



**SELECT BOARD
MEETING MINUTES
FEBRUARY 5, 2019**

1.0 CALL TO ORDER: 6:00PM

1.1 Roll Call of Members

Meeting called to order at 6:00pm.

Members present: Charles L. Waite, III, Chair
John M. Daley, Vice Chair
Richard A. Dolliver
Madeline S. Mooney
Robert N. Winn, Jr.

Others present: Patricia Finnigan, Town Manager
Jonathan Pottle, Attorney, Eaton Peabody

1.2 Pledge of Allegiance

The Pledge of Allegiance was recited by some in attendance.

1.3 Select Board Minutes - January 8, 2019

Motion made by Robert Winn, Jr. and second by Richard Dolliver to approve the minutes of the January 8, 2019 Select Board meeting as amended; approved 5-0

1.4 Select Board Minutes - January 22, 2019

Motion made by Madeline Mooney and second by Robert Winn, Jr. to approve the minutes of the January 22, 2019 Select Board meeting as presented; approved 5-0

1.5 Executive Session (emergency) - Pursuant to 1 M.R.S.A. § 405.6.E, Consultation with Special Counsel to discuss the Select Board's legal rights and duties in the context of pending litigation regarding the recall petitions.

020519-01 Motion made by Richard Dolliver and second by John Daley to move tonight's Executive Session into open for complete full transparency.

Motion to withdraw his motion made by Richard Dolliver and second by John Daley.

Pamela Sawyer

- Would like to know if Mr. Pottle is representing the Town, or is he representing the Select Board?

020519-02 Motion made by Richard Dolliver and second by John Daley that under Maine's Open Meeting Law, section 405.6.E, is a permitted Executive Session topic, but would like to have this in open session; motion fails 1(Dolliver) - 4.

If we chose not to do this in open session, Selectman Dolliver would like to request that, after Executive Session, we would call for a public vote.

020519-03 Motion made by John Daley and second by Madeline Mooney to go into Executive Session at 6:15pm for a consultation with Special Counsel to discuss the Select Board's legal rights and duties in the context of pending litigation regarding the recall petitions; approved 4-1 (Dolliver).

Meeting reconvened at 6:59pm.

020519-04 Motion made by Robert Winn, Jr. and second by John Daley to come out of Executive Session at 6:59pm, approved 5-0.

Jonathan Pottle, Attorney, Eaton Peabody; gave an update on the pending lawsuit which was filed on January 28, 2019. He noted that the Judge issued a temporary stay order directing that no local recall election process occur during the temporary stay. The Judge expects this temporary stay to be very brief, that he wants the case to be resolved in an expedited fashion. Attorney Pottle explained that expedited would mean to get it resolved with the court in 60 days or less. A status conference with the Judge will be held next week on February 14th to come up with a detailed schedule on how this will unfold.

In the temporary stay issued by the court it also includes a provision recognizing that a Notary Public under the Charter upon a received petition can initiate a recall election. The court specifically included that process saying that nothing can happen from a Notary Public as well.

The Judge put the Charter provisions on hold, absolutely honoring them that they are still there, he just put them on hold so that on the 14th he can decide how this case is going forward, in a focused and efficient manner. Mr. Pottle stated that as representing the Town he is focused on having this done in as short of a time period as possible.

2.0 LIQUOR AND AMUSEMENT LICENSE - PUBLIC HEARING

Public Hearing called to order at 7:05pm.

There were no comments from the public in attendance.

Public Hearing closed at 7:06pm.

2.1 Bessie's - Malt, Spirituous & Vinous Liquor License Renewal

This application was recommended for approval by the Police Chief, Fire Chief and Code Enforcement Officer.

Scott Vogel was present to represent Bessie's.

020519-05 Motion made by Richard Dolliver and second by Robert Winn, Jr. to approve the Malt, Spirituous & Vinous License Renewal for Bessie's; approved 5-0.

2.2 Jonathan's Restaurant - Amusement License Renewal

This application was recommended for approval by the Police Chief, Fire Chief and Code Enforcement Officer.

Max was present to represent Jonathan's Restaurant

020519-06 Motion made by Richard Dolliver and second by Robert Winn, Jr. to approve the Amusement License Renewal for Jonathan's Restaurant; approved 5-0.

2.3 Perkins Cove Lobster Shack - Malt & Vinous Liquor License Renewal

This application was recommended for approval by the Police Chief, Fire Chief and Code Enforcement Officer.

Jason Evans was present to represent Perkins Cove Lobster Shack.

020519-05 Motion made by Richard Dolliver and second by Robert Winn, Jr. to approve the Malt & Vinous License Renewal for Perkins Cove Lobster Shack; approved 5-0.

2.4 The Front Porch - Malt, Spirituous & Vinous Liquor License Renewal

This application was recommended for approval by the Police Chief, Fire Chief and Code Enforcement Officer.

Scott Vogel was present to represent The Front Porch.

020519-05 Motion made by Richard Dolliver and second by Robert Winn, Jr. to approve the Malt, Spirituous & Vinous License Renewal for The Front Porch; approved 5-0.

2.5 The Front Porch- Amusement License Renewal

This application was recommended for approval by the Police Chief, Fire Chief and Code Enforcement Officer.

020519-06 Motion made by Richard Dolliver and second by Robert Winn, Jr. to approve the Amusement License Renewal for The Front Porch; approved 5-0.

2.6 The Trap - Malt & Vinous Liquor License Renewal

This application was recommended for approval by the Police Chief, Fire Chief and Code Enforcement Officer.

Jason Evans was present to represent The Trap.

020519-05 Motion made by Richard Dolliver and second by Robert Winn, Jr. to approve the Malt & Vinous License Renewal for The Trap; approved 5-0.

3.0 PRESENTATIONS, PROCLAMATIONS, RESOLUTIONS & COMMUNICATIONS

3.1 Ogunquit Sewer District Update - Bill Sawyer, Chairman of Ogunquit Sewer District Trustees

Bill Sawyer, Ogunquit Sewer District Trustee and Chairman, was in attendance for a presentation to the Select Board.

Mr. Sawyer, for the record, expressed his displeasure of the lack of respect and courtesy that was shown to the District tonight for having to stand here and wait

for an hour for the Select Board to do their thing when, he thinks, that it could have been done in a better way. Heretofore, this will be the last time that the District will be presenting in front of the Select Board until such time that they get a formal apology in writing.

Mr. Sawyer introduced his fellow Trustees Helen Horn and Priscilla Botsford; our very capable Superintendent Phil Pickering and the equally capable and professional engineer from Wright-Pierce, Ed Leonard.

Phil Pickering, Superintendent for the Ogunquit Sewer District

The District's Mission:

- Protect the environment by proper wastewater treatment.
- Protect the Town's economic interests.
- Provide sustainable wastewater infrastructure.
- Serve the interest of the Town's current and future wastewater treatment needs.

Adaptation Planning

- Ongoing from 2011 to present, additional reports completed in 2013 and 2014. Hired Wright-Pierce to work through what can to do to protect current assets.
- Ogunquit Wastewater Treatment Facility process and electrical upgrades needed in short-term for reliability.
- Will continue to initiate near-term upgrades.
- Ogunquit Wastewater Treatment Facility appears vulnerable in the long-term and should be relocated out of the flood zone in the next 20 to 30 years.
- Initiate strategic planning and budgeting for eventual relocation.

Adaptation for Current Wastewater Treatment Facility

- Awarded - August 2018.
- Notice to Proceed - September 2018.
- Mobilization - October 2018.
- Substantial Completion - December 2019.
- Progress - Approximately 10% complete.

Ed Leonard, Engineer, Wright-Pierce

- Adaptation Planning for Future Wastewater Treatment Facility Site.
- Several years ago, started process to try to identify sites around town that might be suitable for a Wastewater Treatment Facility.
- Identified over 20 potential sites based on parcel size, after review of criteria needed, narrowed the list down to three sites. Site "C" is the Town Garage off

Captain Thomas Road, Site "Z" is a 10-acre parcel that directly abuts the Town Garage and Site "LM" is Town Transfer Station.

- They are focused on Site "Z".

Sewer Line Upgrades

- Israel Head Road and Stearns Road.
 - Mobilization - October 1, 2019
 - Substantial Completion - November 15, 2019
- Captain Thomas Road
 - District conducted a poll of 33 residents.
 - Only 2 positive responses.
 - District will not extend sewer up Captain Thomas Road at this time.

Bill Sawyer, Chair

- Ogunquit Sewer District is a quasi-municipal organization organized under Chapter 87 of the Private and Special Laws of Maine for the purpose of constructing and maintaining sewer facilities for the Town of Ogunquit and parts of adjoining municipalities. They are not part of the Town Ogunquit but consider themselves as excellent neighbors, 100% committed to the environment of the Town and its natural resources while providing excellent service to our customers at a fair price.

Closing Remarks

- Sewer line extensions and connections.
- No rate increase for 2019.
- Surcharge will be applied.

2019

- No rate increases for 2019.
- Hold public informational meeting on Site "Z" (targeting February 26, 2019).
- Potentially initiate steps to purchase Site "Z" (targeting Spring 2019).
- Complete the on-going Wastewater Treatment Facility upgrades (targeting December 2019).

2020-2040

- Monitor adaptation-related environmental concerns.
- Continue planning efforts for eventual Wastewater Treatment Facility relocation.
- Continue to protect District Infrastructure.

4.0 PUBLIC HEARINGS

4.1 Proposed Amendments to Title V Parking Fees: Beach Passes, Parking Lots, Scooters and Hotel/Motel Guest Permits

The Select Board has had a presentation and workshop to review and discuss the current beach and parking fees. The Select Board would like to hear from the public to get thoughts on the changes. All the fees are open for discussion, but the specific areas which are being considered are Parking Permits (currently the first one is \$35 and the second is \$100). The Select Board is discussing making the following changes:

PARKING PERMITS:

Full Time Residents:

1 st Decal - \$35.00	<u>No charge</u>
2 nd Decal - \$100.00	
Moped/Scooter - \$5.00	<u>No charge</u>

Non-Resident Part Time Property Owner:

1 st Decal - \$35.00	<u>No charge</u>
2 nd Decal - \$100.00	
Moped/Scooter - \$5.00	<u>No charge</u>

PARKING LOTS

Consider charging hourly rates at Upper Lot and Jacobs Lot. Currently there is no charge to park at the Upper Lot (1-hour time limit), or Jacobs Lot (spaces have a 30 minute or 2-hour limit currently.)

Upper Lot

\$3.00 per hour (shoulder season)

\$4.00 per hour (in season)

Parking Violation Charge: \$40.00 Parking Fine

Jacobs Lot

\$3.00 per hour (shoulder season)

\$4.00 per hour (in season)

Parking Violation Charge: \$40.00 Parking Fine

MOPEDS/SCOOTERS/MOTORCYCLES:

Parking - Designated areas only (Main Beach/Footbridge/North Beach & Obeds Lots)

Moped/Scooter	\$5.00	<u>No charge</u>
Motorcycle	\$10/day	

HOTEL/MOTEL (NEPTUNE/NORSEMAN) GUEST PARKING

Consider increasing the current rates of:

\$6.00 per night (Prior to the second Saturday in June & after Labor Day)

\$10.00 per night (From the second Saturday in June through Labor Day)

Staff recommended the following:

\$15.00 per night during the Shoulder Season, currently \$6.00.

\$20.00 per night during the Season, currently \$10.00.

Public Hearing opened at 7:36pm for public comment.

Max Clayton, Leavitt Theatre

- Opposed to the paid parking meters in the Upper Lot and Jacobs Lot.

Bill Sawyer, 58 Grasshopper Lane

- Also Chair of the Budget Committee.
- Visitor Services is presenting their budget tomorrow, this data has not been reflected in their budget. There is no way to really judge if there is a plus or minus associated with this.
- Doesn't feel there is a need for meters in the Upper Lot.

Kirk Lavoie, Glen Avenue

- General comments regarding the increase in rates at the wrong time of year, when there are more residents in town for discussion.

Mary Breen, owner of Bread & Roses Bakery, 246 Main Street

- Very much opposed to charging for parking in Jacobs Lot and the Upper Lot.

Katie Kelly, Norseman Resort

- Stated that Norseman Resort pays about \$15,000 per year (even at reduced rates). Estimates from the Neptune Inn is about \$20,000 per year.
- Commented on the profit margin made by the motels/hotels. Need businesses to succeed in this town, Town should support the local businesses.

- Comments regarding the speaker system and the clock that they had which failed, was asked by the Town (Lifeguard Service) to get a new one for use at the beach.

Jerry Bazata, resident

- Applauded the Select Board for the recommendation of the first decal for residents and non-residents being free. He would like to see them take it one step further and reduce the \$100 fee to \$25 or \$50.
- He asked that they continue the free parking and support our businesses.

Phil Cavaretta, 74 Main Street

- Need to support businesses in the center of town, they have a very short season. We are lucky to have a center of town; a lot of places don't have one and if don't support it we won't have one.

Carol Aaron, 136 Pine Hill Road North

- Commented on the ongoing issue of parking at Main Beach for the Norseman and Neptune Inn for the last 6-7 years with the Budget Review Committee.
- Spoke about an incremental rate this year, not fair to the other businesses in town.

Kurt Knight, Wells Resident

- Spoke about the renovation of Route One and the additional crosswalks, loading zones and parking areas. Only 8 spots on Main Street, Upper Lot is just an extension of Main Street. It works now, if mess with it may not work anymore.
- Lower Lot fees hurts businesses since they charge until 8:00pm now.

Public Hearing closed at 7:57pm.

Selectman Winn

- Comments regarding the history of the parking permit fee for residents and non-residents. Doesn't feel the residents should have to pay for the first pass, but has no problem charging for the second one.
- Comments regarding the Upper and Lower Lots; and regarding the loss of spots on Main Street. Not in favor of charging in Jacobs Lot.
- Commented on the parking at Main Beach for the motels/hotels; needs to be balanced situation.

Selectwoman Mooney

- Comments regarding the Norseman and Neptune Inn; need information to try to figure something out.

- Comments regarding the resident and non-resident, feel there should be no fee for the first one.
- Stated that she was the one that brought up Jacobs Lot but has changed her mind.

Selectman Daley

- Agrees that need more information regarding the Norseman and Neptune Inn, the proposed increase is too significant.
- Feels that the Scooters should be free for property owners but not for people coming in for the day.
- Feels that the first pass should be free.
- Does not agree with charging at the Upper Lot.

Chair Waite

- Agrees with Scooters for residents should be free, but those coming from out of town should be charged.
- As far as Upper Lot and Jacobs Lot, not in favor of this.
- Agrees with Carol Aaron that this has been going for a while. This is a hardship for the businesses there because they don't have the parking, however, do need to start to move the rate up as it is not fair as other businesses are not getting the same opportunity.

Selectman Dolliver

- Comments regarding the "free" idea, stated he was against it. Need to control costs.
- Comments regarding the fees for the Neptune Inn and Norseman, suggested a modest increase.
- Stated that he was against charging in the Upper Lot.

Ray Hamlin, Visitor Services Director

- Mr. Hamlin was present to answer any questions that the Select Board had.
- He presented statistics to the Select Board regarding the usage of the parking lots; and comments regarding the usage by the Norseman and Neptune Inn.

020519-06 Motion made by Charles Waite, III and second by Madeline Mooney to not charge for parking at the Upper Lot and Jacobs Lot; approved 5-0.

Full Time Residents:

1st Decal - ~~\$35.00~~

2nd Decal - \$100.00

No charge

Moped/Scooter - ~~\$5.00~~ No charge

Non-Resident Part Time Property Owner:

1st Decal - ~~\$35.00~~ No charge

2nd Decal - \$100.00

Moped/Scooter - ~~\$5.00~~ No charge

- 020519-07** Motion made by Robert Winn, Jr. and second by Madeline Mooney that the first decal would be free, and the second decal would be \$50.00; 1 (Winn)-4, motion fails.
- 020519-08** Motion made by Charles Waite, III that the first decal remain at \$35.00 and the second decal would be \$50.00; there was no second, so the motion fails.
- 020519-09** Motion made by John Daley and second by Robert Winn, Jr. that the first decal would be free and the second one to remain at \$100.00; 2 (Daley & Mooney)-3, motion fails.
- 020519-10** Motion made by Richard Dolliver and second by Charles Waite, III that the first decal is \$35.00, and the second decal is \$100.00; 2 (Dolliver & Waite)-3, motion fails.
- 020519-11** Motion made by Robert Winn, Jr. and second by Madeline Mooney that for full time and non-residents that the first decal would be free; approved 3-2 (Dolliver & Waite).
- 020519-12** Motion made by Richard Dolliver and second by John Daley that the second decal is \$100.00; approved 5-0.
- 020519-13** Motion made by Richard Dolliver and second by Robert Winn, Jr. that the Scooter Pass is \$5.00 for the season; approved 4-1 (Daley).

HOTEL/MOTEL (NEPTUNE/NORSEMAN) GUEST PARKING

Consider increasing the current rates of:

\$6.00 per night (Prior to the second Saturday in June & after Labor Day)

\$10.00 per night (From the second Saturday in June through Labor Day)

Staff recommended the following:

\$15.00 per night during the Shoulder Season, currently \$6.00.
\$20.00 per night during the Season, currently \$10.00.

- 020519-14** Motion made by Richard Dolliver and second by John Daley that the Town remain at \$6.00 per night (Prior to the second Saturday in June & after Labor Day) and \$12.00 per night (From the second Saturday in June through Labor Day);

Selectman Dolliver rescinded the original motion and replaced it with a new motion and would like to revisit this issue before next year.

- 020519-15** Motion made by Richard Dolliver and second by Madeline Mooney that the Town remain at \$6.00 per night (Prior to the second Saturday in June & after Labor Day) and \$10.00 per night (From the second Saturday in June through Labor Day); approved 5-0.

- 020519-16** Motion made by Robert Winn, Jr. and second by Madeline Mooney to approve the fees as amended by the Select Board at this meeting; approved 5-0.

5.0 APPOINTMENTS & RESIGNATIONS

5.1 Committee Appointments

- a. Budget Review Committee (2nd Alternate)
- b. Performing Arts (2 Full Members, 1st Alternate)

- 020519-17** Motion made by Richard Dolliver and second by Robert Winn, Jr. to table appointments to the Budget Review Committee and the Performing Arts Committee as applicants were not able to be interviewed this evening; approved 5-0.

6.0 UNFINISHED BUSINESS

6.1 Setting the Date for a Recall Election

This item was covered earlier in the meeting by Attorney Jonathan Pottle.

6.2 Communication from Bergen Parkinson, re: Recall Election

This item was covered earlier in the meeting by Attorney Jonathan Pottle.

7.0 NEW BUSINESS

7.1 Consideration of the Police Contract (July 1, 2018 - June 30, 2021)

A member of the Select Board has requested additional information regarding this contract, the information should be available by the next Select Board meeting.

020519-18 Motion made by Robert Winn, Jr. and second by Richard Dolliver to table 7.1, Consideration of the Police Contract; approved 5-0.

7.2 Disposition of Town Owned Property: Bid Award for 2011 Carr Trailer

The Town has a utility trailer that no longer meets the Town's needs and is surplus property. Minimum bid requested was \$200.00. It was advertised and posted, the Town received one bid for \$205.00.

020519-19 Motion made by Richard Dolliver and second by Robert Winn, Jr. to award the bid to Chuck Norcross in the amount of \$205.00; approved 4-0 (Selectman Dolliver had left the room).

8.0 TOWN MANAGER'S REPORT

A public meeting was held about a week or so ago to update the public about the Beach Bathhouse Project. The focus is to get North Beach and Footbridge Beach bathrooms done this year (simultaneously) and continue working on the design for Main Beach so construction can begin in the fall for completion in the spring of 2020.

Last Saturday the Fire Department had an annual mandatory training day. They had 21 people show up, this was a combination of the Call Firefighters and the Professional Firefighters. The Town's safety consultant from MEMIC was also present at the training.

It is budget season, still working away at it. Ms. Finnigan stated that she had put some budget reports at the back table but also reminded people that there is a lot of financial data on the website.

Has received a few inquiries about how much money is being spent on legal fees; year to date the account is a little over \$76,000 with five more months to go. The budget for this was \$80,000.

Ms. Finnigan stated that Kurt Knight has been very busy this winter helping with lights that have been out, particularly on Shore Road. She stated that still doing the work to implement LED lights on Shore Road. She also stated that the lights in Perkins Cove that the town is in control of are all working, the overhead lights are controlled by CMP.

9.0 CITIZEN COMMENTS (For town topics not on the agenda)

The Select Board welcomes public comments and questions about Town-related issues that are not on the agenda. We ask that people keep comments on point and within 3 minutes.

Phil Cavaretta, 74 Main Street

- Question on Obeds Lane parking lot, what is the overnight rate to park there? Would like the Town to consider coming up with a rate for overnight parking in Obeds Lot.

Mark MacLeod, 57 Bayview

- The recall process is complete, the petitions certified by both the Town Clerk and the Town Attorney. At this point the will of the people is that there should have been a recall election scheduled tonight at the latest.
- Two solutions to this, the individuals could withdraw their suit or the three Select Board members could resign and schedule an election where they could run for the office and there would be only one election.

Valerie Kauffman, resident of Ogunquit

- At the last Select Board meeting our Board voted for separate counsel to offer guidance regarding the recall lawsuit. It is her opinion that this is absolutely necessary; town counsel stated that separate counsel might not be a bad thing and we should heed that advice. This has led to an inquiry about the cost of the recall effort, how much will all of this cost the taxpayers? Why don't the petitioners have to bear any of these costs as part of their action? Why do we have to use tax dollars for this open-ended litigation?

Barbara Ferraro, Ocean Heights

- To be clear, it's not just four people, it is concerned citizens of Ogunquit.
- Agreed with the woman that came to the podium at yesterday's meeting about bullying, attacks on personalities and negative posts.
- Applauded Mr. Waite, Mr. Winn, Ms. Mooney and Ms. Finnigan for their continued professionalism at these meetings during this process.
- Read from the Ordinance regarding the Comp Plan and Mr. Wilko's statements at the last meeting.

Pamela Sawyer, 58 Grasshopper Lane

- With due respect to the Town Manager, we have already spent, per the website today, \$89,000 and that does not count Bernstein Shur's retainer for another \$30,000; and we have now hired another firm, Eaton Peabody.
- Agreed with Valerie, this has been a very difficult time for Ogunquit, but stated she loves Ogunquit and would not want to live anywhere else.
- Stated that she was dismayed that this town's government has become the laughing stock of southern Maine and fodder for negative press for every newspaper in southern Maine.
- Comments regarding the utilization of the word "transparency".
- Citizens' sometimes do not have the right to speak or ask questions, should have a mechanism, should be in writing.
- Town warrant articles are voted on by citizens and then not adhered to.
- Yes, we all have differences, no one seems to be willing to honestly discuss the issues and compromise on solutions that are best for the citizens of the Town of Ogunquit.

10.0 OTHER BUSINESS**10.1 Select Board Reports and Announcements****Selectman Dolliver**

- Comments regarding the "Citizens Transparency" web page and attorney fees.

Selectman Daley

- Comments regarding the budget process. Would like more detail on General Government's budget status.
- Police SOP - would like to make sure that they are up to date.

Selectwoman Mooney

- Hopes that the stay that has been ordered by the court gives us a cooling off period, allow them to get work done for the town.
- Stated that she would not resign, that she has not done anything wrong.
- Hoping for an equitable solution.

Selectman Winn

- Would like to focus more on the Town's business.

11.0 ADJOURNMENT

Motion made by Robert Winn, Jr. and second by Richard Dolliver to adjourn the meeting at 9:19pm; approved 5-0.

Respectfully submitted,

Cheryl L. Emery, Administrative Assistant to the Town Manager