



**SELECT BOARD
MEETING MINUTES
FEBRUARY 19, 2019**

WORKSHOP - 5:30PM

A. COMMITTEE INTERVIEW

- Budget Review Committee - The Select Board met with Peter Kahn regarding his application to the Budget Review Committee.

1.0 CALL TO ORDER

Meeting called to order at 6:00pm.

1.1 Roll Call of Members

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

Members absent: Richard A. Dolliver

Others present: Patricia A. Finnigan, Town Manager

1.2 Request by Select Board Member Rick Dolliver to be excused from Select Board Meetings

Motion made by Robert Winn, Jr. and second by Madeline Mooney to excuse the absence of Richard Dolliver from the Select Board meeting; approved 4-0.

1.3 Pledge of Allegiance

The Pledge of Allegiance was recited by some in attendance.

1.4 Select Board Minutes - January 29, 2019

Background on the minutes: This was a Special Meeting that included an Executive Session to meet with the lawyers from Eaton Peabody to discuss the recall process. The Select Board decided to retain Eaton Peabody as Special Counsel to represent the Town regarding any litigation pertaining to the recall process.

Selectman Daley had a comment and suggested revision regarding the Chair's remote interface during the meeting; change to "listen and ask questions during the meeting".

Motion made by Robert Winn, Jr. and second by Madeline Mooney to approve the minutes of the January 29, 2019 Special Meeting of the Select Board as amended; approved 4-0, Dolliver absent.

1.5 Select Board Minutes - February 5, 2019

Motion made by Madeline Mooney and second by John Daley to approve the minutes of the February 5, 2019 Select Board meeting as written; approved 4-0, Dolliver absent.

2.0 PUBLIC HEARINGS: LIQUOR AND AMUSEMENT LICENSES - None

3.0 PRESENTATIONS, PROCLAMATIONS, RESOLUTIONS & COMMUNICATIONS

The Select Board received a letter from Paul Mason thanking the Town for recognizing his 100th birthday and designating January 23, 2019 as Paul Mason Day in Ogunquit.

4.0 APPOINTMENTS & RESIGNATIONS

4.1 Committee Appointments: Budget Review Committee (2nd Alternate)

William Sawyer, 58 Grasshopper Lane

- Stated that he was here to recommend against the appointment of Peter Kahn to the Budget Review Committee. His rationale certainly has nothing to do with Peter's qualifications as he is imminently more qualified than (I) am to be on the committee. He is also a frequent attendee of the Ogunquit Sewer District meetings and has been a positive contributor to those meetings. He stated that his rationale regarding this recommendation is that there is an appearance of a conflict of interest. The Town Charter states that even an appearance of a conflict of interest is just the same as a conflict of interest. In accordance to

the Charter it says, "an appearance of a conflict of interest exists when a reasonable person could conclude from the circumstances that participation would be perceived as inappropriate". He stated that he considers himself a reasonable person, but the fact that Peter is a named plaintiff on a legal action against the Town and we are now going to ask him to make recommendations for the budget for that same Town, considers it inappropriate...bad timing. Again, he stated that Mr. Kahn is more than qualified, but feels that it is the wrong time as these legal proceedings proceed. And since three of the Select Board are also party to that same legal action, that they may even consider it an appearance of a conflict of interest to vote for someone that is a plaintiff in a legal action. Asked that the Select Board reconsider the this before they vote.

Mark MacLeod

- Was asked to read a letter:
"To the Ogunquit Select Board, I respectfully request that this correspondence be read into the record at the Select Board meeting on February 19, 2019. Is it ethical for someone to be appointed to a committee in any capacity if they, as an individual or part of a group, have active or pending lawsuit against the Town of Ogunquit? Thank you, Ben Hershenson"

Chair Waite

- Stated that he had more of a concern about discrimination, we have due process in our town, due process that is dictated by the Charter. The Charter allows for action and then it allows taking it to another level. If that is to court, then that would be the next level. Stated that he personally believes that the due process to Peter and whomever else may be involved, is their right. He stated that he is a little bit concerned, speaking to Bill's concern, that if we do not appoint someone as a result of that then that may look like we are discriminating. Again, I would refer to the Charter, due process has been reached to a point that you can take it to this town or to take it further. Does not see why would reconsider or consider anything but the fact that he is a qualified applicant.

Selectwoman Mooney

- Stated that this is obviously political and does not want to go there. They appointed someone to the Planning Board (5-0) that is part of "Take Back Ogunquit". Does not feel that this is relevant. And to echo what the Chair was saying; our Charter allows for challenges to the process of the recall...does not see it as a conflict.

Selectman Daley

- Stated that he couldn't say it any better than what Bill said, it is just not the right time considering what is going on...maybe down the road.

Selectman Winn

- Stated that he is not an expert on the Constitution, but he firmly believes the Constitution gives the people the right at any one point in time to have legal representation in any situation that they want to. The other thing is, not so sure how this is relevant to the budget of the Town, it has nothing to do with that. Also, if thought of in a deep sense there are numerous numbers of people who, whether being recalled or not recalled, have written letters to the newspaper. There are people on the Planning Board that are part of this recall. There are several situations which could be construed as a conflict of interest. Mr. Kahn has a constitutional right to pursue any legal action, any one of us do. He does not feel that Mr. Kahn as a member of the Budget Committee will be political, he is generally concerned for the Town just as Bill and all of us are.

021919-01 Motion made by Robert Winn, Jr. and second by Madeline Mooney to appoint Peter Kahn as 2nd Alternate to the Budget Review Committee, (term to expire June 30, 2019); approved 3-1(Daley), Dolliver absent.

4.2 Resignation of Tax Collector/Treasurer John Quartararo

John Quartararo has been the Town Treasurer for just over five years. We are very happy for John; he has accepted a wonderful new position to be the Finance Director for the Town of Cape Elizabeth. Thank you to John for your time and efforts and wish you all the very best on behalf of the Select Board.

Bill Sawyer, 58 Grasshopper Lane

- First of all, would like to thank John. As a member of the Budget Review Committee, speaking for the Budget Review Committee, John has made our life a heck of a lot easier than it would have been. He is always available, always responsive, he always gives his time...John you will be missed. We appreciate your time.

Carol Aaron, 136 Pine Hill Road

- Wanted to say good-bye to John, he has been wonderful. Stated that she has never had such a terrific experience working with someone. He is great, he is fun and really hate to see him go. Thank you, John, for all you have done.

021919-02 Motion made by Madeline Mooney and second by Robert Winn, Jr. to acknowledge and accept the resignation of the Town Treasurer and Tax Collector, John Quartararo; approved 4-0, Dolliver absent.

4.3 Appointment of Town Manager as Tax Collector/Treasurer

State law does require that each Town have a Tax Collector, often the Town Manager is appointed as the Tax Collector and Treasurer. The Town Manager will be in a search for a new Tax Collector and Treasurer, but in the meantime the Town needs a person designated as Tax Collector and Treasurer per State law.

Bill Sawyer, 58 Grasshopper Lane

- Mr. Sawyer stated that he had a couple of points, one of which was just one of confusion. Under the Charter, powers of the Select Board, they have the power to appoint and remove the Town Manager, Town Tax Collector, the Town Attorney, Town Assessor, Town Auditor, the Health Officer, the Director of Emergency Management...was wondering why it does not say that they have the power to appoint or remove the Treasurer.
- His second point is relative to the Town Manager, one is of qualification.
- His third point is that he does not know where the Town Manager has the time to do this job as is already the part time Public Works Director. Stated that are a good month behind in the budget process as have had little to review.
- We should be hiring a part-time contractor to interface with John during the next week to take over this job on March 1st.

Town Manager Finnigan

- Stated that she understands where Bill is coming from, the action that is being requested from the Select Board tonight is purely to make sure that there is a smooth transition, there is no skipping of the beat... we can not go without a Tax Collector for even a nano-second. Stated that she will be highly, highly motivated to find someone that could be a qualified Tax Collector and Treasurer. Stated that she has already done some outreach for potential contracted people who could do that and am pleased and proud of our in-house staff. Certainly, Chris Murphy has done this in the past; she certainly has taken on a lot herself, but is more than willing to step up. She and John have already started to debrief on the duties. Also, Cheryl Emery is also very skilled and doing billing and accounts receivables. Just want to assure everyone in the short-term bills will be paid and payroll will be met. This is not something that desire to do, it is legally required which is the only reason we are discussing this tonight. Looks at this as a very temporary, get over the hump, type of appointment.

021919-03 Motion made by Charles Waite, III and second by John Daley to appoint the Town Manager as Tax Collector and Treasurer, effective as of the date the position becomes vacant and the Town Manager will begin a search for Interim Treasurer as soon as possible; approved 4-0, Dolliver absent.

5.0 UNFINISHED BUSINESS - *None*

6.0 NEW BUSINESS

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

The Town has four (4) employee groups represented by labor union contracts. The Public Works, Police Department and Clerical Unit are all represented by the Teamsters (Local 340). The Firefighters are represented by the International Association of Firefighters (IAFF). We also have non-union employees who are governed by the Personnel Policy. Tonight, are being asked to consider a three (3) year contract with the Police Department. The contract did expire last June. The Select Board discussed this at a workshop in January where they reviewed the highlights of the contract.

Town Manager Finnigan reviewed the Police Department responsibilities and the contract details.

021919-04 Motion made by Madeline Mooney and second by Robert Winn, Jr. to approve the three (3) year Police Union Contract, effective July 1, 2018 through June 30, 2021; approved 3-1 (Daley), Dolliver absent.

6.2 River Road Repairs: Authorization to Use Natural Disaster Relief Fund

River Road developed noticeable sink holes last spring. The Public Works Department installed a temporary fix. The Interim Public Works Director, Carol Murray had the culvert inspected by a structural engineer. The Engineer stated that there was significant damage which needed to be addressed. The Federal Emergency Management Agency (FEMA) sent staff to Ogunquit to inspect areas that had been damaged by the March 2018 storms. One of the areas they inspected was River Road. The FEMA staff concluded that some of the structural issues were caused by the severe storms. FEMA is expected to provide approximately \$80,000 to help repair River Road. The Select Board will need to vote to accept those grant funds at a future Select Board meeting. Staff is in the process currently of having an engineer design the specifications to do the needed repairs to River Road and to prepare the bid documents so that we can put this

project out to bid for spring construction. The June 2018 Annual Town Meeting approved \$350,000 in the Natural Disaster Repair Fund to pay for capital repair projects and to repair infrastructure damage from storms last March. Use of those funds requires Select Board approval. Staff is requesting \$115,000.

John Quartararo, Town Treasurer

- The memo that was in the packet and then what was just said by the Chair refers to the Natural Disaster Relief Fund ... there is no such thing. If you are going to make a proper motion, he asked that they use "Natural Disaster Repair CIP Project". That is where that \$350,000 is housed and that is what needs to be used and the Board needs to approve.
- Secondly, the memo that is in the packet states that FEMA is going to replenish, this is a mischaracterization. If the Town spends its money and is reimbursed by FEMA, that money goes back to the General Fund which was the source of the funds for that project. It cannot go back into the CIP Project and be used a second time. On the other hand, if there is a grant award from FEMA, that grant award can be accepted by the Board and then the funds can be used as provided for in the grant itself. If it is a reimbursement it goes back into the General Fund because that was the source of the funding.

021919-05 Motion made by Charles Waite, III and second by Robert Winn, Jr. to authorize the use of up to \$115,000 from the "Natural Disaster Repair CIP Project" fund that was approved at the June 12, 2018 Town Meeting, Article 58, to help fund repairs to River Road; approved 4-0, Dolliver absent.

7. 0 TOWN MANAGER'S REPORT

Town Manager Finnigan stated that have spent a lot of time of the past several months looking at all the damage from the March 2018 storms. Knew they were bad storms, but once really started to look at damage with engineer review, did not realize the depth of subsurface damage. Marginal Way has a lot of work to be done but have several other projects that are in need of repair. Part of the FEMA grants will be to repair the damage but also to be looking toward the future to do mitigation to strengthen the infrastructure projects so that they withstand storms in the future. Dave Riccio, in particular, has been working very closely with Carol Murray our Interim Public Works Director to make sure that they are all identified. FEMA has very particular requirements on how you report things and what you need to document. It is a tedious job but think that it will be well worth the effort. We have well over \$1,000,000 worth of damage with the understanding from FEMA that they will be authorizing/obligating those funds at some point. That is when it

will come back to the Select Board to allow those funds to be used. As you know at Town Meeting people vote to allow you to accept grants, so that would be one of those kinds of grants.

The Special Projects Manager is also looking at a grant opportunity for us to get one or more generators. That is the thing we see when we have storms, there are a number of public facilities that cannot do business because we do not have generator capabilities. If you cannot get gasoline at the Public Works Garage, the Police Cruisers cannot operate, cannot operate equipment to repair the trucks. All those things happen. If General Government cannot operate for a day, most people would not cry, but would like to see their town government in operation so if we had a generator that would be helpful.

Another thing that has been spending a lot of time on is the Bathhouse Project. As of the end of last week a bid package has been put out. All the bid documents are in the hallway at Town Hall, on our website and also advertised in commonly used construction web sites. Thank you to John DeStefano, Project Manager, as well as the work team that has been working with us to provide a reality check about what people want to see when they come to Ogunquit to visit our bathrooms. There will be a site walk on Thursday, February 21st and bids will be due on March 1st. People who miss the site walk can call Cheryl Emery who will schedule appointments for people to meet on site with Darren Dixon our Facilities Manager. The North Beach and Footbridge bathhouses will get underway this spring, opening well before Memorial Day. We are looking forward to that! The design for the Main Beach Bathhouse is also underway.

Town Manager Finnigan answered Lesley Mathews question about PTO (Paid Time Off). Most places have vacation time and sick time and you are locked into those pockets. Some progressive employers, which Ogunquit being one of them, allows employees to have a "pot" of time off which allows people to use their time as they need.

One of the Charter requirements that we are required to fulfill is to provide a mid-year report to the citizens of Ogunquit. The Select Board will be issuing that hopefully pretty soon. Ms. Finnigan stated that she is a little bit behind getting the summary together, so she presented it orally with some highlights. It should be on the website soon. The Town voted for the things and need to know what happened to them. It also prepares them for the June Town Meeting and what kind of things that they might want to see coming up. Of course, we heard tonight that the Budget Review Committee is hard at work. That would be some of those things that would show up as part of the Budget Committee's discussion and of course the Select Board.

Highlights:

- Citizens' voted for amendments to the Shoreland Zoning Ordinance and voted to expand the use of "A-frames".
- The Bike-Ped Kiosk failed.
- The voters supported the appointment and funding of a School Resource Officer.
- One of the focuses of the budget from the Town Manager was that Public Works and Facilities & Parks had the resources to get work done; they have shown that in how they were able to maintain the parks, bathrooms, more work done in the streets, trash collection and all those things that were hot on everybody's list when first got here. Those complaints have dwindled.
- Approved \$100,000 from UDFB for Marginal Way Repairs.
- Approved \$350,000 from UDFB for the Natural Disaster Repair CIP Fund.
- Voters supported the purchase of a Police Cruiser.
- Voters supported the purchase of the "Jaws of Life" for the Fire Department. The Fire Department will be coming to the Select Board soon for the purchase of this item at the next meeting.
- Voters approved the funding of office space at the Fire Department.
- Voters approved the purchase of an ATV and Seabob for the Lifeguard Service.
- Agamenticus Road continues to be a great source of frustration for people; we did receive funding to do some drainage work. Using CMA Engineers to do the drainage design to be able to get the project underway in the next several months. This will have to be a phase project due to the many issues.
- Approval of funding for Dune Ramps at ATM; Public Works has been working on them. Most have been constructed and will be put in place once the weather allows because the Plovers will be showing up any day now.
- Voters approved funding for a Public Works Department Dump Truck and Plow, which was picked up today.
- Voters approved funding for culvert replacement on Captain Thomas Road. This is underway to be designed; it too will have to be a phase project.
- Shore Road Light Head Replacement was approved by the voters; this will allow for new energy efficient LED lights. These have been ordered for installation this spring.
- Voters approved a Work Boat for the Harbormaster; this was approved for purchase by the Select Board. The Harbormaster has been in constant contact with the company that is building that boat. This is scheduled for delivery next month.
- Voters approved a Utility Body for the Facilities & Parks Department; this was a retrofit of an existing pickup truck. For \$15,000 it was retrofit to become a storage site on wheels for supplies to use at the bathrooms.
- Funding was approved for the Beach Bathhouses, which is underway.

- In November one of the major questions was to prevent people and dogs from intruding on the dunes, the voters did approve increase in fines. Currently are in the process to get signs made and put up.
- Amendments to the Business Registration Ordinance process were approved in November. This was done to streamline the process.

8.0 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.

Peter Kahn, Tern Street

- Comments regarding filing in December of a number of challenges to the recall petition and the public hearing.

Mary Buck, Pine Hill Road

- Comments regarding letter to Editor in the Seacoast Star from John Daley; responded to the letter.

Barbara Ferraro, Ocean Heights

- Stated that she agrees with John Daley regarding fiscal responsibility and hopes that he brings that to the Budget Committee.
- Comments regarding anonymous letters received (7) and Facebook® posts.

Mark MacLeod, 57 Bayview

- Comments regarding comments made by Selectwoman Mooney at the last meeting of the Select Board.
- Comments regarding the recall and the lawsuit.

Carol Aaron, Pine Hill Road

- Comments regarding the participation of a member of the Budget Review Committee being involved in Union Negotiations.

Elaine Cooper, Spring Street

- Comments regarding the recall.
- Comments regarding changes to ordinances to allow for gasoline and food at the beaches.

9.0 OTHER BUSINESS

9.1 Select Board Reports and Announcements

Selectman Daley

- Comments regarding the Special Projects Manager; understands that his contract was extended. Should have a meeting to discuss this position, it is now the highest paid person in town, more than the Fire Chief and Police Chief. Should discuss what this is going to do, do we want to make it permanent, should really have a discussion about this. Would like to see this on the agenda in a month or two.

Selectwoman Mooney

- Stated that she likes the last two ideas (Elaine Cooper) to get the town talking about the beach, services at the beach especially.
- Commented on the letter Selectman Daley wrote that was in the paper and his social media posts. Comments about ethics and disparaging remarks that have been made.

Selectman Winn

- Comments regarding the Bathhouse Committee and the process, going very well.
- Comments regarding anonymous letter received when he was running for office.
- Appreciates what has been done this year but would like to do more of the town's business.

Chair Waite

- Comments regarding Selectman Daley's letter to the Editor and the workshop with Attorney Mary Costigan.
- This is hard times for this town, would like to see it repair itself.
- Comments regarding what has been done, would like to see more done.
- Thanked all who have been supportive of him.
- Commented on the budget for legal expenses.
- Thanked Town Manager Pat Finnigan.

10.0 ADJOURNMENT

Motion made by Robert Winn, Jr. and second by Madeline Mooney to adjourn the meeting at 7:45pm; approved 4-0, Dolliver absent.

Respectfully submitted,

Cheryl L. Emery, Administrative Assistant to the Town Manager