bid Form.
- B. The undersigned Bidder proposes that the sum of the amounts below equal the Contract Sum presented in the Bid Form.
- C. Contractor may bid on any or all of the Tasks presented, below.

1.3 UNIT PRICES – BATHHOUSE CONSTRUCTION

- A. Unit-Price No. 1: Mobilization and Demobilization.
  - 1. Sixty Thousand Dollars (\$ 60,000.00) per lump sum.
- B. Unit Price No. 2: Traffic Control.
  - 1. Five Thousand Dollars (\$ 5,000.00) per lump sum.
- C. Unit-Price No. 3: Erosion and Sedimentation Control..
  - 1. Two Thousand Dollars (\$ 2,000.00) per lump sum.
- D. Unit-Price No. 4: Demolition.
  - 1. Thirteen Thousand Dollars (\$ 13,000.00) per lump sum.
- E. Unit-Price No. 5: Underground Electric Service.
  - 1. Six Thousand Dollars (\$ 6,000.00) per lump sum.
- F. Unit-Price No. 6: 6" Sanitary Piping

- 1. Twenty Seven Thousand Three Hundred Forty Two Dollars (\$ 147.00 ) per lineal foot.
- G. Unit-Price No. 7: Sanitary Manhole
  - 1. Four Thousand Dollars (\$ 4,000.00 ) per each.
- H. Unit-Price No. 8: TideFlex Valve
  - 1. One Thousand Dollars (\$ 1,000.00 ) per each.
- I. Unit-Price No. 9: 2" Water Service
  - 1. Nine Thousand Seven Hundred Dollars (\$ 9,700.00 ) per lump sum.
- J. Unit-Price No. 10: Concrete Slabs adjacent to Building (see attached exhibit)
  - 1. Twenty Thousand Two Hundred Fifty Dollars (\$ 90.00 ) per square yard.
- K. Unit-Price No. 11: Landscaping
  - 1. Five Thousand Five Hundred Dollars (\$ 5,500.00 ) per lump sum.
- L. Unit-Price No. 12: Hardscaping Elements
  - 1. Seventy Three Thousand Six Hundred Fifty Dollars (\$ 73,650.00 ) per lump sum.
- M. Unit-Price No. 13: Building Construction
  - 1. Eight Hundred Sixty Seven Thousand Nine Hundred Twenty Eight Dollars (\$ 867,928.00 ) per lump sum.
- N. Unit-Price No. 14: Plumbing
  - 1. Ninety Five Thousand Dollars (\$ 95,000.00 ) per lump sum.
- O. Unit-Price No. 15: Electrical
  - 1. Sixty Three Thousand Five Hundred Eighty Dollars (\$ 63,580.00 ) per lump sum.
- P. Unit-Price No. 16: Dewatering
  - 1. Two Thousand Dollars (\$ 2,000.00 ) per lump sum.
- Q. Unit-Price No. 17: Salvage Value
  - 1. Zero Dollars (\$ 0.00 ) per lump sum.
- 1.4 UNIT PRICES – MASTER PLAN CONSTRUCTION ITEMS
  - A. Unit-Price No. 18: Remove and Reset Granite Curb

1. Two Thousand Four Hundred Dollars (\$ 20.00 ) per lineal foot.
- B. Unit-Price No. 19: New Granite Curb
1. Four Thousand Two Hundred Dollars (\$ 35.00 ) per lineal foot.
- C. Unit-Price No. 20: Concrete Sidewalks and Ramps (see attached exhibit)
1. Twenty Eight Thousand Three Hundred Fifty Dollars (\$ 90.00 ) per square yard.
- D. Unit-Price No. 21: Seawall Reconstruction
1. Fifty Thousand Dollars (\$ 333.<sup>00</sup> ) per lineal foot.
- E. Unit-Price No. 22: Electrical Conduit
1. Eight Thousand One Hundred Dollars (\$ 27.00 ) per lineal foot.

## 1.5 ADDITIONAL ALTERNATES TO CONTRACT

- A. Alternate 1: Reduce extent of roof over walkway on East façade, as shown in structural and architectural drawings. Provide alternate lighting on East façade as indicated in electrical and architectural drawings and specifications.
1. Deduct Fifteen Thousand Dollars (\$ 15,000.<sup>00</sup> ) per lump sum.
- B. Alternate 2: Remove cupola and all related components as shown in structural and architectural drawings.
1. Deduct Four Thousand Dollars (\$ 4,000.<sup>00</sup> ) per lump sum.
- C. Alternate 3: Remove (2) rolling overhead security doors as indicated on drawings.
1. Deduct Six Thousand Seven Hundred Fifty Dollars (\$ 6,750.<sup>00</sup> ) per lump sum.
- D. Alternate 4: Remove storage platforms as indicated on structural and architectural drawings.
1. Deduct Four Thousand Dollars (\$ 4,000.<sup>00</sup> ) per lump sum.
- E. Alternate 5: Replace Drawing L1 Site Layout and Planting Plan, L2 Grading Plan, and L3 Detail Sheet – BASE BID with Drawing L1A Site Layout and Planting Plan, L2A Grading Plan, and L3 Detail Sheet – ALTERNATE BID. This alternate includes the modification of paving materials, on-site changing stalls, etc.
1. Deduct Twenty Three Thousand Dollars (\$ 23,000.<sup>00</sup> ) per lump sum.

## 1.6 SUBMISSION OF BID SUPPLEMENT

- A. Respectfully submitted this 28 day of October, 2016.

- B. Submitted By: H.L. Patten Construction (Insert name of bidding firm or corporation).
- C. Authorized Signature: Howard L. Patten (Handwritten signature).
- D. Signed By: Howard L. Patten (Type or print name).
- E. Title: President

END OF DOCUMENT 004322



## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: November 8, 2016

ACTION

DATE ACTION REQUESTED: November 14, 2016

DISCUSSION ONLY

SUBJECT: Identify Minor Charter Amendments for May 2017

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: Please see attached memo.

RECOMMENDATION: Provide direction on the 4 items identified in the attached memo.

PROPOSED MOTION: t.b.d.

Prepared by Stephen H. Burns, Town Manager:

## MEMO

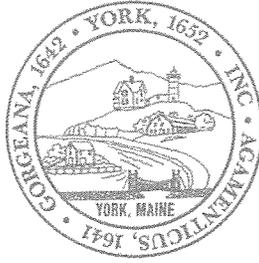
**TO:** Board of Selectmen  
**FROM:** Stephen H. Burns, Town Manager  
**DATE:** November 9, 2016  
**RE:** Possible Minor Charter Amendments for May 2017



SHB

Back in June I provided a list of possible minor amendments to the Town Charter. I recommend we prepare four minor amendments for voter consideration in May 2017. To do this we need to have complete drafts ready by the end of January.

- Required (lengthy) ballot language for bond-funded capital projects – it would be good to shorten the ballot questions. *See Article II §15, Bond Issues, Ballots.* I have asked Shana Mueller, our Bond Counsel, to evaluate all the requirements and to offer a suggestion for amendment. After speaking with her I'm not optimistic that we'll be able to shorten our bond language much, but we can see.
- Appointed versus elected Town Treasurer – as the complexity of responsibilities and the concurrent liabilities associated with execution of duties continue to grow over time it may well make sense to assign the Town Treasurer responsibilities to an appointed expert. *See Article III §8, Enumerations of Power.* Margaret MacIntosh currently serves as our elected Town Treasurer, most recently elected in May 2016. I proposed we prepare a ballot question that would convert this position to one being appointed by the Town Manager, to take effect in May 2019 at the end of the current incumbent's term.
- List of Town Committees – the list in the Charter doesn't match reality and should be amended. *See Article III §8, Enumerations of Power.* I propose we prepare a ballot question that would eliminate two non-existent committees: the Affordable Housing Task Force, and the Recycling Committee.
- Approval of the Weekly Warrant – per Title 30-A MRS §5603 we should provide for a clear process for the Board of Selectmen to approve the weekly warrant. *This is not in the Charter today, so would be new language.* This issue came up because we were asked if we could have e-mailed approval of the warrant. The answer as things stand today is no to e-mail.



## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: November 10, 2016	<input checked="" type="checkbox"/> ACTION
DATE ACTION REQUESTED: November 14, 2016	<input type="checkbox"/> DISCUSSION ONLY
SUBJECT: Marijuana Legalization Act	

### DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:

Note\* This request for action is based on the assumption that the Marijuana Legalization Act was approved by the voters of Maine. However, at the time of writing this I believe it is/was still “too close to call.”

The “Marijuana Legalization Act” was approved by the voters this November, and in my opinion, will require amendments to the Town’s zoning and business licensing ordinances. The act, as written, will be regulated and controlled by the Department of Agriculture, Conservation and Forestry and gives that state department nine (9) months to conduct a rule making process (establishing parameters for cultivation, manufacturing, distribution, sale and testing of retail marijuana products and enforcement of the law). In Town, the vote was very close, with the “no” vote holding a slight edge over the “yes” vote by 341 votes out of a total of 8,885 votes casted on this provision.

Irrespective of a slight local majority of people who voted “no” in town I think amendments to the zoning and business licensing ordinances should occur to ensure proper siting and to establish general parameters for uses associated with the law.

Regarding zoning, specific definitions in the law need to be reviewed and incorporated within the ordinance. They include but are not limited to retail marijuana, retail marijuana establishment, retail marijuana products, retail marijuana products manufacturing facility, retail marijuana cultivation facility, retail marijuana social clubs, retail marijuana stores etc. These definitions need to be reviewed and incorporated (where appropriate) into the definitions and specific permitted use sections of the zoning ordinance. Also, similar to the medical marijuana provisions in the zoning ordinance, the town should adopt specific performance standards for the various marijuana uses as defined in the law. However, as stated last month, a municipality, through its zoning ordinance may prohibit marijuana uses such as retail marijuana social clubs and/or retail marijuana establishment’s town wide but I think regulating these establishments in appropriate zoning districts much like the medical marijuana use provisions is a reasonable approach.

If the town decides not to prohibit these uses town wide we’ll also have to amend the town’s business licensing ordinance in order to incorporate review and licensing standards of retail marijuana

establishments and social clubs as the law contains a section that specifically allows a municipality to license these uses.

Another option the town could pursue is to establish a moratorium on these uses in order to prepare for the law. Based on my understanding and timeframes established within the law I think the town has time to amend provisions of our local regulations without enacting such a moratorium. However, I think we should obtain Town Counsel opinion regarding this.

In summary, I think we should begin the process of updating zoning and the business licensing ordinance to incorporate provision of the law. Again, I believe, based on the timeframes specified for rule making, that the town will have at least till next November to prepare various ordinance amendments but I think there is time to get something done for this May. Please see the attached email that I received from MMA regarding the law and timeframes associated for a municipality to react and establish regulations in regards to it.

**RECOMMENDATION:** Direct the Planning Director to begin the process of working with Town Counsel and incorporating aspects of the law into zoning and the business licensing ordinance for this May assuming Town Counsel believes, like I do, that a moratorium is not needed at this time.

**PROPOSED MOTION:** I move to direct the Planning Director to work with Town Counsel on amending the zoning and business licensing ordinance in response to the Maine Marijuana Legalization Act for the May Special General Referendum.

**FISCAL IMPACT:** N/A

**DEPARTMENT LINE ITEM ACCOUNT:** N/A

**BALANCE IN LINE ITEM IF APPROVED:** N/A

PREPARED BY: Dylan Smith, Planning Director      REVIEWED BY: 

## Dylan Smith

---

**From:** Legal Services Department <legal@memun.org>  
**Sent:** Monday, October 24, 2016 11:34 AM  
**To:** Dylan Smith  
**Subject:** RE: York - Recreational Marijuana

Dylan,

There are a number of questions about the marijuana ballot initiative. A colleague of mine, Rebecca Seel, researched this issue for another municipality. I am reprinting an excerpt of an email she wrote that I think summarizes our thinking on the issue:

“If the Nov. 8<sup>th</sup> ballot question authorizing retail sales of marijuana and marijuana social clubs is approved by the voters, the State agency administering the new law (the Department of Agriculture, Conservation and Forestry) is given up to 9 months to adopt agency rules, forms, testing procedures, etc. to implement the new law. It is conceivable that the agency will need even more time to do all of this. The attorneys in our office see no legal basis on which someone could apply immediately for approval to conduct the marijuana-related activities addressed in the new law. They will have to wait until the State has put a proper administrative program in place to implement the law, including the development of application materials. Here is a link to the public law that will be considered by the voters on Nov. 8<sup>th</sup>: <http://www.maine.gov/sos/cec/elec/citizens/index.html> .

We think a town has legal authority under 30-A MRSA section 4356 to adopt a moratorium to give the town time to develop and adopt sufficient local ordinance provisions to control this new activity, should the town choose to do so. This statute is discussed in MMA’s “Moratorium” information packet, including how to make a moratorium retroactive where necessary. You can access the packet by going online to MMA’s website, logging in with your password, clicking on “Members Center,” then clicking on “Information Packets and Guides.” The moratorium information packet is in the right hand column.

The proposed law is confusing with regard to the “municipal approval” needed as part of the State’s licensing process. It isn’t clear whether it envisions some type of approval regardless of whether the town adopts its own ordinances to address retail and social club marijuana sales or whether it is only intended to give the town an opportunity to bring its ordinances to the State’s attention by voting to deny approval of the State license based on restrictions and/or prohibitions in a local ordinance. I suspect the Department will attempt to clarify this when it adopts agency rules to implement the new law. See pages 9, 11, 12, 20, and 23-25 of the proposed law for provisions related to municipal approval and municipal ordinance authority. In any case it is clear that the proposed new law authorizes municipal ordinances regulating and/or prohibiting these marijuana activities and that the State must honor those local regulations in issuing its own licenses under the new law.”

Note that per the Maine constitution, the ballot initiative itself is not effective until either 30 days after the Governor declares the result of the question or 45 days after the legislature convenes (if money is required for implementation).

We also discussed the fact that outside of the state licensing requirement, a retail or other establishment may need a local land use approval to construct or locate in a particular area. We discussed the possibility of enacting a moratorium on marijuana establishments in order to allow the town time to develop appropriate land use regulations. We have an information packet that provides some general information on Moratoriums at:

<https://www.memun.org/MemberCenter/InfoPacketsGuides/MoratoriumOrdinances.aspx> . it is possible to enact a

moratorium that applies retroactively. See the discussion under section III of the packet linked above. One factor to consider when deciding the timing of a vote on a retroactive moratorium is the impact of 30-A MRSA § 3007(6), which prohibits municipal ordinances from nullifying or amending a municipal land use permit by subsequent enactment, amendment or repeal of an ordinance more than 45 days after the permit has received final approval. This time frame may impact the reach of a retroactive moratorium.

I hope that this is helpful. As we discussed, I strongly suggest the town work with the town's attorney on drafting and timing of any new ordinances.

---

**Susanne F. Pilgrim, Esq., Director**  
Legal Services Department

**Maine Municipal Association**  
60 Community Drive, Augusta, ME 04330  
Phone: 207-623-8428  
1-800-452-8786 (in state)  
FAX: 207-624-0187  
[legal@memun.org](mailto:legal@memun.org)

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**From:** Maine Municipal Association [<mailto:webmail@memun.org>]  
**Sent:** Tuesday, October 18, 2016 4:03 PM  
**To:** Legal Services Department <[legal@memun.org](mailto:legal@memun.org)>  
**Subject:** York - Legal Information Request - Recreational Marijuana and Transiant Sellers (Seperate questions)

**Legal Services - Web Member Inquiry - Dylan Smith - York**

Municipality York  
Subject Recreational Marijuana and Transiant Sellers (Seperate questions)  
Full Name Dylan Smith  
Title Planning Director

Email Address [dsmith@yorkmaine.org](mailto:dsmith@yorkmaine.org)  
Telephone 207-363-1000  
Fax Number:

Address 186 York Street  
City/ Town York Maine  
Zip 03909

**Comments:**

Hi I have two questions; one deal with the potential legalization of recreational Marijuana in Maine and the

other deals with the potential to regulate Transient Sellers . These are separate issues in town. 1st. With regards to recreational marijuana: How long does a town have to review and establish potential regulations (zoning and or business licensing regulations) once the law goes into effect? Is there a potential need to establish a moratoria on something like this etc.? 2nd. With regards to transient sellers: Can a municipality regulate transient sellers (both home repair and or consumer goods transient sellers) or not? Can a town not allow them at all or can a town restrict and or ensure they have a business license for operating in town etc.? Thank you for your response to these questions. Dylan

---

Inquiry ID: 6f60ab04-741e-4fb8-9575-f9f6c3c919c8  
IP Address: 24.97.255.150



## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: November 10, 2016

ACTION

DATE ACTION REQUESTED: November 14, 2016

DISCUSSION ONLY

SUBJECT: Fiscal Sustainability Committee Charter (formerly the Tax Task Force)

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: After discussions with the Chair, Harry Kluger, I have drafted a proposed charter for the committee. It shifts the focus of trying to represent the taxpayers (leaving that to you elected officials) and instead focusing their efforts on improving our base of data, information and understanding to set a context for current financial actions. I offer no alternatives because this is the direction requested by the Board during its earlier discussion.

RECOMMENDATION: I recommend approval of the attached draft committee charter.

PROPOSED MOTION: I move to approve the Committee Charter for the Fiscal Sustainability Committee.

Prepared by Stephen H. Burns, Town Manager:

## Fiscal Sustainability Committee – Committee Charter

~~Adopted by the Board of Selectmen~~ DRAFT – November 10, 2016

**Standing Committee.** The Fiscal Sustainability Committee is a standing committee created by and answerable to the Board of Selectmen.

**Membership.** The Committee shall be comprised of five voting members and two alternate members. A quorum for purposes of voting shall require a minimum of three members present and voting and decisions shall be by majority vote. Appointments shall be for three year terms, with terms of appointment staggered such that not more than three appointments expire in any given year.

**Meetings.** All meetings of the Committee shall be public meetings, which shall be conducted in conformance with the Maine Freedom of Access Law (Title 1, M.R.S.A. Ch 13) and Robert’s Rules of Order. A notice of the meeting, which may be simply the meeting agenda, shall be posted publicly in advance of each meeting.

**Minutes.** Minutes shall be taken at each meeting in accordance with Robert’s Rules of Order. Approved minutes shall be provided to the Town Clerk for archiving.

**Mission.** The mission of the Committee is to help the Board of Selectmen ensure the Town’s use of property taxes is sustainable in the long run. Efforts shall be focused on: evaluate trends of relevant factors over time, maintaining a 5-year look forward that synchronizes with the Town’s 5-year budget forecasts; perform comparisons with other communities to see what lessons can be learned; engage in direct public outreach to help inform the public about fiscal and budgetary information and about opportunities for participation; and engage in other research and analyses that will help inform Town policy-making to ensure sustainability.

**Meetings with the Board of Selectmen.** The Committee will meet with the Board of Selectmen periodically to present information and discuss policy matters as these relate to the mission of the committee and the needs of the Board of Selectmen.

**Modification of Committee Charter.** Any time after its formation, the Committee may propose to the Board of Selectmen any modification of its Charter believed necessary to enhance the ability to achieve its mission. The Board of Selectmen may accept, modify, or reject proposed changes to the Committee Charter.



# Town of York

186 York Street  
York, Maine 03909-1314

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

To: Board of Selectmen  
From: Mike Sullivan, Parks and Recreation Director  
Subject: Sohier Park Revenues  
Date: November 7, 2016

Sense the gift shop was renovated and expanded three years ago sales have increased significantly. Steve Burns has asked that I report to the Selectmen on revenues at Sohier Park and more specifically the use of excess revenues above and beyond annual operating costs. The Sohier Park Budget consists of two accounts; The Sohier Park Gift Shop Account and the Sohier Park /Nubble Light Maintenance and Operations Account.

**The gift shop account** shows only revenues and expenditures that are directly related to gift shop operations and provides the opportunity to evaluate the programs profitability before funds are allocated to the operations and maintenance of the Park.

**The maintenance and operations account** is specific to the routine maintenance and operations of the park and lighthouse as well as the upkeep of the buildings, grounds and infrastructure. This provides a clear picture of the actual cost to maintain and operate the park separate from the gift shop. The profits from the gift shop account are used to fund the maintenance and operations account as well as capital projects.

Over the past three years total gross revenues at the gift shop have averaged around \$477,000 annually. Keep in mind this is a retail operation so on the expense side the cost of goods sold is significant. Generally speaking the shop operates on 100% markup, if we buy it for \$10 we sell it for \$20. That said \$477,000 in gross revenues equates to \$238,500 dollars in merchandise cost. That combined with other gift shop expenses such as salaries, supplies etc. reduces the bottom line significantly.

With that said the gift shop has been very successful. Looking at the historical data a general rule of thumb would be that approximately 40% of total annual revenue is profit. Using the last three years as an example the profit would be approximately \$190,000 per year. Annual operating expenses for the park and lighthouse are approximately \$80,000, leaving \$110,000 per year for capital improvement projects.

Working collectively with the Sohier Park Committee we have developed a capital planning document that outlines a number of capital projects suggested for the next few years. In FY 15 and FY 16 capital planning dollars were used to pay off the loan for the new welcome center and in FY 17 voters approved \$75,000 for the exterior

restoration of the lighthouse and tower. We intend to complete the restoration in the spring and early summer of 2017.

In addition to planned capital projects the Sohier Park Committee has voted to propose the development of a capital reserve account for the lighthouse and park. The idea is that each year in addition to any planned capital projects a portion of the gift shop profits would be put in a capital reserve fund to safeguard against any unexpected expenses (storm damage) or save for larger capital projects such as the Sohier Park Master Plan.

At Steve's request I have also attached a copy of the Sohier Park Deed, Sohier Park Ordinance and the Lighthouse Deed.





## Know all Men by these Presents,

That I, William D. Sohler, of Beverly in the County of Essex and Commonwealth of Massachusetts, (widower),

in consideration of One Dollar to me paid, and of the laying out and maintenance of a public way on and over my land by the grantee hereinafter named,  
paid by The York Beach Village Corporation, in the Township of York in the State of Maine

the receipt whereof I do hereby acknowledge, do hereby ~~release, bargain, sell and convey~~ and forever quit-claim unto the said The York Beach Village Corporation and its successors

Heirs and assigns forever,

A certain piece or parcel of land in the town of York and State of Maine, on the "Nubble Point", so called; said parcel containing three acres, more or less, and being bounded, measured and described as follows: Beginning at an iron bolt sunk in a ledge near high water mark on the southwesterly side of said premises, adjoining the Atlantic Ocean and Long Sands Bay, and running N. 24° 40' W. two hundred twenty (220) feet by other land of the grantor, to another bolt in a ledge; thence turning and running N. 40° 45' E. by said grantor's other land two hundred twenty-five and 8/10 (225.8) feet, crossing the road to the lighthouse, to the northeast shore of said premises to another bolt sunk in a ledge near high water mark; thence continuing in an easterly direction to low water mark; thence by said Ocean southeasterly, southerly, southwesterly and westerly, and northwesterly, both by the Atlantic Ocean and the gut separating the main land from the Nubble; to the point where said first mentioned direction line extended southerly intersects low water mark; thence by said line to the point of beginning.

Said land is conveyed subject to any rights of way or of landing thereon that may exist for the benefit of the lighthouse on the Nubble Rock or otherwise; and said land is conveyed to said corporation upon the express condition that it is to be kept as a public park and used for the ordinary and usual park purposes and for no other uses, and is not to be leased, sold, assigned or used for any other purpose whatsoever.

To have and to hold the same, together with all the privileges and appurtenances thereunto belonging to the said York Beach Village Corporation, and its successors

Heirs and Assigns forever.

In Witness Whereof, I, the said William D. Sohler, being a widower,

-and-

wife of the said

Joining in this deed as Grantor, and relinquishing and conveying rights by descent and all other rights in the above described premises have hereunto set my hand and seal this 15th day of May in the year of our Lord one thousand nine hundred and twenty-nine.

Signed, Sealed and Delivered in presence of

M. C. Lynch Wm. D. Sohler (seal)

Albert J. Lovett

Commonwealth of Massachusetts, }  
State of Maine. }  
Suffolk, } ss.

May 15, 19 29.

Personally appeared the above named William D. Sohler,

and acknowledged the above instrument to be his free act and deed.

Before me,  
Mary C. Lynch (I.S.)  
Justice of the Peace  
Notary Public

## CHAPTER XXVI

### SOHIER PARK

(March 18, 1975)

#### Section 1. Scuba and Skin Diving

A. No person, within the limits of the park property, shall engage in, participate in, conduct or carry on any so-called scuba or skin diving or snorkeling activities on Sundays and State of Maine and National Holidays from the first Sunday in April to the last Sunday in October inclusive.

B. A permit is required from the Corporation Manager or his agent at all other times. Permit fees and number of participants are to be established by the Board of Overseers.

C. No persons, within the limits of the park property shall fill or recharge, by any means whatsoever, any so-called air tanks, scuba or skin diving apparatus for containing or storing of air, oxygen, or other gases under pressure for breathing apparatuses or propulsion apparatuses at any time.

#### Section 2. Dogs

No dogs are allowed in the park except confined to motor vehicles or on a leash.

#### Section 3. Parking

A. No parking from 1:00 A.M. to 5:00 A.M., current time.

B. Parking shall only be in designated areas.

#### Section 4. Alcoholic Beverages

No person shall at any time, within the limits of Sohier Park, be in possession of any open container of any alcoholic beverage. Any bottle or can of alcoholic beverage with the seal broken shall be considered as open container for the purpose of this ordinance.

#### Section 5. Rubbish

No rubbish shall be deposited in the park except in containers provided.

#### Section 6. Liability

A. The York Beach Village Corporation and/or the Sohier Park Committee assumes no liability for any personal accident within the boundaries of the park.

B. Sohier Park is established and controlled by the Overseers of the York Beach Village Corporation and any committee the Overseers may appoint.

#### Section 7. Penalty

Any person violating any of the provisions of the Ordinance shall be punished by a fine of not less than Fifty (\$50.00) Dollars and not more than One Hundred (\$100.00) Dollars for each offense, if convicted, and said penalty to be recovered for the use of the Corporation.

M. J. C. Grant

## QUITCLAIM DEED WITHOUT COVENANT

KNOW ALL PERSONS BY THESE PRESENTS: That the United States of America, Grantor, acting by and through the Secretary of Transportation, pursuant to the powers and authority set forth in the provisions of section 1002 of Public Law 104-324, enacted on October 19, 1996, and by written delegation of authority to the Commandant, United States Coast Guard, dated November 15, 1996, and by further delegation by the Commandant, U.S. Coast Guard to his duly authorized designee, without payment of consideration, does hereby grant, convey, remise, release and quitclaim without covenant unto The Inhabitants of the Town of York, a municipal corporation. Grantee, having a mailing address at Town of York, 186 York Street, York, ME 03909, all of the Grantor's right, title and interest in and to:

a certain lot or parcel of land situate, lying and being in the Town of York, County of York, State of Maine, together with the improvements thereon and rights appurtenant thereto, commonly known as the ~~Cape Neddick Nubble~~, said land is bounded by lands formerly of Obadiah Stover on the Northwest, and by the Atlantic Ocean on the Southeast, Southwest, and Northeast, and at high tide contains about one acre and at low tide about six acres, together with the privilege to pass and repass through said Stover lands in coming to or going from the said Cape Neddick Nubble, by keeping gates and bars.

Meaning and intending to convey the same land conveyed to the Grantor by warranty deed from Andrew G. Weeks, *et al*, dated February 5, 1879, and recorded with the York County Registry of Deeds in Book 366, Page 556 on February 7, 1879; being the same land conveyed to the Grantor by quitclaim deed without covenant from Samuel Melville Vaughn, *et al*, dated December 10, 1878, recorded with the York County Registry of Deeds in Book 372, Page 214 on April 15, 1879; and being the same land conveyed to the Grantor by quitclaim deed without covenant from Betsey C. Vaughn, dated December 16, 1878, recorded with the York County Registry of Deeds in Book 372, Page 213 on April 15, 1879.

This conveyance is subject to the following covenants and conditions:

1. The term "Property" shall mean the above described land together with the improvements thereon.
2. The term "Grantee" shall be deemed to include the Grantee's successors and assigns.
3. The terms "aid to navigation" and "aids to navigation" shall include, but not be limited to, lights, antennas, sound signals, electronic navigation equipment, communications equipment,

and any other associated lighthouse or navigational equipment.

4. The term "arc of visibility" is defined as the portion of the horizon over which a lighted aid to navigation is visible from seaward.

5. Any lantern, lens, or similar historical artifact associated with the Property, either located on the Property or elsewhere, shall remain the personal property of the Grantor.

6. The Grantor hereby expressly reserves:

(a) an easement for its employees and agents, with necessary equipment, to enter upon and have access to the Property, including the right to enter the Property at any time, without notice, for any authorized and official purpose of the Grantor;

(b) an easement upon the Property to operate, maintain, relocate, install, improve, replace, or remove any aid to navigation, or for any other similar or related purpose, including the right to make any changes on any portion of the Property as may be necessary for the operation of any aid to navigation or for any other navigational or related purpose;

(c) an easement over and upon the Property for the purpose of operating an aid to navigation, during periods of fog, which will produce sound not to exceed 130 decibels (C weighting), such sound potentially constituting a human health hazard;

(d) a negative easement over and upon the Property for the purpose of preserving the arc of visibility for any lighted aid to navigation located upon the Property, including the right to remove all vegetation, shrubs, bushes, plants, trees, man-made structures of any kind, and any other objects that may impair, obscure, or obstruct the arc of visibility; and

(e) an easement upon the Property to install, construct, operate, maintain, relocate, replace, or remove utility lines and other infrastructure, including, but not limited to, electric and telephone lines, for the purpose of operating the aids to navigation or for any similar or related purpose.

7. The aids to navigation and the equipment identified in subparagraph 6(e) shall remain the personal property of the Grantor, and shall continue to be operated and maintained by the Grantor. The Grantee shall not have any obligation to maintain any aid to navigation on the Property.

8. The Grantor may post signs on the Property to warn of the sounds produced by the aid to navigation identified in subparagraph 6(c).

9. The Grantee shall not interfere or allow interference in any manner with any aid to navigation or any other personal property of the Grantor without the Grantor's express written permission, including, but not limited to, the obstruction of the arc of visibility.

10. If the Grantee charges an admission, access, or any other fee to the Property, or any portion thereof, no person otherwise entitled to enter upon the Property shall be required to pay such fee. Possession of a valid U.S. Department of Transportation, U.S. Coast Guard, or Armed Forces of

the United States identification card will be sufficient proof of the holder's entitlement to enter the Property without charge.

11. The Grantee covenants that from time to time, at its own cost and expense, it will repair and maintain the Property in a proper, substantial, and workmanlike manner, including, but not limited to, the repair and maintenance of any docks, piers, and mooring facilities.

12. The Grantee covenants, at all times, as follows:

(a) Grantee shall rehabilitate, preserve and maintain the Property in accordance with plans approved in writing by the State Historic Preservation Officer of the State of Maine ("SHPO") in order to preserve and enhance those qualities that make the Property eligible for inclusion in the National Register of Historic Places. Said rehabilitation, preservation and maintenance shall be in accord with the *Secretary of the Interior's Standards for Rehabilitation* (36 C.F.R. Part 67);

(b) no construction, alteration, remodeling, changes of color or surfacing, or any other thing shall be undertaken or permitted to be undertaken on the Property which would affect the structural integrity, the appearance, the cultural use, or archeological value of the Property without the express prior written permission of the SHPO, signed by a fully authorized representative thereof;

(c) the SHPO shall be permitted to inspect the Property at any time, without notice, in order to ascertain if the above conditions are being observed;

(d) in the event of a violation of the covenants set forth in this paragraph 12, and in addition to any remedy now or hereafter provided by law, the SHPO may, following reasonable notice to the Grantee, institute suit to enjoin said violation or to require the restoration of the Property. The successful party shall be entitled to recover all costs or expenses incurred in connection with such a suit, including all court costs and attorney's fees;

(e) the Grantee agrees that the SHPO may, at its discretion, without prior notice to the Grantee, convey and assign all or part of its rights and responsibilities set forth in this paragraph 12 to a third party;

(f) the SHPO may, for good cause, and with the concurrence of the Advisory Council on Historic Preservation modify or cancel any or all of the foregoing restrictions upon written application of the Grantee;

(g) the failure of the SHPO to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other right or remedy or the use of such right or remedy at any other time; and

(h) the covenants set forth in this paragraph 12 shall constitute a binding servitude upon the Property and shall be deemed to run with the land.

13. Pursuant to section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9620(h): (a) the disposal, release, and storage of any hazardous substances into or upon the Property, to the extent known at the time of execution of this Quitclaim Deed Without Covenant, is reflected in the "CERCLA 120 (h) Statement," provided as Schedule A which is attached hereto and made a part hereof; (b) any remedial action arising from the Grantor's ownership found to be necessary after the date of transfer to the Grantee shall be conducted by the Grantor; and (c) the Grantor shall retain a right of access to the Property in order to effectuate any necessary remedial action or corrective action until such time as the remedial action or corrective action is complete.

14. Pursuant to subsection 1002(b)(4) of Public Law 104-324, all right, title, and interest in and to the Property shall immediately revert to the Grantor if the Property, or any portion thereof, ceases to be (a) used for educational, historic, recreational, cultural, and wildlife conservation programs for the general public; (b) maintained in a manner that ensures its present or future use as a site for aids to navigation; or (c) maintained in a manner consistent with the provisions of paragraph 12 above.

15. The covenants and conditions set forth in this Quitclaim Deed Without Covenant shall be inserted by the Grantee verbatim or by express reference in any deed or other legal instrument by which Grantee divests itself of either the fee simple title or any other lesser estate in the Property.

16. By the act of accepting and recording this Quitclaim Deed Without Covenant, Grantee hereby covenants that it will be bound by the foregoing covenants, conditions and restrictions and to perform to obligations herein set forth.

This Quitclaim Deed Without Covenant is executed and delivered to the Grantee without any other covenants whatsoever, either express or implied.

[This space left intentionally blank]

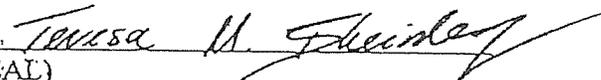
In WITNESS WHEREOF, the Grantor, acting by and through the Secretary of Transportation, has caused these presents to be executed this 15<sup>th</sup> day of May, 1998.

UNITED STATES OF AMERICA  
ACTING BY AND THROUGH THE  
SECRETARY OF TRANSPORTATION

  
\_\_\_\_\_  
REAR ADMIRAL JOHN T. TOZZI  
ASSISTANT COMMANDANT FOR SYSTEMS  
U. S. COAST GUARD  
WASHINGTON  
DISTRICT OF COLUMBIA

WITNESS:

  
\_\_\_\_\_  
(SEAL)  
CAPTAIN JAMES A. RAUCH  
CHIEF, OFFICE OF CIVIL ENGINEERING  
U. S. COAST GUARD

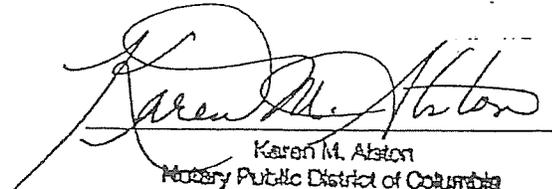
  
\_\_\_\_\_  
(SEAL)  
TERESA M. SHEINBERG  
REAL PROPERTY SPECIALIST  
OFFICE OF CIVIL ENGINEERING  
U. S. COAST GUARD

I hereby certify that on this 15<sup>th</sup> day of May, 1998,  
Rear Admiral John T. Tozzi personally appeared before me, known to me to be the  
person who executed the hereunto QUITCLAIM DEED WITHOUT COVENANT, and who  
acknowledged the execution thereof to be his official act.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 15<sup>th</sup> day of  
May, 1998.

My commission expires:

14 April 2002

  
\_\_\_\_\_  
Karen M. Alston  
Notary Public District of Columbia  
My Commission Expires: April 14, 2

This Deed was prepared by:

Andrew S. Pessin, Esq.  
General Attorney  
Office of General Law (G-LGL)  
U.S. Coast Guard  
2100 Second St., S.W.  
Washington, D.C. 20593



## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: November 10, 2016	<input checked="" type="checkbox"/> ACTION
DATE ACTION REQUESTED: November 14, 2016	<input type="checkbox"/> DISCUSSION ONLY
SUBJECT: Solicit realtors to represent the Town	

**DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:** Pursuant to the Board's new Property Acquisition and Disposition Policy, the Board is to obtain the services of a realtor to work with the board for a period of two years. The Board is required to "publish and distribute" an RFP, and may then select the person who will best serve the Town.

I proposed to release two RFPs. The first would be an RFP for general real estate work relating to disposition of surplus properties. There are almost 2 dozen surplus properties which the voters have authorized the Board to sell. There may be others in the coming two years as well. We need a realtor familiar with York to advise us regarding the sale of such properties.

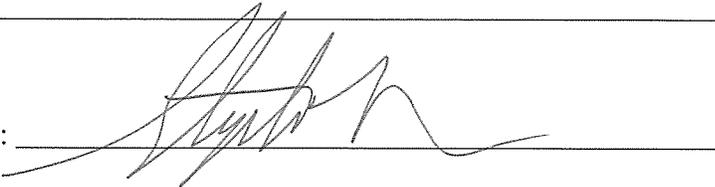
The second would be an RFP for commercial real estate work. In particular, the Town owns land which may have considerable commercial value and it would be appropriate to retain the services of a broker with substantial commercial real estate experience. The duration of this agreement would be two years, but the work would be considerably different because it may also involve advising the Town prior to subdivision of land, design of utilities, and other such matters before representing the Town in the marketing and sales process.

Alternatively, the Board could retain the services of a single realtor to provide both functions, or could defer action on this matter.

**RECOMMENDATION:** I recommend the release of 2 RFPs, with selections to be made by the Board of Selectmen at the meeting of January 9th.

**PROPOSED MOTION:** I move to direct the Town manager to release two RFPs for real estate services for the coming two years, with results and a recommendation to be brought back to the Board for selection on January 9, 2017.

Prepared by Stephen H. Burns, Town Manager:

A handwritten signature in black ink, appearing to read "Stephen H. Burns", is written over a horizontal line. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

4. Upon receipt of a recommendation from the Town Manager, the Board of Selectmen shall, acting at a regular meeting, decide how to address the disposition of each surplus property, following the procedures of Article IV, Disposition Options.

#### IV. DISPOSITION OPTIONS

A. **REDEMPTION:** The Board of Selectmen may dispose of tax acquired property by allowing the immediate former owner or their immediate heirs, one generation, to redeem title to the property from the Town within one (1) year from date of foreclosure. This option shall generally be the primary choice of disposition of any tax-acquired property as defined herein.

1. The former owner or immediate heir shall pay all taxes, interest due, lien costs, and filing costs, on said taxes to the date of redemption, for all years which taxes are outstanding;
2. The former owner or immediate heir shall pay all other costs due to the Town.
3. The former owner or immediate heir may be required to pay an administrative fee based on the Town's direct and indirect costs for redeeming the property. These costs may include, but are not limited to, staff time spent researching the property and developing conditions, if any, mailing expenses and third party expenses, including attorney's fees.
4. The former owner or immediate heir shall satisfy all other conditions established by the Board of Selectmen. By way of example only, these conditions may include the need to eliminate a non-conforming use, to connect a property to public services, or to eliminate a hazardous condition.
5. The former owner or immediate heir shall comply with terms of the redemption established by the Board of Selectmen within 60 days of the Board of Selectmen action to allow the redemption, unless other conditions are stipulated by the Board of Selectmen.
6. The Board of Selectmen shall issue a quit claim deed to convey title to tax-acquired property which a former owner redeems. The property is sold as is, where is, with no warranties or guaranties. If the property is occupied or encumbered it will be the responsibility of the grantee to evict or vacate.

→ B. **PUBLIC SALE, SEALED BID OR LIVE AUCTION:** The Board of Selectmen may dispose of tax acquired property or surplus property by public

sale, sealed bid, or live auction. This shall be the default option, other than redemption of tax-acquired properties, unless the Board finds sufficient reason for an alternative means of disposition.

1. When it decides to dispose of a property in this manner, the Board of Selectmen shall decide whether to offer the property for public sale, for a sealed bid, or for a live auction.
2. The Board of Selectmen shall select a realtor every two years to assist the Town with public sale of properties. The Board shall publish and distribute a request for proposals to solicit interest, and shall select the person they believe will best serve the Town.
3. For a public sale, the Board may work with its realtor to list the property on the open market. Asking price will be determined by the Board of Selectmen, with advice from the realtor. The Board shall respond to all offers received. The Board shall ensure the prospective purchaser has the ability to satisfy all conditions within 60 calendar days. The Board of Selectmen shall reserve the right to accept or reject any and all offers received and to act in the best interests of the Town.
4. For a sealed bid, a public notice of the bid procedure shall be provided as follows: post notice in Town Hall a minimum of 14 days prior to the sale; publish notice in at least 2 newspapers of local circulation a minimum of 14 days prior to the sale; and send notice by certified registered return receipt letter to the former owner(s) and mortgage holder(s), if they may be reasonably identified, a minimum of 45 days prior to the sale. The notice shall describe the time, date and place of the sale, and all bid terms. The Board of Selectmen shall open and act upon all bids received. The Board of Selectmen shall ensure the bidder has the ability to satisfy all bid conditions within 60 calendar days. The Board of Selectmen shall reserve the right to accept or reject any and all bids submitted and to act in the best interests of the Town.
5. For a live auction, a public notice of the rules of the live auction shall be provided as follows: post notice in Town Hall a minimum of 14 days prior to the sale; publish notice in at least 2 newspapers of local circulation a minimum of 14 days prior to the sale; and send notice by certified registered return receipt letter to the former owner(s) and mortgage holder(s), if they may be reasonably identified, a minimum of 45 days prior to the sale. The notice shall describe the time, date and place of the live auction, and all bid terms. The Board of Selectmen shall act upon the winning bid. The Board of Selectmen shall ensure the winning bidder has the ability to satisfy all bid conditions within 60 calendar days. The Board of Selectmen shall reserve the right to accept or reject any and all bids submitted and to act in the best interests of the Town.



AGENDA ITEM NUMBER: \_\_\_\_\_

## REQUEST FOR ACTION BY BOARD OF SELECTMEN

<b>Date Submitted:</b> 11/03/2016	<b>Type of Action:</b> <input type="checkbox"/> Procedural <input checked="" type="checkbox"/> Formal Action <input type="checkbox"/> Other: _____
<b>Date Action Requested:</b> 11/14/2016	
<b>Regular</b> <input checked="" type="checkbox"/> <b>Work Session</b> <input type="checkbox"/>	
<b>Subject:</b> Criminal Forfeiture	

<b>TO:</b> BOARD OF SELECTMEN
<b>FROM:</b> Chief Douglas P. Bracy
<b>RECOMMENDATION:</b> To accept the forfeiture of \$566.00 of U.S. Currency documented in the attached State of Maine Superior Court Criminal Action Docket No: CR 14-1063
<b>PROPOSED MOTION:</b> I move that the Board approve the acceptance of the asset forfeiture documented in the State of Maine Superior Court Criminal Action Docket No: CR14-1063 as required by Title 15 M.R.S.A. Subsection 5824(3) & 5826(6) and authorize the Chief of Police to deposit these funds in the police department's asset forfeiture account.

**Discussion:** The procedure by which the State conducts forfeiture transactions is outlined in a letter from Attorney General's Office of Maine and the attached documentation from State of Maine Superior Court Docket #: CR 14-1063. These funds are to be returned to the department to be used to fund drug investigations, equipment, and/or education to help combat the illegal drug problem.

<b>FISCAL IMPACT:</b> none
<b>DEPARTMENT LINE ITEM ACCOUNT:</b> n/a
<b>BALANCE IN LINE ITEM IF APPROVED:</b> n/a

Prepared By: Chief Douglas P. Bracy

Reviewed By: [Signature]

JANET T. MILLS  
ATTORNEY GENERAL

TEL: (207) 626-8800  
TTY USERS CALL MAINE RELAY 711



STATE OF MAINE  
OFFICE OF THE ATTORNEY GENERAL  
6 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0006

REGIONAL OFFICES  
84 HARLOW ST. 2ND FLOOR  
BANGOR, MAINE 04401  
TEL: (207) 941-3070  
FAX: (207) 941-3075

415 CONGRESS ST., STE. 301  
PORTLAND, MAINE 04101  
TEL: (207) 822-0260  
FAX: (207) 822-0259

14 ACCESS HIGHWAY, STE. 1  
CARIBOU, MAINE 04736  
TEL: (207) 496-3792  
FAX: (207) 496-3291

October 31, 2016

York Police Department  
Chief Douglas Bracy  
36 Main Street  
York, ME 03909

Re: State v. Quinton Smith, Docket No. CR-14-1063 - Final Order of  
Disposition of Property

Dear Chief Bracy:

Please find enclosed a copy of the York County Superior Court's Criminal Forfeiture Final Order of Disposition of Property. This Final Order grants the Town of York legal possession and ownership of the \$566.00 in U.S. Currency as specifically set forth in the order.

This now finally concludes the criminal forfeiture. The money now belongs to your agency and may be used however your agency may wish. It has been my pleasure to have been of assistance to you and your agency.

Sincerely,

A handwritten signature in cursive script that reads "Johnathan Nathans".

Johnathan Nathans  
Assistant Attorney General  
CRIMINAL DIVISION

JN/plk  
Enclosure

STATE OF MAINE  
York, ss

SUPERIOR COURT  
Criminal Action  
Docket No. CR-14-1063

RECEIVED

OCT 31 2016

OFFICE OF ATTORNEY GENERAL

State of Maine

v.

Quinton Smith

Defendant;

and

\$1,132.00 U.S. Currency

Defendant(s) *In Rem*

AMENDED  
CRIMINAL FORFEITURE  
FINAL ORDER OF  
DISPOSITION OF PROPERTY

An Indictment was returned by the York County Grand Jury on or about August 5, 2014 against the Defendant(s) In Rem which finds by probable cause that the Defendant(s) In Rem is forfeitable pursuant to 15 M.R.S.A. §5821 and §5826, and the Court finds from the record that:

1. The Defendant(s) In Rem is subject to Criminal Forfeiture pursuant to 15 M.R.S.A. §5821 and §5826.

2. The Court finds from the record that there was an adjudication by jury verdict of forfeiture entered against the Defendant In Rem or a guilty plea made on the record by the Defendant, Quinton Smith, on or about May 16, 2016 ;

3. The attorney for the State did not need to provide Notice to any ancillary third-parties pursuant to 15 M.R.S.A. §5826(5) because no person was known to have alleged an interest in the property.

4. The Court finds from the record that the Town of York, Maine did, on or about September 8, 2014 grant its Approval of the Town of York, agreeing to accept all or any portion of the Defendant(s) *In Rem* as required pursuant to 15 M.R.S.A. Sec 5824.

5. The Court finds from the record that the Town of Kennebunk, Maine did, on or about September 9, 2014 grant its Approval of the Town of Kennebunk, agreeing to accept all or any portion of the Defendant(s) *In Rem* as required pursuant to 15 M.R.S.A. Sec 5824.

6. It appears that the contributions of the York Police Department and the Kennebunk Police Department were "substantial" within the meaning of 15 M.R.S.A. §5826(6), and therefore the transfers below are appropriate.

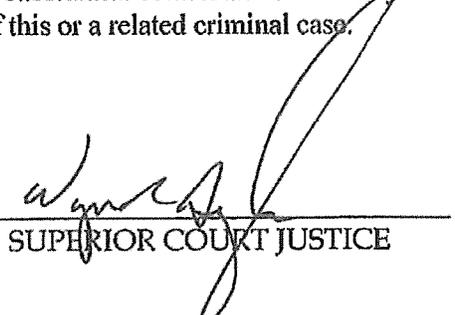
THEREFORE, THE COURT ORDERS:

a) The Defendant(s) In Rem is hereby forfeited to the State of Maine and all rights and privileges pertaining thereto are exclusively bestowed upon the State of Maine, and the State of Maine has clear title to the property that is the subject of the Indictment dated August 5, 2014.

b) Pursuant to 15 M.R.S.A. §5822, the Defendant(s) In Rem, namely \$566.00 in U.S. Currency, is hereby ordered transferred to the Town of York which transfer is found to be "*appropriate*" based upon the "*substantial contribution*" made by the York Police Department in the investigation of this or a related criminal case.

c) Pursuant to 15 M.R.S.A. §5822, the Defendant(s) In Rem, namely \$566.00 in U.S. Currency, is hereby ordered transferred to the Town of Kennebunk which transfer is found to be "*appropriate*" based upon the "*substantial contribution*" made by the Kennebunk Police Department in the investigation of this or a related criminal case.

Dated: 6/2/2016

  
\_\_\_\_\_  
SUPERIOR COURT JUSTICE

Maine Revised Statutes  
Title 15: COURT PROCEDURE --  
CRIMINAL  
Part 7: ASSET FORFEITURE  
Chapter 517: ASSET FORFEITURE

**§5824. Equitable transfer of forfeited assets**

In the case of any asset decreed forfeit under this chapter or under Title 25, to any entity other than the General Fund, transfer of title to the asset shall not occur until the transfer is approved by: [1987, c. 420, §2 (NEW).]

**1. State; agency or department.** In the case of an agency or department of the State, the Governor or the Attorney General;

[ 1999, c. 408, §2 (AMD) .]

**2. County; agency or department.** In the case of an agency or department of a county, a majority of the commissioners of the county; and

[ 1987, c. 420, §2 (NEW) .]

**3. Municipality; agency or department.** In the case of an agency or department of a municipality, the municipal officers of the municipality.

[ 1999, c. 408, §2 (AMD) .]

SECTION HISTORY

1987, c. 420, §2 (NEW). 1999, c. 408, §2 (AMD).

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public.

If you need legal advice, please consult a qualified attorney.

Office of the Revisor of Statutes

(mailto:webmaster\_ros@legislature.maine.gov) • 7 State House Station

• State House Room 108 • Augusta, Maine 04333-0007

Page composed on 10/13/2016

03:03:20.

**Maine Revised Statutes**  
**Title 15: COURT PROCEDURE --**  
**CRIMINAL**  
**Part 7: ASSET FORFEITURE**  
**Chapter 517: ASSET FORFEITURE**

**§5826. Criminal forfeiture**

**1. Property subject to criminal forfeiture.** Notwithstanding any other provision of law, a person convicted of a violation of Title 17-A, chapter 45 forfeits to the State all rights, privileges, interests and claims to property that is subject to forfeiture pursuant to section 5821. All rights, privileges, interest and title in property subject to forfeiture under this section vests in the State upon the commission of the act giving rise to forfeiture pursuant to section 5821.

[ 1995, c. 421, §1 (NEW) .]

**2. Commencement of criminal forfeiture action.** Property subject to forfeiture may be proceeded against by indictment of the grand jury or by complaint in the District Court in any related criminal proceeding in which a person with an interest in the property has been simultaneously charged with a violation of Title 17-A, chapter 45. At any time prior to trial, the State, with the consent of the court and any defendant with an interest in the property, may file an ancillary charging instrument or information alleging that property is subject to criminal forfeiture. Discovery in the criminal action must be as provided for by the Maine Rules of Unified Criminal Procedure.

[ 2015, c. 431, §33 (AMD) .]

**3. Seizure upon indictment.** Property subject to forfeiture that has been indicted by the grand jury pursuant to this section may be seized pursuant to section 5822, subsection 6, except that real property subject to forfeiture pursuant to section 5821, subsection 7 may not be seized without prior notice to and opportunity to be heard by all owners of record or upon a finding by probable cause that prior notice to one or more of the owners is likely to result in the destruction, diminution of value or alienation of interest of the property.

[ 1995, c. 421, §1 (NEW) .]

**4. Trial proceedings.** Trial against property charged by indictment, information or complaint may be by jury and must be held in a single proceeding

together with the trial of the related criminal violation.

A. Forfeiture of the property must be proved by the State by a preponderance of the evidence. [1999, c. 408, §3 (NEW).]

B. The court, in its discretion, may allow any defendant with an interest in property charged pursuant to this section to waive the right to trial by jury as against the property while preserving the right to trial by jury of any crime alleged. [1999, c. 408, §3 (NEW).]

C. At trial by jury, the court, upon motion of a defendant or the State, shall separate the trial of the matter against the defendant from the trial of the matter against the property subject to criminal forfeiture. If the court bifurcates the jury trial, the court shall first instruct and submit to the jury the issue of the guilt or innocence of defendants to be determined by proof beyond a reasonable doubt and shall restrict argument of counsel to those issues. If the jury finds a defendant guilty of the related criminal offense, the court shall instruct and submit to the jury the issue of the forfeiture of the property. [1999, c. 408, §3 (NEW).]

[ 1999, c. 408, §3 (AMD) .]

**5. Ancillary hearing of 3rd-party interests.** A person not charged in the indictment may not intervene in the criminal action. Following the entry of a verdict of forfeiture of property pursuant to this section or the entry of a guilty plea in open court on the record, the State shall provide written notice of its intent to dispose of the property to any person known to have alleged an interest in the property. The notice may be by certified, return receipt mail or as otherwise ordered by the court. Receipt by a person then licensed to operate a motor vehicle in the State is presumed when notice is mailed to the last known address of that person on file with the Secretary of State, Bureau of Motor Vehicles. A person other than the defendant asserting a legal interest in the property, within 30 days of the date of receipt of the notice, may petition the court for a hearing to adjudicate the validity of any alleged interest in the property. The hearing must be held before the court without jury. The request for the hearing must be signed by the petitioner under penalty of perjury and must state the nature and extent of the petitioner's right, title or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title or interest in the property, any additional facts supporting the petitioner's claim and the relief sought. Upon the filing of any petition for hearing, the hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require but in no event may the hearing be scheduled later than 6 months after the petition is filed or

after the sentencing of any defendant convicted upon the same indictment. The court shall issue or amend a final order of forfeiture in accordance with its determination if, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that:

A. The petitioner has a legal right, title or interest in the property and the right, title or interest renders the order of forfeiture invalid in whole or in part because the right, title or interest was vested in the petitioner rather than in any defendant or was superior to any right, title or interest to the exclusion of any defendant at the time of the commission of the acts that gave rise to the forfeiture of the property under this section; or [1995, c. 421, §1 (NEW).]

B. The petitioner is a bona fide purchaser for value of the right, title or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section. [1995, c. 421, §1 (NEW).]

[ 2011, c. 559, Pt. A, §14 (AMD) .]

**6. Final order of disposition of property.** Following the entry of a verdict of forfeiture of property pursuant to this section or the entry of a guilty plea in open court on the record and following the court's disposition of all petitions for hearing timely filed by 3rd parties, the State has clear title to property that is the subject of the indictment, information or complaint. The final order must provide for the deposit of the property or the proceeds from the disposition of the property, less the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice, in the General Fund, except that, to the extent that the court finds it reasonable, the court may order forfeiture of as much of the property as is appropriate, less the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice, to a municipality, county or state agency that has made a substantial contribution to the investigation or prosecution of a related criminal case.

[ 1999, c. 408, §3 (AMD) .]

**7. Default proceedings.** Upon motion of the State, the court having jurisdiction over a criminal forfeiture matter may declare a default judgment of forfeiture if the court finds as follows:

A. By clear and convincing evidence that:

(1) There was probable cause to support the seizure of the property at the time of its seizure;

(2) The interested party has knowledge of the seizure of the property or the property was seized under circumstances in which a reasonable person would have knowledge of the seizure of that person's property; and

(3) The interested party has failed to appear for any court appearance in accordance with Title 17-A, chapter 45 for a violation that forms the basis of the forfeiture, and that a warrant of arrest for the interested party for such failure to appear has been outstanding for 6 months or more; and [1999, c. 395, §1 (NEW).]

B. By a preponderance of the evidence that the State is entitled to a judgment of forfeiture pursuant to chapter 517. [1999, c. 395, §1 (NEW).]

The State may meet its burden under paragraphs A and B by presentation of testimony or affidavit.

The interested party has 30 days from the date of the declaration of default judgment of forfeiture to appear before the court in person, submit to its jurisdiction on the companion criminal charge and to petition the court to remove the default judgment.

Post-default proceedings are governed by section 5825.

[ 1999, c. 395, §1 (NEW) .]

**7. (REALLOCATED TO T. 15, §5826, sub-§8) Equitable transfer of forfeited assets.**

[ RR 1999, c. 1, §24 (RAL); 1999, c. 408, §4 (NEW) .]

**8. (REALLOCATED FROM T. 15, §5826, sub-§7) Equitable transfer of forfeited assets.** In the case of any asset forfeited under this section to any entity other than the State, transfer of title to the asset may not occur until the transfer is approved by:

A. In the case of an agency or department of a county, a majority of the commissioners of the county; and [RR 1999, c. 1, §24 (RAL).]

B. In the case of an agency or department of a municipality, the municipal officers of the municipality. [RR 1999, c. 1, §24 (RAL).]

When property is forfeited and transferred to a municipality in accordance with this section, the municipal officers of the municipality shall determine the disposition of the property. When property is forfeited and transferred to a county in accordance with this section, the county commissioners shall determine the disposition of the property.

[ RR 1999, c. 1, §24 (RAL) .]



## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: November 9, 2016

ACTION

DATE ACTION REQUESTED: November 14, 2016

DISCUSSION ONLY

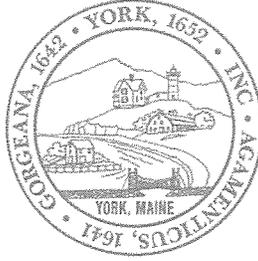
SUBJECT: Real Estate Actions

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: The Board discussed real estate matters in executive session at the end of the meeting of October 24th. If I am to follow up on the Board's discussion, I need an action of the Board in public session.

RECOMMENDATION: Please see proposed motion.

PROPOSED MOTION: I move to direct the Town Manager to pursue real estate actions discussed in Executive Session on October 24th.

Prepared by Stephen H. Burns, Town Manager:



## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: November 10, 2016	<input checked="" type="checkbox"/> ACTION
DATE ACTION REQUESTED: November 14, 2016	<input type="checkbox"/> DISCUSSION ONLY
SUBJECT: Request for Temporary Housing	

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: Pursuant to Article 7.1 of the Zoning Ordinance, a recreational vehicle may be located on a property during construction of a home with permission of the Board of Selectmen. Attached is the request and Article 7.1 of the Zoning Ordinance.

RECOMMENDATION:

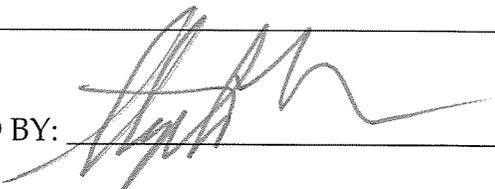
PROPOSED MOTION: I move to authorize the residents of 10 Old Quarry Road to locate a recreational vehicle on the property for a period of one year, while their home is being built.

FISCAL IMPACT: N/A

DEPARTMENT LINE ITEM ACCOUNT: N/A

BALANCE IN LINE ITEM IF APPROVED: N/A

PREPARED BY: Melissa M. Avery

REVIEWED BY: 

November 7, 2016

To: The Board of Selectman  
Re: 7.1 Manufactured Housing Unit  
Lot: 10 Old Quarry Road Cape Neddick, ME 03902

To the Board of Selectman,

Thank you for taking the time to review our request for temporary housing. My husband and I are excited to have obtained a building permit and started the process of building. We are requesting permission to have a manufactured housing unit on the building lot while construction is being completed.

Thank you for your time,

Dan and Kelly Waliszek

(603) 343-8965

## Melissa M. Avery

---

**From:** Amber Harrison  
**Sent:** Monday, November 7, 2016 10:14 AM  
**To:** Melissa M. Avery  
**Subject:** RE: 10 Old Quarry Road

Hola...yes, they have a building permit and are in the RES-2 zone and therefore can get approval for temporary use of manufactured housing unit per article 7.1 for up to one year. I have explained to them that they will need to reapply with the Selectmen if they do not get the proposed home to a livable state within one year. Let me know if you need anything else, but yes, this should be approved.

Thanks,  
Amber

**From:** Melissa M. Avery  
**Sent:** Monday, November 07, 2016 9:55 AM  
**To:** Amber Harrison <aharrison@yorkmaine.org>  
**Subject:** FW: 10 Old Quarry Road

Morning Amber

Looking for approval and/or denial/conditions for this.

Thanks!

**Melissa M. Avery**  
*Assistant to the Town Manager*

Town of York, Maine  
186 York Street, York, ME 03909  
Phone: (207) 363-1000 | Fax: (207) 363-1019

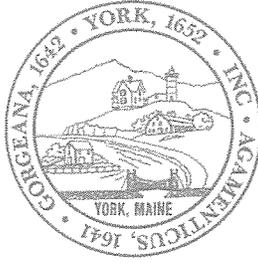
Please consider the environment before printing this email.

**From:** Waliszek, Kelly [<mailto:Kelly.Waliszek@GenesisHCC.com>]  
**Sent:** Monday, November 7, 2016 9:50 AM  
**To:** Melissa M. Avery <[mmavery@yorkmaine.org](mailto:mmavery@yorkmaine.org)>  
**Subject:** 10 Old Quarry Road

Hi Missy,  
Thank you for speaking with me the other day. Please find a word document attached with the letter of request for temporary housing for the Board of Selectman to review. I can be contacted by email at [setzer.kelly@gmail.com](mailto:setzer.kelly@gmail.com) or by phone at 603-343-8965.

Thank you,  
Kelly Waliszek

This e-mail and any attachments may contain information which is confidential, proprietary, privileged or otherwise protected by law. The information is solely intended for the named addressee (or a person responsible for delivering it to the addressee). If you are not the intended recipient of this message, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this e-mail in error, please notify the sender immediately by return e-mail and delete it from your computer.



## REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: November 10, 2016

ACTION

DATE ACTION REQUESTED: November 14, 2016

DISCUSSION ONLY

SUBJECT: Board and Committee Appointments

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:

RECOMMENDATION:

PROPOSED MOTION:

- I move to appoint Bill Lord as a Regular Member to the Village Revitalization Steering Committee.
- I move to appoint Brent Drennan as a Regular Member to the Village Revitalization Steering Committee.
- I move to appoint Stephen Carr as a Regular Member to the Village Revitalization Steering Committee.
- I move to appoint Joan Waldrop as a Regular Member to the Multigenerational Community Center Needs Assessment Committee.
- I move to appoint Nancy Stolberg as a Regular Member to the Multigenerational Community Center Needs Assessment Committee.

PREPARED BY: \_\_\_\_\_

REVIEWED BY: \_\_\_\_\_