



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

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(207)363-1009
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BOARD OF SELECTMEN'S MEETING MINUTES 7:00PM MONDAY, DECEMBER 2nd, 2013 YORK LIBRARY

Call to Order

Vice Chairman, Kinley Gregg called the meeting to order at 7:00PM.

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

Opening Ceremonies

A. Minutes

None

B. Chairman's Report

Acting Chairman Gregg asked the Town Manager for an update on the Police Station Project, to which Town Manager, Robert G. Yandow replied that there was a meeting between the surveyors for Town and York Wild Kingdom at which the discrepancies between the conflicting surveys had been discussed, along with a Board of Selectmen Work Session on November 22nd with the surveyors. He also stated that the utility plans have been provided to SMRT and David Lay indicated they are close to having a plan set ready for a possible preliminary visit to the Planning Board in January.

C. Manager's Report

On top of Town Manager Yandow's Police Station Project update, he also added that there is a Public Hearing at 12 Barrell Lane Extension at 8:00AM on December 6th in regards to a dock application that has been submitted to the Town.

D. Awards

1. Sohier Park Gift Shop Expansion Bid Award

The Parks and Recreation Department put out a Request for Proposals for the Sohier Park Welcome Center Expansion Project.

The following bids were received:

1.	NDC Construction	\$198,400.00
2.	Benchmark Construction	\$327,000.00
3.	H.L. Patten Construction Co. Inc	\$338,000.00
4.	Hardypond Construction	\$342,200.00
5.	TPD Construction Co.	\$377,000.00
6.	Excel Construction Management, LLC	\$392,700.00
7.	Oxland Builders, LLC	\$409,200.62
8.	T. Buck Construction, Inc	\$581,563.00

Parks and Recreation Director, Michael Sullivan recommended that NDC Construction, of Brewer, Maine be awarded the bid for the Sohier Park Welcome Center Expansion Project. Mr. Sullivan stated that given the wide range in bids, he facilitated a meeting between the project's Architect and the low bidding contractor (NDC Construction) to insure clarity of the specifications and project scope. He stated that after the meeting all parties were all comfortable with NDC's submissions. Mr. Sullivan also noted that a Performance Bond is required as a part of the Sohier Park Welcome Center Expansion Project, which NDC Construction is adhering to.

Moved by Mr. Macdonald, seconded by Ms. Andrews to award the bid for the Sohier Park Welcome Center Expansion Project to NDC Construction of Brewer, Maine in the amount of \$198,400. Vote 4-0, motion passes.

2. Police Cruiser Bids

The Police Department solicited bids for the purchase of two 2014 Ford Police Utility Interceptors. The following bids were received:

1.	Yankee Ford	\$41,184.00
2.	Quirk Ford	\$44,034.00
3.	Starkey Ford	\$44,848.00
4.	Casco Ford	\$49,122.00

Chief of Police, Douglas Bracy recommended that Yankee Ford be awarded the bid for the two 2014 Ford Police Utility Inceptors.

Moved by Ms. Andrews, seconded by Mr. Fiorentino to accept the transfer of \$41,184.00 from the Police Capital Vehicle account to Yankee Ford for the purchase of two 2014 Ford Police Utility Interceptors. Vote 4-0, motion passes.

E. Reports

1. New FEMA Floodplain Maps

Community Development Director, Stephen H. Burns stated that the Federal Emergency Management Administration (FEMA) has drafted a new Flood Insurance Study and Flood Insurance Rate maps for York County; The Study is the explanation of how FEMA created the maps, and the maps are what the Town will use to regulate floodplain land use in York. The Town of York has been a participant in the National Flood Insurance Program since the 1970's and will be obligated to adopt the new documents into the Town's Floodplain Management Ordinance when FEMA announces that they are ready. Community Development will initiate a broad public outreach to stakeholders with a direct mailing to property owners in the new 100-year floodplain areas. FEMA will provide the Town with a 2 week notice before the beginning of their 90 day "Appeal Period" that allows anyone, the Town and/or individual property owners, to file engineering-based challenges to FEMA's work, methods, maps, etc. After FEMA has worked through the appeals, they will notify the Town by issuing a Letter of Final Determination, and at that time the Town will have 6 months from that date to adopt the Maps and Study into the Floodplain Management Ordinance.

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

Public Comment: Richard Smith
 Charlie Steedman
 Mike Micciche
 Sam Horn
 Brian McGann
 Terry Lohmann
 Dave McCarthy

G. **Approval of Warrant #22**

Moved by Ms. Andrews, seconded by Mr. Fiorentino to approve Warrant #22.
Vote 4-0, motion passes.

H. **Public Hearings**

None

I. **Endorsements**

Business Licenses:

1. York Elks Lodge #2788 DBA: York Elks Lodge #2788; Located at 1704 US Route One for Victualers/Liquor/Special Amusement/Coin Operated Amusement

Moved by Ms. Andrews, seconded by Mr. Fiorentino to approve the following license: York Elks Lodge #2788 DBA: York Elks Lodge #2788; Located at 1704 US Route One for Victualers, Liquor, Special Amusement and Coin Operated Amusement subject to taxes, fees and inspections being current and compliant with the usual noise stipulations. Vote 4-0, motion passes.

J. Old Business

1. Discussion and Possible Action Regarding Potential Dangerous Building at 1 Justin Circle

On April 30, 2013, Code Enforcement Officer, Amber Harrison received a complaint regarding an unsafe structure at 1 Justin Circle. After discussion with the property owner, Ms. Harrison recommended the Board of Selectmen schedule a Public Hearing on December 16, 2013 to discuss the condition of the dangerous outbuilding at 1 Justin Circle.

Moved by Ms. Andrews, seconded by Mr. Fiorentino to approve scheduling a Public Hearing on December 16, 2013 to receive input concerning the Code Enforcement Officer's opinion that the outbuilding located at 1 Justin Circle (Map 94 Lot 84 Unit I) may constitute a dangerous building. Vote 4-0, motion passes.

K. New Business

1. Discussion and Possible Action on Acceptance of MDOT Small Harbor Improvement Grant

Director of Public Works, Dean Lessard with the help of CLD Consulting Engineers submitted a letter of intent to apply for a 2012 Small Harbor Improvement Program (SHIP) Grant with the Maine Department of Transportation (MDOT). In October of 2012 Town staff received a letter that the project was not funded. Since that time the Department of Public Works has continued to discuss the proposed Fisherman's Walk project with MDOT and have made changes to the project to improve the application for State funding through the SHIP Grant program. Mr. Lessard asked the Board to approve the submittal of a 2013 grant application to Maine Department of Transportation's Small Harbors Improvement Program in order to secure funds for the Department of Public Works' proposed Fisherman's Walk pathway improvements.

Moved by Mr. Macdonald, seconded by Ms. Andrews to approve the submittal of a 2013 grant application to Maine DOT's Small Harbor's Improvement

Program in order to secure funds for the Department of Public Works' proposed Fisherman's Walk pathway improvements. Vote 4-0, motion passes.

2. Discussion and Possible Action on Removal of the Chairman

At the November 4, 2013 meeting members of the Board of Selectmen directed the Town Manager to solicit a legal opinion from the Town Attorney regarding a process for possible removal of the Board of Selectmen Chairman. Ms. Gregg read the legal opinion, dated November 27, 2013 from Durward Parkinson, Town Attorney into the record.

Mr. Fiorentino stated that after reviewing the Town Attorney's opinion on removing the sitting Chair, he wishes to withdraw any further discussion regarding a vote of no confidence for the current Chair, he personally does not want to take any more of the Board's time discussing the matter. Mr. Fiorentino had suggestions that he thinks will help the Board to continue to work productively: Reinstigate the two Citizens' Forums where as the first is for relevant topics being discussed on the current agenda and the later forum is for all other concerns the citizens have; When citizens speak in forum they should be respectful in nature to the Board members and Town Manager; Also when citizens speak in forum they should speak directly to the Chair and not expect a response and/or debate; Any citizen that is antagonizing, disrespectful or rude during the forum should be warned and silenced immediately by the Chair to keep proper decorum; Pertaining to contentious issues, the Board should take advantage of work sessions, open to the public, aired other than Monday evenings when the Board needs to discuss numerous agenda items. Mr. Fiorentino also asked that the Chair provide an outline to the Board of what he is forecasting as issues within the next six months and ask for input from the Board members on how they may assist him in scheduling and addressing each request. He also stated that what he feels is most important, is that the Chair and the Town Manager improve their lines of communication.

Mr. Macdonald stated that to the issue of the Board working together, he repeats a comment he made at the last meeting that the Board of Selectmen and Town Department Heads should schedule a work session together, at which they would go over the Comprehensive Plan and rank collectively what the vision of priorities are for policy attention.

3. Discussion and Possible Action on Scheduling Interviews with Town Attorney Candidates

At the November 4, 2013 meeting the Board of Selectmen discussed the process for interviewing the three law firms that the Board had previously identified as candidates for the Town's Attorney (Salaried Solicitor). The Board of Selectmen agreed to develop two potential questions each that could be asked of all three finalists. After discussion the Board's final list of questions is as follows:

1. 10-15 Minutes to introduce yourself and your firm
2. The voters of York have recently amended its Home Rule Charter to provide that Town counsel be appointed by the Board of Selectmen rather than by the Town Manager. By what process do you propose to interact with, and take direction from, the Board?
3. Explain briefly your experience on intellectual property and technology laws especially concerning cable TV, high speed cable franchising fees, whole town Wi-Fi and cell tower installation in the interest of municipalities
4. In reference to our current Police Station Project, not necessarily being familiar with the specific details concerning unapproved stock piles, wetland infringements, property line disputes and signed contracts for land acquisition by the Town; what would be your firm's initial approach to understanding the project in its legal and permitting complexities?
5. Explain briefly your experience in coastal zone management, state mandated coastal policies, and particularly the MS4 program
6. What is your experience in litigating environmental issues on behalf of municipalities?
7. When do you feel verbal communication is acceptable and when should it be written communication?

The Board authorized the Town Manager to check the availability of the three selected firms, to schedule a single work session for Town Counsel interviews the week of December 16, 2013.

4. Discussion and Possible Action Regarding a Boundary Line Agreement with York Wild Kingdom and the Calling of a Special General Referendum

In August and September surveyors from Civil Consultants of South Berwick, Maine performed a boundary line survey for the York Wild Kingdom. The survey was directed at the boundary line between the York Wild Kingdom property and the Town of York property that had been purchased from Donald Blinn and the Horn family and had previously been surveyed by BH2M on behalf of the Town. The Civil Consultants survey reflected variances with the BH2M survey in two particular areas. The first area is where the former Blinn property abutted the York Wild Kingdom property and the second area is where the former Horn property abutted the York Wild Kingdom property.

On Wednesday, November 20, 2013 the Town Manager met with Joe Barberi of the York Wild Kingdom, along with Tom McCullum of Civil Consultants and Bob Libby of BH2M, Chairman Nowell was also in attendance at this meeting. During this meeting the variances in the two surveys were discussed as were potential resolutions to the variances. Both surveyors indicated that they could

understand how the other arrived at their conclusions based on reading of the available deeds. At the end of the meeting there was some general consensus that the Civil Consultants survey line may be in the best interests of all parties. It was also determined that there should be a work session with the Board of Selectmen so that the surveyors could explain to the Board how they each arrived at their survey conclusions.

On Friday, November 22, 2013 a work session with the Board of Selectmen was conducted at the York Public Library. During the work session the same information was presented by the surveyors and the Selectmen present at the work session asked questions of the surveyors. During the discussion, the option of selecting either the BH2M survey or the Civil Consultants survey was discussed as was the option of splitting the difference between the two surveys. It was also pointed out that both surveys were legitimate and based on interpretations and research. During the meeting the question was posed as to whether the voters would have to approve any boundary line agreement between the two parties and the Town Manager was directed to solicit Maine Municipal Association Legal Services Department for an opinion on that question.

On Monday, November 25, 2013 an opinion was received from Richard Flewelling, Assistant Director of the Legal Services Department. Mr. Flewelling's opinion was that because the Town would have to issue a release deed or quit claim deed releasing any claim to property on the other side of the agreed upon boundary line, that would constitute a conveyance and, therefore, the voters would have to approve that action.

Town Manager, Robert G. Yandow stated that after doing research on the prospect of holding a Special General Referendum in the event that it became necessary, he found that regarding the timing, 45 days would be necessary after approval of a warrant before the meeting could be held, making the earliest possible date be February 4, 2014. After discussion with the York High School administration, the earliest available date to use the gymnasium would be March 4, 2014. Any Special General Referendum in this matter would consist of a one question, yes or no ballot and would be hand counted. Mr. Yandow went on to explain the differences between the two surveys and noted that there is no claim that either of the two are incorrect, both surveyors can justify their results based on their research and interpretation of historical information.

Mr. Macdonald read a letter from absent Chairman, Ron Nowell into the record.

5. Appointments to the Tax Task Force

Moved by Mr. Macdonald, seconded by Ms. Andrews to appoint Harold T. O'Rourke and Richard Bilden to the Tax Task Force as Regular members with terms expiring June 30, 2016. Vote 4-0, motion passes.

Moved by Mr. Macdonald, seconded by Mr. Fiorentino to appoint Leonard Dorrian to the Tax Task Force as a Regular member with a term expiring June 30, 2015. Vote 3-1, Ms. Gregg opposed, motion passes.

6. Letter of Approval for Games of Chance

Moved by Mr. Macdonald, seconded by Ms. Andrews to approve the 2014 Blanket Letter of Approval for Games of Chance. Vote 4-0, motion passes.

7. Pole Location Permit: Woodside Meadows

Moved by Mr. Macdonald, seconded by Ms. Andrews to approve the Pole Location Permit for one pole on Woodside Meadow Road in a southerly direction, 325 feet from pad-mount #12. Vote 4-0, motion passes.

L. Other Business

None

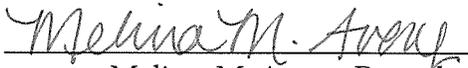
M. Citizens' Forum

Public Comment: None

Adjourn

Moved by Ms. Andrews, seconded by Mr. Fiorentino to adjourn the meeting at 10:22PM.

Respectfully submitted,


Melissa M. Avery, Recorder