



**SELECT BOARD  
MEETING MINUTES  
NOVEMBER 12, 2013**

**1.0 CALL TO ORDER – 6:00PM**

Meeting called to order at 6:03pm.

Members present: Barbara Dailey, Chair  
Christopher Jarochoym, Vice Chair  
David Barton  
John Daley  
Robert Winn

Others present: Thomas A. Fortier, Town Manager

**2.0 PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Selectman Daley.

**3.0 REQUEST TO APPROVE SELECT BOARD MINUTES**

3.1 October 15, 2013 – the minutes of the October 15<sup>th</sup> meeting of the Select Board were approved as presented.

**4.0 TOWN MANAGER'S REPORT**

**Elections** – The November 5, 2013 Special Town Meeting went very well, thanks to Town Clerk Chris Murphy. Thank you to all the ballot clerks for their hard work: Kay Hamlin, Blanche Feinberg, Cindy Douglass, Bunny Hart, Leila Kupper and Tracy Leach.

**Town Hall Office Hours** – Town Office hours changed on November 12, 2013, the office now opens at 8:00am and closes at 4:00pm.

**Transfer Station Hours** – The Transfer Station will go to its winter hours on November 20<sup>th</sup>, they will be closed on Wednesday and Thursday through the winter.

**Winn House Roof** – The Winn House Roof has been completed, a very good job done by Coastal Construction – Jerry DeHart.

**Dunaway Community Center Roof** – Work began on the Dunaway Community Center roof today.

**Public Works Building Update** – Walls have been poured, electrical and plumbing is being stubbed in. Mr. Fortier stated that without Stillman Bradish, this project would not have gone so smoothly. Mr. Bradish is in the office everyday giving updates on the project. The town’s crew dug 400’ of ditch to lay conduit, saving the town money on this project. They did a great job.

**Beach Fencing** – This project is finally complete, over 700 posts have been put in along the beach dune line.

**Dunaway Community Center Power Service** – Starting on the 13<sup>th</sup>, the area in front of the town office will be dug up to install a new transformer pad. The current service to the town is not up to code.

**FEMA Flood Maps** – Preliminary updated flood maps are available to review; these maps have not been updated since 1984. Someone not previously in the flood zone may now be in it. This will affect the insurance rates of properties in the new flood zone areas.

**Perkins Cove Docks** – This past week all the docks were pulled from Perkins Cove, again thank you to Public Works crews for assisting with this project.

**Leavitt Theater** - Maureen Clayton from the Leavitt Theater was in attendance to speak about the “Kickstarter Program” which they have enrolled in. Due to the discontinuance of movie film and the move to digital; the theater will not be able to feature films unless funding is found to buy a digital projector. Ms. Clayton explained how residents could make donations to save the theater through the Kickstarter Program.

#### 4.1 Update on Mexican Restaurant – *Scott Heyland, CEO*

Code Enforcement Officer Scott Heyland was in attendance to give a brief update on his decision. Mr. Heyland stated that after lengthy discussions with the town attorney and making some evaluations of the proposal, he has determined that it is not a formula restaurant. A letter of agreement has been sent off to the applicant and his attorney, this letter solidifies statements made by the applicant. The agreement is very restrictive and the applicants cannot deviate from the agreement or it becomes an enforcement issue. The name of the restaurant will be “La Playa” and have no connection to “El Rodeo”.

## 5.0 PUBLIC INPUT

**John Mixon**

- Thank you to all who supported him during his illness.
- Thank you to Town Manager and staff.

**Paul Breen**

- Thank you to all who supported the plaque stones. He reported that 36 of the 250 available had been sold. Mr. Breen stated that the Marginal Way Preservation Fund, along with the Marginal Way Committee, will be soliciting grants for future support of the way.

**Chairwoman Dailey**

- Asked if the FEMA maps will be able to be overlaid on the Town's GIS maps.

**Selectman Daley**

- Comments regarding the new ballot boxes that were used for the Special Town meeting; there seemed to be quite a few problems.

**6.0 APPOINTMENTS, RESIGNATIONS, PROCLAMATIONS, RESOLUTIONS****6.1 Resignation – *Judith A. Yates, Treasurer***

Town Manager Fortier read the resignation letter from Treasurer Judith A. Yates; the resignation is effective January 3, 2014.

**7.0 PUBLIC HEARINGS, PRESENTATION**

There were no public hearings or presentations before the Select Board.

**8.0 ADMINISTRATIVE ITEMS – UNFINISHED BUSINESS****8.1 Update on the Beach Erosion Initiative – *Selectman Robert Winn*  
Progress update regarding committee development**

Selectman Winn indicated that there has been a lot of interest, urged those who would like to serve on the committee to fill out an application form. He stated that he has spoken with the Conservation Commission so that there is not a duplication of efforts. This should be an ADHOC Committee with a mission statement. Selectman Winn proposed a meeting for Monday, November 18<sup>th</sup> at 5:00pm for all interested parties to stop in. The committee will need to identify the beach and/or erosion issues.

**8.2 Undesignated Fund Policy – *Thomas A. Fortier, Town Manager*  
Select Board review and action on proposed Undesignated Fund Policy**

**111213-01** Motion made by John Daley and second by Robert Winn to approve the following:

ADEQUATE FUND BALANCE

*It is the policy of the Town of Ogunquit to maintain a minimum fund balance of at least 10% (ten percent) of the annual (current) year tax commitment plus one month's expenditures, as established through the budget process and committed in the fall of each fiscal year.*

*This amount is to be reviewed annually and voted by the Select Board at its first meeting after the current year tax commitment is established and prior to the onset of the next fiscal budget process. Any amounts in excess of the minimum requirement may be used to offset the Tax Commitment, fund Capital Projects and Reserve accounts or meet emergency funding needs as established through the Special Town Meeting process prior to the next tax commitment.*

Approved 5-0

**111213-02** Motion made by Chris Jarochoym and second by David Barton to approve the following:

PREPAID EXPENSES

*The only prepaid expenses are:*

- *Payroll related expenses (i.e. electronic filing for withholding taxes)*

Approved 5-0

8.3 Personnel Policy Amendments – Thomas A. Fortier, Town Manager  
Select Board review and action on proposed New and Amended Personnel Policies

**111213-03** Motion made by David Barton and second by Robert Winn to approve the following policies to be added to the existing Personnel Policy:

*Employee Ethics Policy*

*A Town employee is prohibited from engaging in any conduct which could reflect unfavorably upon Town service. Town employees must avoid any action which might result in or create the impression of using public employment for private gain, giving preferential treatment to any person or losing impartiality in conducting Town business. No employee authorized to make purchases or a contract for services shall have any direct or indirect financial interest or personal gain in any purchase or contract. The employee shall disclose any potential conflict of interest to his department head or the Town Manager. Employees may be required by their department head or Town Manager to disclose information relevant to any potential or actual conflict of interest.*

**Receipt of Gifts Policy**

- (a) *A Town employee is prohibited from soliciting or accepting any gift, gratuity, favor, entertainment, loan or any other thing of monetary value from any person who has or is seeking to obtain business with the Town or from any person within or outside Town employment whose interests may be affected by the employee's performance or nonperformance of his official duties. Acceptance of nominal gifts in keeping with special occasions, such as marriage, retirement or illness; food and refreshments in the ordinary course of business meetings; or unsolicited advertising or promotional materials, e.g., pens, note pads, calendars, is permitted.*
- (b) *In addition, supervisors must avoid placing themselves in a position which could interfere with, or create the impression of interfering with, the objective evaluation and direction of their subordinates. No supervisor shall accept gifts from subordinates other than those of nominal value for special occasions, and no supervisor shall borrow money or accept favors from any subordinate.*
- (c) *The Department Head or Town Manager may bring any violation of this policy to the attention of the employee and impose disciplinary action as deemed appropriate pursuant to the Town of Ogunquit Personnel Rules, Section 8 - Disciplinary Procedures*

**Business Activities and Solicitation Policy**

*No employee shall engage in any business other than regular duties of the Town during working time, including such activities as selling to fellow employees, lending of money for profit, etc., with the exception of Town-approved activities, no solicitation of any kind is permitted on Town premises during working time. Working time includes the working time of both the employee soliciting, and the employee to whom such activity is directed. Working time does not include break time. While on Town premises during non-working time, such as breaks and meal times, employees may engage in personal, business or social activities which are not disruptive to those who are working.*

**Outside Employment Policy**

- (a) *Town employees may engage in outside employment, subject to the conditions stated herein. Employees must inform their department head of their outside employment. No employee may engage in additional employment which in any way interferes with the proper and effective performance of the duties of his position, results in a conflict of interest or subjects the Town to public criticism or embarrassment. If the Town Manager determines that such outside employment is disadvantageous to the Town, upon notification in writing by the Town Manager, the employee involved shall take prompt steps to resolve the situation.*
- (b) *Any full or part-time employee who engages in employment outside of his regular working hours shall be subject to call to perform his regular Town duties first. The*

*Town shall, in no respect, [neither] be liable for nor grant sick leave or disability leave in the case of any injury or occupational illness incurred by an employee while engaged in outside employment.*

Approved 5-0

Chairwoman Dailey read a statement as to why the new policies were needed.

8.4 York County Budget Legal Issue – *Selectman David Barton*

Select Board review and action regarding support and funding of the York County Budget suit

**111213-04** Motion made by John Daley and second by Chris Jarochym to support David Barton as the Town of Ogunquit representative to the York County Budget Committee, to resolve the issue between the York County Budget Committee and the York County Commissioners; approved- 3 Yes, 1 Present and 1 No (Winn).

**9.0 ADMINISTRATIVE ITEMS – NEW BUSINESS**

9.1 Adjustment of Overlay – *Barbara Kinsman, Assistant Assessor*

Due to a valuation error of \$3,670,100 in the commitment process the overlay of \$16,431.64, as voted on by the Select Board on August 13, 2013, has been reduced to \$2,435.53. No vote was taken, the Select Board acknowledged the issue.

**10.0 MISCELLANEOUS BUSINESS – ORAL & WRITTEN COMMUNICATIONS – FOLLOW-UP**

10.1 Public

**Lesley Mathews**

- Commented that the Cinema in Wells had to close as they could not afford the new digital projector. Also noted that any size donation could be made, from \$1.00 to \$100,000, for the Leavitt Theater and that the donation could be made anonymous.
- Stated that the Recycling Committee needs an Alternate Member.

**Bob Glidden**

- Finds the use of charity to help someone and take a public rebuke for it utterly contemptible.

**Muriel Freedman**

- Stated that she respects the Board for wanting to be transparent but does not respect the Board for mentioning a name, could have been indicated by stating a “board member”.

10.2 Select Board

**Selectman Daley**

- Comments on the age of the Wells school, the bond issue and the chance that the school district could have lost its accreditation.

**Selectman Jarochoym**

- Thanked all those in the military, past and present, for serving and remembering them on Veteran’s Day.
- Commented on the decision made by the CEO on the Mexican restaurant “La Playa”, stated that he respectfully disagrees with the decision of the CEO and town attorney.

**Selectman Barton**

- Commented on the something brought up at the Marginal Way Committee meeting; situation and the end of Stearns Road and Israel Head Road with the amount of storm waters that runs down those two streets. Stated that there is a need for a curb on Stearns Road, it affects the Marginal Way at the lighthouse. Would like the town to look into creating a berm.
- Stated that he agreed with Selectman Jarochoym regarding the Mexican restaurant issue.

**11.0 EXECUTIVE SESSION**

11.1 Personnel [*Pursuant to Title 1, Chapter 13, Subchapter 1§405.6.A*]

Motion made by David Barton and second by John Daley to go into Executive Session at 8:03pm; approved 5-0.

**12.0 ADJOURNMENT**

Motion made and seconded to adjourn the meeting; unanimous vote to adjourn.

Respectfully submitted,

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Cheryl L. Emery, Administrative Assistant to the Town Manager