



**SELECT BOARD
MEETING MINUTES
OCTOBER 1, 2019**

1.0 Call to Order

Meeting called to order at 6:01PM.

1.1 Roll Call

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

Members absent: John M. Daley
Lindsey M. Perry

Motion made by Robert Winn, Jr. and second by Madeline Mooney to excuse the absence of Lindsey Perry from the October 1st Select Board meeting; approved 3-0.

Motion made Robert Winn, Jr. and second by Madeline Mooney to excuse the absence of John Daley from the October 1st Select Board meeting; approved 3-0.

Others present: Patricia A. Finnigan, Town Manager

1.2 Pledge of Allegiance

The Pledge of Allegiance was led by Chairman Waite.

2.0 Meeting Minutes

2.1 August 20, 2019

2.2 September 3, 2019

2.3 September 10, 2019

2.4 September 17, 2019

2.5 September 24, 2019

Motion made by Madeline Mooney and second by Robert Winn, Jr. to table the minutes to the next meeting of the Select Board; approved 3-0, Daley and Perry absent.

3.0 Public Hearings - Liquor & Amusement

Public Hearing opened at 6:04pm.

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

Public Hearing closed at 6:04pm.

There were no comments or questions from the Select Board.

3.1 Beachfire - *Malt, Spirituous & Vinous Liquor License Renewal Application*

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

Jared Laflin was in attendance to represent Beachfire.

100119-01 Motion made by Robert Winn, Jr. and second by Madeline Mooney to approve the Malt, Spirituous & Vinous Liquor License Renewal Application for Beachfire; approved 3-0, Daley and Perry absent.

3.2 Five-O Shore Road - *Malt, Spirituous & Vinous Liquor License Renewal Application*

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

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

100119-02 Motion made by Madeline Mooney and second by Robert Winn, Jr. to approve the Malt, Spirituous & Vinous Liquor License Renewal Application for Five-O Shore Road; approved 3-0, Daley and Perry absent.

4.0 Presentations, Proclamations, Resolutions & Communications

4.1 Parks & Recreation Committee Update - Michelle Low and Jason Corbin

The Parks & Recreation Committee had a very active and very successful summer and they are gearing up for an equally active fall and winter. The Select Board is very grateful to the Chair, Michelle Low and Vice Chair, Jason Corbin for all their efforts for getting volunteers involved in the community.

Jason Corbin was in attendance to review the summer activities:

- Welcomed new members Ian and Larry.
- BonAire was successful on day one, but got rained out on day two.
- Movie nights at the Leavitt Theatre.
- Music in the Park - 13 bands for the summer season.
- Working on the Music in the Park series for 2020
- Suggested a part time position to put these events together.
- Sand Castle Contest - 45 entries, great day.
- Drifter's event, 2 shows, 450 in attendance (combined).
- Special thanks to the Chamber of Commerce and the Fire Company.
- Thank you to the Select Board, Town Manager, Maintenance Department (Darren), Police Department and Visitor Services.
- OgunquitFest is coming up, Trick or Treat in the downtown; there is a parade scheduled, movie, pumpkin carving and costume contest.
- Working on the 40th Anniversary Committee.
- Tennis Courts and Pickleball.

4.2 *Communication: York County Sheriff's Office Report - Mid-Year Review 2019*

The York County Sheriff's Office has published a report which has been included in the agenda packet. It is important to note that this report encompasses the first two quarters of 2019 (January - June). Sheriff King and his department seem to be quite busy.

5.0 **Appointments & Resignations** - None

6.0 **Unfinished Business** - None

7.0 **Town Manager's Report**

Town Manager Finnigan reported on:

- Thanks to all that came to the public meeting to discuss the Main Beach Bathhouse.
- The Main Beach Bathhouse project is proceeding; bid documents on the town web site.

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- Held meeting with local contractors regarding the Main Beach Bathhouse Project.
- LED Energy Efficient lights are being installed on Shore Road.
- Working on Agamenticus Road project.
- OgunquitFest will be held at the end of this month, banners to go up this week.
- Annual Piano Festival this weekend.
- Received inquiry about open comment period and whether the Select Board rules are appropriate in limiting people’s ability to endorse candidates. This issue was reviewed by the Town’s attorney.

8.0 New Business

8.1 Public Hearing: Shellfish Conservation Commission Recommendations - Sale of Clam Licenses for FY 2019-2020

Public Hearing opened at 6:34pm.

George “Chip” Cundiff, Chair of the Shellfish Conservation Commission, was in attendance to answer questions.

1. The Ogunquit Shellfish Committee is requesting the Select Board to consider the following 2019-2020 Clamming Season proposal and approve.
2. The following schedule and allocation is based on a Clam Flat Site Survey conducted on September 15, 2019. Areas A & B continue to flourish and Area C is ready for harvesting after having been closed for three seasons.

Clam Digging Schedule (Enclosure 1)

Opening date: November 9, 2019

Closing date: March 31, 2109

Total of 28 days

Map of open/closed areas (Enclosure 2)

Clam Flat Area: Foot Bridge to Beach Street Bridge

Divided into three areas:

2019-2020	2018-2019
Area A Open	Area A Open
Area B Open	Area B Open
Area C Open	Area C Closed

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Clam License Allocations and Cost

	2019-2020		2018-2019		Sold	Revenue
Resident/Town Employee	80	\$35.00	80	\$35.00	34	\$1,190
Non-Resident	15	\$70.00	15	\$70	15	\$1,050
Resident (65 & older)	15	Free	15	Free	15	\$0
Non-Resident (65 & older)	2	Free	2	Free	2	\$0
One-day Permits (Each day)	25	\$15.00	25	\$15.00	296	\$4,440
Total						\$6,680

Youth Day, March 15, 2020

Children 12 years old and younger can dig one peck of clams without a license when supervised by a licensed digger. Example: The licensed adult brings 5 children. The licensed adult can dig one peck and the 5 children can dig one peck together.

License Sales

Licenses will be available in the Dunaway Community Center Recreation Room on November 1, 2019 and at the Town Clerk's Office starting on November 4, 2019 and will continue to be sold Monday-Friday 8:00AM-4:00PM. One-Day Permits will be available for purchase from a Clam Warden starting one hour prior to low tide each day in the Footbridge Parking Lot during scheduled dig days.

Mr. Cundiff stated that they are looking for new members for the Shellfish Conservation Commission.

The following spoke regarding this agenda item:

- Richard Dolliver, 331 Shore Road

Public Hearing closed at 6:41pm.

Select Board comments:

- Selectwoman Mooney

100119-03 Motion made by Robert Winn, Jr. and second by Madeline Mooney to accept the Shellfish Conservation Commission recommendations for the 2019-2020 season, including the dates, areas for harvesting,

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number of licenses to be issued and license fees; approved 3-0, Daley and Perry absent.

8.2 Public Hearing: FY 2018-2019 Year End Interdepartmental Transfers/Budget Reconciliation

Public Hearing opened at 6:44pm.

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

Public Hearing closed at 6:45pm.

Select Board comments:

- Selectwoman Mooney

According to Article V Section 504 "Revenues and Expenditures" of the Town Charter, the Select Board has the authority to transfer appropriations between departments provided the total budget approved by the Town Meeting is not exceeded. The Select Board can authorize inter-departmental transfers up to \$25,000 to any one department if necessary to reconcile and balance the department budget. Total transfers between departments cannot exceed 1% of the total municipal operating budget.

If a transfer to any one department exceeds \$25,000 it must be approved by the Town Meeting. There is one transfer which falls within this requirement. The Select Board has approved a Town Meeting article to address the over expenditure of \$75, 909.64 in the General Government budget that was due to legal service expenses.

Treasurer Mandy Grenier has requested that the Select Board review and approve the transfers outlined below to balance the budgets of four departments. These amounts are less than \$25,000; the total amounts to \$39,822.10, which is below the 1% of the total municipal operating budget as required by Charter.

Acct/Dept	Over-Expended Amount	Transfer from Acct/Dept
414 Land Use	\$19,754.52	450 Facilities
425 Lifeguard Service	\$3,783.66	422 Fire Department
430 Utilities	\$15,389.42	450 Facilities
465 Plover Management	\$894.50	451 Conservation

100119-04 Motion made by Robert Winn, Jr. and second by Madeline Mooney to approve the Transfers as recommended by the Town Treasurer to balance the department budgets which were over-expended in the total amount of \$39,822.10; approved 3-0, Daley and Perry absent.

8.3 Public Hearing: November 5, 2019 Special Town Meeting Warrant

Public Hearing opened at 6:47pm.

Article 4: Shall a Charter Commission be established for the purpose of revising the Municipal Charter or establishing a New Municipal Charter?

There were no comments or questions from the public.

Article 5: Shall the Municipality approve the Amendment to the Town Charter, Article VIII, Boards, Committees and Commissions, Section 804, Recall of Elected Officials" as follows: *[Note: the proposed amendment is **bold and underlined**]*

Any elected official may be recalled and removed from office by the registered voters of the Town as herein provided, **if the official has been convicted of a crime, the conduct of which occurred during the official's term of office.**

The following spoke regarding this agenda item:

- Richard Dolliver, 331 Shore Road

Article 6: Shall the Town approve the Transfer of \$75,909.64 from the Unassigned Fund Balance to the 2019 General Government budget to fund the over expenditure in that budget due to Legal Services costs?

There were no comments or questions from the public.

Article 7: Shall the Town appropriate a sum not to exceed \$10,919 from the Unassigned Fund Balance to the Marginal Way Committee budget for the Erosion Control and Restoration Projects?

There were no comments or questions from the public.

Article 8: Shall the Town (1) vote to approve the Reconstruction and Expansion of the Main Beach Bathhouse and Lifeguard Station (the "Project");

(2) appropriate a sum not to exceed \$700,000 to provide for the costs of the Project; and (3) to fund said appropriation, authorize the Treasurer and Chairperson of the Select Board to issue general obligation securities of the Town of Ogunquit, Maine (including temporary notes in anticipation of the sale thereof) in an aggregate principal amount not to exceed \$700,000; and (4) delegate to the Treasurer and the Chairperson of the Select Board the authority to fix the date(s), maturity(ies), interest rate(s), call(s) for redemption, refunding of said securities, place(s) of payment, form, and other details of said securities, including execution and delivery of said securities on behalf of the Town of Ogunquit, and to provide for the sale thereof?

There were no comments or questions from the public.

Public Hearing closed at 6:52pm.

There were no comments or questions from the Select Board.

8.4 Public Hearing: Adoption of MMA General Assistance Ordinance Appendixes A-F and Appendix H as part of the Ogunquit General Assistance Ordinance (Title II)

Public Hearing opened at 6:52pm.

There were no comments or questions from the public.

Public Hearing closed at 6:53pm.

There were no comments or questions from the Select Board.

Appendix A - GA Overall Maximums: is a listing of the overall maximum levels of assistance pertaining to all municipalities in Maine. These maximum levels are used to determine an applicant's eligibility for General Assistance. The difference between the applicant's household income and the maximum level of assistance is what they are eligible to receive in assistance from the municipality.

Appendix B - Food Maximums: is the maximum amounts allowed for food as established in accordance with the U.S.D.A. Thrifty Food Plan.

Appendix C - GA Housing Maximums: is the listing of the maximum levels of assistance for housing (both heated and unheated). These maximum levels were developed by MMA using HUD Fair Market Rent values that include utility costs.

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Again, once eligibility has been determined, this appendix is used to calculate funding for housing assistance.

Appendix D - Utility Maximums: The maximum amounts allowed for utilities, for lights, cooking and other electric uses.

Appendix E - Heating Fuels: The maximum allowed for heating purposes.

Appendix F - Personal Care Items: The maximums allowed for non-food items.

Appendix H - Funeral Maximums: The maximum amount of assistance allowed for the purpose of burials or cremations.

A copy of the 2019-2020 General Assistance Ordinance, Appendices A- F and Appendix H, is on file in the Town Clerk's Office for public inspection.

100119-05 Motion made by Madeline Mooney and second by Robert Winn, Jr. to adopt the Maine Municipal Association General Assistance Ordinance Appendices A-F & Appendix H as part of the Ogunquit General Assistance Ordinance (Title II); approved 3-0, Daley and Perry absent.

8.5 Dunelawn Homeowner's Association - Revocable License Agreement Modification Request

The Revocable License Agreement of September 5, 2017 is by and between the Town of Ogunquit and Dunelawn Homeowners Association. The Agreement is for the reconstruction of a retaining wall along the common property line of Hoyts Lane and Dunelawn Homeowners Association.

Subsequent to the execution of the aforementioned License Agreement, Dunelawn Carriage House Owners have requested one modification to the approved plan. Carriage House Owners are directly impacted by the Hoyts Lane wall reconstruction project as the four unit structure known as "Carriage House" backs up to the retaining wall.

The present approved plan shows the replacement stockade fence being mounted on the top of the replacement wall. This design not only places the reconstructed wall closer to the rear of the units but also the stockade fence. The Carriage House Owners' have indicated that the placement of the stockade fence closer to the units will present a significant hardship on the use and enjoyment of their units as it will significantly reduce daylight and air flow from the current location of the fence.

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Therefore, we respectfully request that a modification to the plan and the License Agreement be approved by the Selectmen. The modification to the plan would allow for the stockade fence to remain in its current location (albeit replaced by a new vinyl fence). This modification, if approved, requires a simple amendment to the License Agreement which would reference the approval and include the attachment of the September 7, 2019 plan, copy attached. The attached plan labeled "proposed plan" displays the replacement wall as previously approved by the Selectmen and proposal for the replacement vinyl stockade fence being placed in the current location of the stockade fence.

This request was made by Dunelawn to the Town some months ago. The request was accompanied by one or more letters from the Carriage House unit owners expressing in detail, they're potential hardship. The request was reviewed by the Interim Public Works Director, Carol Murray. Ms. Murray expressed her opinion as not having a problem with the request. The New Public Works Director, Tom Torno, also reviewed this project and had no issue with it.

There were no comments or questions from the public.

100119-06 Motion made by Robert Winn, Jr. and second by Madeline Mooney to approve the request from Dunelawn Homeowner's Association for the modification to the Revocable License Agreement as presented; approved 3-0, Daley and Perry absent.

8.6 Establish an Owner's Construction Team for the Main Beach Bathhouse and Lifeguard Station Project

At the last meeting concerns had been raised regarding the new Footbridge and North Beach Bathhouses, specifically unexpected construction costs and problems with some of the toilets and faucets not working consistently after the bathhouse were opened. Some have heard that the bathhouses are delightful. Chair Waite had recommended that the Select Board establish an "Owners Construction Team" to provide financial, construction, quality and overall project oversight to ensure the Main Beach Bathhouse and Lifeguard Station Project stayed on track. As approved by the Select Board the team would fulfill the following functions:

1. Report on the project management.
2. Address aesthetic considerations of the project.
3. Evaluate the work of the Construction Manager, General Contractor and the Sub-contractors.
4. Monitor the project finances to ensure that the project stayed within the approved budget.

This will be a small committee to allow it to operate efficiently. It makes sense to have people that have project management, financial, construction and quality control experience. Having Select Board members, Budget Review Committee members and staff would be an appropriate start. It is anticipated that this committee shall be comprised of five people.

There were no comments from the public.

Select Board comments:

- Selectwoman Mooney
- Selectman Winn

100119-07 Motion made by Madeline Mooney and second by Robert Winn, Jr. to establish an "Owners Construction Team" for the Main Beach Bathhouse to provide oversight to the Town Manager, the Select Board and the public on a regular basis, and that the members be two (2) from the Select Board, two (2) from the Budget Review Committee, namely Bob Winn, John Daley, Tom Sellers and Peter Kahn; approved 3-0, Daley and Perry absent.

Chair Waite asked that this be included on the next Select Board agenda.

Chair Waite asked for a motion to amend the agenda with "8.7 FY 2019-2020 Tax Rate Revision".

8.7 FY 2019-2020 Tax Rate Revision

100119-08 Select Board action to revise the tax mil rate and to set the overlay for the 2019-2020 Fiscal Year, motion made by Robert Winn, Jr. and second by Madeline Mooney; approved 3-0, Daley and Perry absent.

Town Manager Finnigan explained the issue requiring the Select Board to revise the Tax Rate.

The following spoke regarding this agenda item:

- Richard Dolliver, 331 Shore Road

Select Board comments:

- Selectman Winn
- Selectwoman Mooney

100119-09 Motion made by Charles Waite, III and second by Madeline Mooney to set the 2019-2020 tax mil rate at \$8.13 per thousand with an overlay amount of \$49,468; approved 3-0, Daley and Perry absent.

9.0 Citizens 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.

Comments and/or questions from the following:

- Nancy DiCarlo, Seafarer Condominium Association, 35 Main Street - regarding lighted pedestrian crosswalk sign for Route One.
- Rebecca Fox, 21 Marginal Avenue - regarding the ORA Environmental Event held on September 27th and ORA Candidates Night.
- Peter Kahn, 3 Tern Street - regarding Ogunquit Residents Alliance (ORA).
- Rick Dolliver, 331 Shore Road - regarding public comments and free speech.
- Ben Hershenson, Myrtle Circle - regarding candidates' night.
- Heath Ouellette, Meadow Lane - regarding division in the town.

10.0 Other Business

10.1 Select Board Reports and Announcements

- Selectman Winn - regarding the (smoothness) meeting.
- Selectwoman Mooney - regarding the mediator for the town and 1st Amendment Rights.
- Chair Waite - regarding the Police Department Color Guard at the Red Sox game, thank you; and also thank you to all Police, Fire, Public Works and all staff.

11.0 Adjournment

Motion made by Robert Winn, Jr. and second by Madeline Mooney to adjourn the meeting at 7:30pm; approved 3-0, Daley and Perry absent.

Respectfully submitted,

Cheryl L. Emery, Administrative Assistant to the Town Manager