



**SELECT BOARD  
MEETING MINUTES  
OCTOBER 6, 2015**

**1.0 COMMITTEE INTERVIEW - 5:45PM**

The Select Board met with Carole Aaron who had submitted application to the Budget Review Committee, Historic Preservation Commission and the Cable TV Regulatory Committee.

**2.0 CALL TO ORDER: 6:00-8:00PM**

Meeting called to order at 6:00PM

Members present: Barbara Dailey, Chair  
John Daley, Vice Chair  
David Barton  
Gary Latulippe  
Robert Winn, Jr.

Others present: Thomas A. Fortier, Town Manager

**2.1 Pledge of Allegiance**

The Pledge of Allegiance was led by Selectman Latulippe.

**2.2 Select Board Minutes - September 1, 2015**

The minutes of the September 1, 2015 Select Board meeting were accepted as presented.

**3.0 TOWN MANAGER'S REPORT**

**Breast Cancer Awareness**

Town Manager Fortier stated that October is "Breast Cancer Awareness Month".

He placed pink roses, picked from the rose bush in front of the Dunaway Center, on the table in front of each Select Board member.

**Route 1 MDOT**

The town is in the midst of "The toughest few months" of this 2-year project. Night work continues and your patience is needed. Many businesses, especially lodging businesses, have incurred a significant loss of revenue secondary to the night work. I would like to take a moment to thank those effected (residents and families with children too) for enduring the much needed construction.

Both the bridges, north and south, will be completed and operational by month's end (October) and the town line, north and south will be near completion. Sidewalks will start to appear, paving will occur, and the noise will be over. The project area will then move closer to town center. The entire project completion date is scheduled for December 2016. With any luck and a mild winter...it could be completed by fall of 2016.

For more information visit [www.mainedot.gov](http://www.mainedot.gov) or [www.townofogunquit.org](http://www.townofogunquit.org)

The Ogunquit Sewer District is working on Route 1 during the day upgrading 620 feet of 8-inch sewer main to a new 10-inch main. Under the leadership of Superintendent Phil Pickering, they are using trenchless pipe bursting for 360 LF and the remaining 260 feet will need to be open trench replacement. The upgrade also calls for the replacement of three manholes.

**Visitor Services**

Another summer has come and gone. For reasons unexplained, it proved to be the year of rude and entitled visitors. Our visitor services staff, despite their best efforts at verbal judo, found it to be very challenging to keep a smile. But they did and served the town proudly, as they are the gateway, the face of Ogunquit! Approximately 1.7 million dollars in parking revenues were collected. This revenue allows the town to maintain and improve the infrastructure and to offset expenses of hosting tens of thousands of visitors each day.

A ferry service from Cape Cod to Portsmouth? There will be informational meetings including one on Friday, October 2nd at Portsmouth City Hall, 9:00-11:00am.

**Finance/Budget**

As of May 2015 the Town has collected 95% or \$10,154,016 in real estate taxes.

2016 taxes have been assessed at a mil rate of \$8.07 and the tax accounts receivable files were updated.

Copies the electronic files were sent to the various tax services for the mortgage holders so that they can begin preparing payments to the town. PDF files of the tax bills can be accessed on the town's website. The actual tax bills have been mailed to property owners.

### **Town Clerk**

A Special State of Maine Election is set for November 3<sup>rd</sup>. There will be 2 Bond questions and 1 Clean Election question to vote on.

The Town Clerk's office recently transitioned from a manual registration process to an electronic registration process, as well as, upgrades the municipal authorization level to "new registration" from the current status of "limited new registration." This transition required the Bureau of Motor Vehicle's Audit Services to perform audits before, during and after the electronic installation. Inventory, pre testing, onsite cash reports and offsite cash reports are audited for a comprehensive transition. Congratulations to Town Clerk Christine Murphy for successfully making the transition.

### **Land Use Office**

Extended time allowed for "Dogs on the Beach" workshop was held 9/16/15. The meeting was facilitated by resident Ben Hershenson. The next meeting will be on Tuesday, 9/29/15 at 6:00pm at the Dunaway Center. Please plan on attending if you are interested in this topic.

Our very own Maryann Stacy was featured in the September 24th York County Coast Star for her good work initiating the student government program.

### **Police Department**

*Beach Manager/Community Services:*

Summer Reserve Officer Activity on the Beach:

As of today all of our new summer Reserve Officers have returned to college. We continue to run one of our year-round Reserve Officers on foot and bicycle patrol and CSO Testa will continue to assist beachgoers. We have also directed our full-time personnel to give extra attention to the areas normally patrolled by Reserve

Officers; to include exiting patrol vehicles and walking the beach, town center and Perkins Cove.

Some statistics from June 1st through August 31<sup>st</sup>:

- Arrests: 23
- Incidents: 42
- MV Citations: 15
- MV crashes: 22
- Parking Tickets / Ordinance violations: 423
- Department wide our officers handled 3,844 calls for service of which 1975 were Propriety 1 calls.
- Officers made 67 arrests, took 93 incident reports, handled 49 motor vehicle crashes and issued 1324 parking tickets / town ordinance violations.

### **Fire Department**

Fire Chief Mark O'Brien has named 4 Captains as part of a reorganization effort. Congratulations to Firefighters Dave Moore, Bob Bernard, Shannon Bridges, and Scott Bourque; or shall we say Captain Moore, Captain Bernard, Captain Bridges and Captain Bourque! The four captains were sworn in by the Town Clerk on Tuesday September 22nd in front of friends and family members.

### **Admin Services/Public Works**

"Plowing of Private Roads" has been a subject on everyone's mind lately. Town staff has uncovered a source of real liability but at the same time is working diligently with State Attorneys and law makers on finding plausible solutions. The Select Board will continue the discussion at the October 6th meeting.

New beach fencing was erected on the riverside; it replaced the old and broken fencing put in place many years ago.

The Salt Shed Shingle Replacement mandatory site walk for bidders occurred last week.

The Dunaway Center Front entrance will receive a facelift soon. Many years of salt and sand have taken its toll on the concrete sidewalk. Our Public Works staff, Brian Mire, will lead the project.

Recently PWD upgraded the Beach Street granite curbing. This upgrade was meant to accent Veterans Park and the gateway to Main Beach. The PWD crew also made drainage and curbing improvements to Pine Hill North. Great work gentlemen!

### Parks/Recreation/Dunaway

After 15 years of service to the Marginal Way, our very own Helen Horn has submitted her resignation. Helen came on board in 2000 and served as Chair of the Marginal Way Committee since 2006.

The Devil's Kitchen Seawall project has been completed. The project was budgeted for \$150,000. The closing numbers were \$90,000. Thank you to the Marginal Way Committee and the Preservation Committee for allocating funds to this very successful project. This project along with the recent native landscaping project has made this area of Marginal Way... **spectacular!!!**

Have you seen the new stage lights and wall sconces in the community room at the Dunaway Center?

*The 25th Annual Capriccio: A Celebration of Arts* was a huge success thanks to the efforts of the Ogunquit Performing Arts Committee. Among the many wonderful shows were Maine Humorist Tim Sample, a Labor Day Concert, Kite Festival and Grammy Award winner Paul Sullivan. Wow !

### Harbor Master/Conservation

Eight (8) engineers attended mandatory site walk for the engineering/stabilization of the Footbridge.

There are improvements happening all around us, often going unnoticed. For example, did you know that recent grants obtained by the Town and the Conservation Committee, the following upgrades to watershed protection and water quality have occurred:

- Towne Lyne (BMP's) implemented on Monday (9/14), with 3 infiltration trenches, 25 yds ECM, and plantings were completed.
- Completed 4 TA Reports for 4 residential properties (11 BMP recommendations) on Grasshopper, Belm and Bourne Lane.
- Installed 10 BMPs on at least 3 properties
- Septic System Database / The Land Use office followed up with a "Pump Your Septic" letter to all property owners who have not pumped their septic system within the past 5 years.

And as referenced earlier in this report, The Town is moving forward with sidewalk BMPs this fall at the Dunaway Center, as well as the Lower Lot this fall.

**Note:** The term 'Best Management Practices', or BMPs, was coined to describe acceptable practices that could be implemented to protect water quality and promote soil conservation. A BMP can be a structural "thing" that you actually install on-the-ground. Examples may include runoff diversions, silt fence, stream buffers and ground-cover vegetation over bare soil areas.

#### 4.0 APPOINTMENTS, RESIGNATIONS, PROCLAMATIONS, RESOLUTIONS

##### 4.1 Resignation - Helen Horn, Marginal Way Committee

Helen Horn resigned as Chair of the Marginal Way Committee. Mr. Fortier presented, from the Select Board and Town Staff, a token of appreciation in the form of a rock which was inscribed to Helen...*"Beauty is or Burden"*.

Helen thanked everyone for their recognition. Ms. Horn gave some background of the Marginal Way.

##### 4.2 Resignation - Susan Levenson, Heritage Museum Committee

The Select Board accepted the resignation of Susan Levenson as a member of the Heritage Museum Committee.

#### 5.0 PUBLIC INPUT (Any Topic)

There were no comments or questions from the public in attendance.

#### 6.0 PUBLIC HEARING - LICENSE RENEWALS

The public hearing opened at 6:25pm.

##### 6.1 Beachfire - Malt, Spirituous & Vinous License New Application

Recommended for approval by the Police Chief, Fire Chief and Code Enforcement Officer; there were no comments or questions from the public in attendance.

Jared Laflin was in attendance to represent Beachfire.

**100616-01** Motion made by Gary Latulippe and second by David Barton to approve the Malt, Spirituous & Vinous License New Application for Beachfire; approved 5-0.

6.2 Beachfire - Amusement License New Application

Recommended for approval by the Police Chief, Fire Chief and Code Enforcement Officer; there were no comments or questions from the public in attendance.

**100616-01** Motion made by Gary Latulippe and second by David Barton to approve the Amusement License New Application for Beachfire; approved 5-0.

6.3 Five-O Shore Road - Malt, Spirituous & Vinous License New Application

Recommended for approval by the Police Chief, Fire Chief and Code Enforcement Officer; there were no comments or questions from the public in attendance.

Gary Pucciarelli was in attendance to represent Five-O Shore Road.

**100616-02** Motion made by Gary Latulippe and second by David Barton to approve the Malt, Spirituous & Vinous License New Application for Five-O Shore Road; approved 5-0.

6.4 Five-O Shore Road - Amusement License New Application

Recommended for approval by the Police Chief, Fire Chief and Code Enforcement Officer; there were no comments or questions from the public in attendance.

**100616-02** Motion made by Gary Latulippe and second by David Barton to approve the Amusement License New Application for Five-O Shore Road; approved 5-0.

**7.0 PUBLIC HEARINGS & PRESENTATIONS**

7.1 Shellfish Harvester Licenses 2015-2016

Public Hearing to consider the recommendations of the Shellfish Conservation Commission relative to the anticipated opening of the clam flats for the 2015-2016 season and to set the fees for sale of clam licenses

The Shellfish Conservation Commission is asking for fewer licenses this year. Town Manager Fortier stated that the reduction from 70 resident licenses to 50 resident licenses, 7 non-resident licenses down to 5 and no one-day dig licenses is due to management of the clam flats by the Shellfish Conservation Commission. Some of the flats were reseeded last year so that area is unavailable for harvesting.

Arthur Damren, Shellfish Conservation Commission member, stated that they had done a survey and determined the number of resident licenses at 55 for the maximum. The one-day licenses were eliminated to allow residents the opportunity

to dig. Next year the clam harvest should be very good, but at this time 2/3 of the clams are not to size.

7.2 General Assistance Ordinance - Adoption of MMA Appendices A, C & D (October 2015 -September 30, 2016) as part of Ogunquit's General Assistance Ordinance- Thomas A. Fortier, Town Manager

Public Comments and Questions regarding the Proposed Amendments to Title II of the Ogunquit Municipal Code, General Assistance Ordinance [pursuant to Title 22 MRSAS4305(3-B)]

Town Manager Fortier explained that this is done every year, mandated by the State of Maine.

Motion made by Robert Winn and second by David Barton to close the Public Hearing and move into regular session at 6:34pm; approved 5-0.

**8.0 ADMINISTRATIVE ITEMS - UNFINISHED BUSINESS**

8.1 Plowing of Private Roads - Thomas A. Fortier, Town Manager  
Select Board Policy Review of the Plowing of Private Roads

Town Manager Fortier stated that since he has been here (2009) the town has not accepted any public easement for plowing of private roads.

This issue is about the town and its future, and not about today. Over the last month or so, new facts have arisen. The last time the Board met there was a list of 19 roads; there are now only 16 on the list. Every one of these 16 private roads has a public easement on record. Another issue that has come to light is that these roads were supposed to be maintained and inspected every year.

Mr. Fortier stated that he has spoken to several attorneys regarding public easements on private roads.

The bigger question becomes a policy decision. There are 16 private roads being plowed, and another 113 private roads in town that are not plowed.

Motion made by Robert Winn and second by David Barton to move into public session at 6:46pm; approved 5-0.

**Ina Brother, 16 Dixon Run Road**

- Asked how one knew if their road was public easement. Town Manager Fortier stated that Dixons Run Road recorded a Public Easement on December 2, 1997.

Town Manager Fortier outlined Maine State standards:

1. Must have a recorded public easement,
2. Must meet standards for winter maintenance,
3. Must have town meeting voter approval,
4. Must have a "Hold Harmless" agreement.

A public easement grants the town permission legally to plow, but does not mandate the town to plow.

**Rusty Hayes, 75 Cedar Lane**

- Comments about the standards which refer to Road Association and what if there is no Road Association.
- Stated that he would like the towns help to get them through another year if not going to plow.

Mr. Fortier stated that according to state law, private road owners are responsible to keep the road open and to maintain the road for public emergency vehicles.

**Lesley Mathews, 13 High Ridge Lane**

- What do the people who live past her residence on the dirt road, what do they need to do to get their road plowed?

**Kristen Arnold, Cooley Lane**

- The question is, is this something down the line that the residents of the road could petition to have the road plowed if it meets the conditions. The road is currently not plowed.

**Jason Lipkind, 169 Highland Avenue**

- Mr. Lipkind stated that he is the long time president of the Village Highlands Homeowners Association which maintains the end of Highland Avenue (extension).
- Comments regarding plowing practices by the town in the past. The town plowed Highland Avenue but not the extension.

Motion made by Gary Latulippe and second by David Barton to move out of public session at 7:06pm; approved 5-0.

Town Manager Fortier reviewed the criteria for getting a street accepted by the town.

1. The road owner(s) would have to petition the town to accept the street and the town would then assume the responsibility of the street.
2. The road/street would have to meet road standards as set by the town.
3. The road/street would be put on the town meeting warrant for voter approval.
4. If approved by the voters, the owner(s) would deed the road to the town and it would then become a town road/street.

The Land Use Office should have a list of streets that delineates whether a road is public, private, easement or paper. The office is working on updating this information.

Selectman Winn asked what can we do as a town, for the residents of the private roads/streets, to help them?

Selectman Barton stated that the answer to this lies somewhere between what the Select Board has been discussing and comments by Rusty Hayes; he is surprised how few road associations there are. Mr. Barton commented on the state law regarding road associations in Maine. He also commented on the need of "hold harmless" agreements which should be held by the road associations and not by the residents of the road. If he had to give advice as a Selectman, he would say that these road owners need to get going on road associations so that they have the entity in place and can buy insurance. This is a critical step that is being left out.

Selectman Daley stated that 79% of the revenue that the town collects in property taxes comes from private homes, not businesses. The majority of the roads in town are private roads, not public roads. Private roads get very little services, the value of houses do not change without the services (sewer, water, plowing, etc.).

Selectman Latulippe stated that it can be argued that those individuals living on private roads have an economic gain by not having a public road. He provided several examples of this. To set the record straight, he stated that he lives on Blue Heron Place; it was deemed a public necessity long before his purchase of the property.

This has been going on for a long time in this town, it would be a good service, from the five Board members to come up with a way to once and for all rectify this situation and make it fair for all, both on public and private roads. This is a complicated issue that will need some legal advice and a lot of input from the public. The Town of Ogunquit needs to get out of the private road plowing business until it

can be figured out how to do it correctly. The Town has identified liability to the town, liability to its employees and has fiduciary responsibility as Select Board members to do what is in the best interest of whole town. This issue needs to be vetted and presented to the voters. The (Board) is putting the town at a financial risk if the practice is not stopped.

Town Manager Fortier stated that he can give the answer to what needs to be done, but it is not an easy answer:

1. Can stop plowing the private roads,
2. Can continue to work the 16 roads that we are currently plowing,
3. Have another 100 roads coming after that is another option; follow the process to get on the list.

Mr. Fortier feels that are ready to decide what want to do, whether it's not to do it at all or allowing public easements and plowing the roads. However, of the 16, 3-5 of the roads will never meet the standards in their current status. The road standards are currently in place but not adhering to them.

Chair Dailey stated that a resident, Priscilla Collins-Slotnik of 22 Stoney Brook Drive, couldn't be present for the meeting and asked that the Chair read her letter.

Town Manager Fortier proposed that because the easements are in place on the 16 roads he suggested that between now and June Town Meeting get "ducks in a row". Recommend that the town continue to plow the 16 streets for one more winter and have standards in place for June 2016. He asked that each road meet with him between now and November 1<sup>st</sup> to determine the condition of the road and whether the road meets the standards.

Chair Dailey clarified the Town Manager's proposal:

- The 16 roads that the town is currently servicing have recorded public easements of varying quality, so technically they are not illegal.

Chair Dailey asked if this policy setting group (Select Board) would want to entertain the concept of offering that option to anybody who complies with all the criteria. And if don't want to offer it to everyone, and then do still want to offer to those who can be compliant of the original 16? Even it is put on the Town Meeting Warrant; the voters could turn it down. Or if it is approved, then the Board would have to come to some policy agreement.

Selectman Barton had concerns that if the Board has made statements and knows what the rules are...he would like to know if inadvertently the Board is stepping into a mine field, so would like a legal opinion by the next meeting.

Chair Dailey stated that her stance is to follow the law.

Selectman Winn stated that it is his position to follow the rules.

Selectman Latulippe asked that the criteria be made clear for a public easement road to be acceptable to the Select Board and Road Commissioner, as he understands it they have to have:

- Notarized Easements of all property owners,
- Hold Harmless and Indemnification Agreements by all property owners,
- The minimum road standards need to be met,
- And approved by the voters at a Town Meeting.

It was the consensus of the Select Board to support the Town Manager in his decision making process going forward regarding the 16 roads that currently have a public easement.

Town Manager Fortier will follow up with the Select Board at the next meeting of the board on October 20<sup>th</sup>.

## 9.0 ADMINISTRATIVE ITEMS - NEW BUSINESS

### 9.1 Shellfish Harvester Licenses 2015-2016

Select Board Action to Set the Opening of the Ogunquit Clam Flats; and to Set Fees for the Sale of Clam Licenses

**100616-03** Motion made by Gary Latulippe and second by Robert Winn to accept the Town of Ogunquit Shellfish Harvesting Licenses: 50 Resident/Property Tax Payer/Town Employees, \$ 35.00; 15 Resident/Seniors, \$COMP; 5 Non-Resident\*, \$ 70.00 and 2 Non-Resident/Seniors\*, \$COMP; approved 5-0.

### 9.2 General Assistance Ordinance - Adoption of MMA Appendices A, C & D (October 2015 -September 30, 2016) as part of Ogunquit's General Assistance Ordinance - Thomas A. Fortier, Town Manager

Select Board Action regarding the Proposed Amendments to Title II of the Ogunquit Municipal Code, General Assistance Ordinance [pursuant to Title 22 MRSAS4305(3-B)]

**100616-04** Motion made by Robert Winn and second by David Barton to accept the proposed Amendments to Title II of the Ogunquit Municipal Code, General Assistance Ordinance [pursuant to Title 22 MRSAS4305(3-B)]; approved 5-0.

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

**10.1 Select Board**

**Selectman Winn**

- Comments regarding tax distribution (business/resident/sales tax), would like to see this as an agenda item in the future. It was the consensus to have this on the first meeting in December.

**Selectman Barton**

- Comments on the need for a town-wide revaluation.

**Chair Dailey**

- Agreed with Selectman Barton's comments on the need for a revaluation and the need to address this during the budget process.

**11.0 ADJOURNMENT**

Motion made by Robert Winn and second by David Barton to adjourn the meeting at 8:54pm; unanimous vote to adjourn.

Respectfully submitted,

---

Cheryl L. Emery, Administrative Assistant to the Town Manager