



**SELECT BOARD
MEETING MINUTES
SEPTEMBER 4, 2012**

1.0 CALL TO ORDER – 6:00PM

Members present: Barbara Dailey, Chair
David Barton, Vice-Chair
John Daley
Christopher Jarochym
Robert Winn, Jr.

Others present: Thomas A. Fortier, Town Manager

2.0 PLEDGE OF ALLEGIANCE

Selectman Winn led the Pledge of Allegiance.

3.0 REQUEST TO APPROVE SELECT BOARD MINUTES

3.1 August 21, 2012 – minutes of the August 21, 2012 Select Board meeting were approved as amended.

4.0 TOWN MANAGER'S REPORT

Happy first day of school; summers' over and it has been a record summer. It has been really busy all summer (trash, bathrooms, Police) with the amount of people that are served in Ogunquit. It is remarkable how uneventful it is...in translation, a great job, kudos to all staff.

Just a reminder, the town is streaming online. Also as a reminder, need to speak into the microphones to be heard.

Capriccio starts this week sponsored by Ogunquit Performing Arts, thank you to all the volunteers on that committee. The Kite Festival is on September 8th, thank you to Tracy from the Camera Shop for all the time and effort she puts into Kite Festival.

On Thursday, October 4, 2012 is the next Maine Department of Transportation meeting regarding the Route One project. Notices will be posted by MDOT. The notice outlines re-establishing the Right-of-Way. The plan should be at 60% complete at this meeting.

Police Department stepped up on Liquor compliance this past weekend; no major violations.

On September 18th we will be working towards a paperless agenda. The Select Board will be working on computers at the meeting.

Ogunquit Sewer District will be holding a workshop here at Dunaway Community Center on September 27, 2012 on their findings regarding recent study of "Adaptation Options to Protect the Ogunquit Sewer Treatment Plant against Floods, Storm Surges and Sea Level Rise".

On September 29, 2012 there will be a "Drug Take-back Program" at the Transfer Station. There is also a dispenser located downstairs to drop off unwanted medicines.

Bank of America will be removing the jersey barriers this week.

Dispatch Services – the transition with Wells went well, ongoing procedure is going very good. The town received significant savings.

5.0 PUBLIC INPUT

There was no public input at this time.

6.0 APPOINTMENTS, RESIGNATIONS, PROCLAMATIONS, RESOLUTIONS

6.1 Committee Resignation – *Ogunquit Performing Arts*

To accept the resignation of a member of the Performing Arts Committee

Chairwoman Dailey stated that Lisa Crothers had submitted her resignation as a member of the Performing Arts Committee.

7.0 PUBLIC HEARINGS, PRESENTATION

Motion made by Robert Winn and second by Chris Jarochym to open the Public Hearing at 6:11pm; approved 5-0.

7.1 Public Input - Proposed Use of Vacant Land Use Building & Property

To allow public comments and questions regarding the proposed use of the vacant Land Use Building & Property.

Selectman Jarochym revisited the presentation that was given at the last meeting of the Select Board.

Selectman Winn reviewed the original set of plans, Phase II of the Dorothea Jacobs Grant Common. He stated that the Board should honor the plans.

Public comment by:

Bob LeBlanc – 106 Main Street, abutter to the property

Jeanette Wall, 69 Obeds Lane

Wendy Levine, 85 Obeds Lane

Bob Tosi, 108 Main Street, Inn at Tall Chimneys

Selectman Jarochym thanked all that attended; the Infrastructure Committee will clarify some issues that were brought up.

Jeanette Wall questioned the procedure about notification of abutters regarding the project.

- 7.2 Proposed Warrant Articles for the November 6, 2012 Special Town Meeting
To allow public comments and questions on proposed articles to be placed on the Warrant of the November 6, 2012 Annual Town Meeting:

1. Perkins Cove Bridge Repairs - \$25,000

Shall the Town vote to expend up to \$25,000 from the Undesignated Fund Balance for the repairs and maintenance to the Perkins Cove Drawbridge?

There were no comments or questions from the public.

2. Land Use Building – Proposed Demolition

Shall the Town vote to demolish the former Land Use Offices located at 102 Main Street to convert the area into an open space park?

Public comment by:

Bob LeBlanc, 106 Main Street

3. Public Works Facility Location – Transfer Station Complex, Berwick Road

Pursuant to the approval of the voters for the bonding of the Public Works facility, do you favor the recommendations of the Infrastructure Committee to locate said facility at the Transfer Station complex located off Berwick Road on Spring Street? [Note: Voters approved the bonding of \$790,000 at the Annual Town Meeting held on June 12, 2012 – Article #49].

Public comment by:

John Mixon – 26 Vinton Road

Sandy Broomfield – 116 Berwick Road

Leonard Wyman – 368 Berwick Road

4. Amendment to Title VII – Animal Control Ordinance

Shall an ordinance entitled “An Ordinance to Amend Title VII of the Ogunquit Municipal Code (Animal Control Ordinance) Chapter 2, Section 207 be enacted? [Note: Proposed new language is underlined].

ADD:

Section 207 - Prohibitions of Animals in Parked Vehicles

No person shall leave an animal in a parked vehicle in the Town of Ogunquit for more than fifteen (15) minutes from April 1 to September 30. Any animal found that has been left in a parked vehicle for more than fifteen (15) minutes shall be impounded by an authorized police or animal control officer. Violations of this ordinance shall require a fine of no more than \$100 to be paid to the Town of Ogunquit before the animal is returned to the owner. Additional fees for retrieval, transport and storage of the animal may be imposed.

Sergeant Shawn Fahy was in attendance to respond to questions regarding the proposed ordinance.

Sergeant Fahy stated that the intent was to clarify, make it easier for the Police Department to respond. According to state law the animal would have to show “distress”.

Public comment by:

Wendy Levine - 85 Obeds Lane
Ben Hershenson - 3 Myrtle Circle

5. Amendment to Title VI – Bicycle and Other Wheeled Goods Ordinance

Shall an ordinance entitled “An Ordinance to Amend Title VI of the Ogunquit Municipal Code (Bicycle and Other Wheeled Goods Ordinance) Chapter 2, Section 201.5 be enacted? [Note: Proposed new language is underlined].

ADD:

Section 201 – Operations

Section 201.5A person under 16 years of age who is the operator or a passenger of a wheeled good or an operator of roller skis on a public roadway, public sidewalk, public parking lot or a public bikeway shall be required to wear a CPSC approved helmet of good fit, positioned properly and fastened securely upon the head by a helmet strap.

There were no comments or questions from the public.

6. Amendment to Title VI – Bicycle and Other Wheeled Goods Ordinance

Shall an ordinance entitled “An Ordinance to Amend Title VI of the Ogunquit Municipal Code (Bicycles and Other Wheeled Goods Ordinance) Chapter 2, Section 204.3 be enacted? [Note: Proposed new language is underlined].

204 Prohibitions

ADD:

Section 204.3A person shall not operate a wheeled good on any public roadway, sidewalk or parking lot after daylight hours. Bicycles are permitted to be operated after daylight hours providing they use a front light that emits a white light visible from at least 200 feet to the front, an amber light or reflector on the rear and reflector material on the pedals.

There were no comments or questions from the public.

7. Amendment to Title VI – Bicycle and Other Wheeled Goods Ordinance

Shall an ordinance entitled “An Ordinance to Amend Title VI of the Ogunquit Municipal Code (Bicycles and Other Wheeled Goods Ordinance) Chapter 2, Section 204.4 be enacted? [Note: Proposed amendment is underlined].

204 Prohibitions

AMEND:

Section 204.34 Any person convicted of a violation of this ordinance shall be liable to a penalty of not more than twenty-five dollars (\$25) and may suffer in the sound discretion of the court forfeiture of his interest in the wheeled good in question to the Town of Ogunquit for disposition in such a manner as the court may direct. Any person charged with violation of this ordinance is subject to immediate seizure of the wheeled good until final court disposition or fine payment is made.

Public comment:

Lesley Mathews – 13 High Ridge Lane

John Mixon – 26 Vinton Road

Mary Ross – 184 Highland Avenue

8. Charter Amendment to Article 1, Section 102 – Powers of the Town

Shall the Town vote to approve the proposed Charter amendment printed below? [Note: Proposed amendment is underlined.]

Article 1 – Section 102 - Powers of the Town

102.6 *Lay out, construct, reconstruct, alter, maintain, repair, control and operate roads, streets and ways, sidewalks, Marginal Way, public parks and beaches, public walks, public parking lots, and public wharves and buildings.*

Summary: Marginal Way was removed in 2008 Charter revision. It was always specified in the past Charters and should be reinserted due to its distinct characteristic.

There were no comments or questions from the public.

9. Charter Amendment to Article 3, Section 308.2 – Quorum and Voting

Shall the Town vote to approve the proposed Charter amendment printed below? [Note: Proposed amendment is underlined. Language proposed to be removed is indicated by a ~~strikeout~~.]

Article 3 – Section 308.2 – Quorum and Voting

308.2.3 *Each Board member in attendance shall vote on all issues and questions presented for a vote except when a valid conflict of interest or appearance of a conflict of interest clearly exists. ~~If any member does abstain from a vote, other than because of a recognized conflict of interest, he or she shall be considered to have cast a vote in the affirmative and the record shall so show.~~ Members in attendance will vote in one of the following responses; “in favor”, “against”, or “present”. A member voting “present” will be considered to be part of the necessary quorum. The record will show votes “in favor”, “against”, and “present”.*

Summary: Member should have the opportunity and right to vote “present” for reasons of lack of enough information or having no opinion.

There were no comments or questions from the public.

10. Charter Amendment to Article 312 – Removal of An Independent Election Committee Shall be Judge of Elections and the addition of Select Board Shall Judge of Elections

Shall the Town approve the proposed Charter amendment printed below? [Note: Proposed amendment is underlined. Language proposed to be removed is indicated by a ~~strikeout~~.]

Article 3 -

REMOVE:

~~Section 312 AN INDEPENDENT ELECTION COMMITTEE SHALL BE JUDGE OF ELECTION ELECTIONS~~

~~312.1 The Town Clerk shall convene and swear in an independent committee of three citizens, to be known as the Election Committee, to resolve all disputed and challenged ballots in elections for municipal office where there are enough challenged or disputed ballots to affect the result of the election. It shall have the power to subpoena witnesses and require the production of records. The Election Committee shall determine the result of the election as soon as reasonably possible and certify that result to the Town Clerk. The decision of the Election Committee shall be subject to court review pursuant to applicable law.~~

~~312.2 The Election Committee shall consist of three registered voters of Ogunquit; one Democrat, one Republican, and one who is not registered as either a Democrat or Republican.~~

~~312.3 Candidates for the Election Committee positions shall submit their names to the Town Clerk who shall place them on the ballot at the Annual Town Meeting. The three candidates (Democrat, Republican and one who is not registered as either a Democrat or Republican) who receive the highest vote in each category will be declared the winner and serve as a member of the Election Committee until the next Annual Town Meeting.~~

Article 3 -

ADD:

SECTION 312 SELECT BOARD SHALL BE JUDGE OF ELECTIONS

The Select Board shall decide any disputes as to elections or the eligibility of those elected as Municipal Officials. It shall have the power to subpoena witnesses and require the production of records. The decision of the Board in any such case shall be subject to court review under appropriate Maine statutes, hereafter referred to as the "Board" unless otherwise noted.

Summary: It is recommended that the Town revert back to the Select Board acting as judge of elections as no one has taken out papers for this position, resulting in a "failure to elect," since the

Independent Election Committee was approved in April 2008.

There were no comments or questions from the public.

Motion made by Robert Winn and second by David Barton to close the Public Hearing at 7:44pm; approved 5-0.

8.0 ADMINISTRATIVE ITEMS – UNFINISHED BUSINESS

8.1 Update of New DPW Building – *Selectman Jarochym* Review of project to date and project timelines

Selectman Jarochym stated that over last couple of weeks they have working as a committee to review the Transfer Station traffic. Gorrill Palmer completed the traffic study last week and is in the process of compiling the data.

Septic system assessments have been done at the Transfer Station property and have identified an acceptable septic system for that property.

In the process of compiling the raw data taken regarding the traffic study on Captain Thomas Road.

Stillman Bradish presented proposed blueprints of the new building; these will need to be reviewed and signed off by an engineer.

Stillman Bradish is working with Post Road Survey on the site plan.

Code Enforcement Officer Lempicki has been working with the Maine DEP on the setbacks and footage of the property.

The next meeting of the committee will be Friday, September 7, 2012.

9.0 ADMINISTRATIVE ITEMS – NEW BUSINESS

9.1 2012-2013 Tax Rate – *Chairwoman Dailey* To set the mil rate and overlay for the 2012-2013 Fiscal Year

Chairman Dailey reviewed tax rate calculations with a slide presentation.

Motion made by David Barton and second by Robert Winn to open a public session at 8:06pm; approved 5-0.

There were no comments or questions from the public.

Motion made by Robert Winn and second by David Barton to close the public session at 8:06pm; approved 5-0.

090412-01 Motion made by John Daley and second by Robert Winn to set the mil rate at 0.00731 with an overlay of \$23,161.28 for the 2012-2013 Fiscal Year; approved 5-0.

(**Note:** Taxes to be collected = \$9,513,164.04; based on a Taxable Valuation of \$1,301,390,430)

9.2 North Village Road RFP – Thomas A. Fortier, Town Manager

To review and award the contract for the Reclamation of North Village Road

Three bid documents were received:

Libby-Scott	\$193,469.40
Pike Industries	\$201,826.30
Dayton Sand & Gravel	Elected not to bid on the project

090412-02 Motion made by Robert Winn and second by David Barton to accept the bid from Libby-Scott in the amount of \$193,469.40 from the town line in Wells to the town line in York reclamation project of North Village Road; approved 5-0.

9.3 Proposed Warrant Articles for the November 6, 2012 Special Town Meeting –

Thomas A. Fortier, Town Manager

Select Board review and approval of proposed articles to be placed on the Warrant of the November 6, 2012 Annual Town Meeting.

1. **Perkins Cove Bridge Repairs - \$25,000**

This article will require Budget Review Committee review.

090412-03 Motion made by Chris Jarochoym and second by Robert Winn to approve the proposed article as written; approved 5-0.

2. **Land Use Building – Proposed Demolition**

090412-04 Motion made by John Daley and second by David Barton – “shall the town vote to demolish the former Land Use Office?”

Motion made by John Daley and second by David Barton to withdraw the original motion.

3. **Public Works Facility Location – Transfer Station Complex, Berwick Road**

090412-05 Motion made by David Barton and second by Robert Winn to table this proposed article until next week; approved 5-0.

4. Animal Control – Prohibition of Animals Parked Vehicles

090412-06 Motion made by David Barton to accept the proposed ordinance as presented by Ogunquit Police Department, as written. There was no second, motion fails.

090412-07 Motion made by Chris Jarochym and second by David Barton to accept the proposed ordinance as written, but to strike the dates of April 1 – September 30; fails 0-5.

090412-08 Motion made by John Daley and second by David Barton, for discussion, to reject the proposed articles as is, state law stays as is; approved 3-2 (Dailey and Winn opposed).

5. Wheeled Goods – Required to wear helmet under 16 years of age

090412-09 Motion made by David Barton and second by Robert Winn to accept the proposed articles as written; fails 0-5.

6. Wheeled Goods – Prohibition after Daylight Hours

090412-10 Motion made by Chris Jarochym and second by John Daley to reject the proposed article as written; approved 5-0.

7. Wheeled Goods – Seizure of Wheeled Good

8. Marginal Way – Add back to Charter

090412-11 Motion made by David Barton and second by Robert Winn to accept the proposed article as written; approved 5-0.

9. Quorum and Voting

090412-12 Motion made by David Barton and second by John Daley to accept as the proposed article as presented; approved 4-1, Jarochym against.

10. Remove Independent Election Committee

090412-13 Motion made by Robert Winn and second by Chris Jarochym to accept the proposed article as written; approved 5-0.

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

10.1 Public

Lesley Mathews, 13 High Ridge Lane

- Would like to remind voters that all of the roads that go off from Berwick Road the only way they can get into town is Berwick Road, there is no other access to Route One from Berwick Road.
- Land Use Office - suggested that this space be made into the Police Station... situation not good at their current location.
- Noted that “Wheeled Good” is defined somewhere in the Ordinances.

Sandy Broomfield, 116 Berwick Road

- Traffic study was done by different firm this time, should keep statistics consistent; wondered if they used similar measurements as the 2005 study.
- Asked if there was any recourse for the 3000 taxpayers who get no vote regarding the location of the Public Works Building at the Transfer Station site.
- Infrastructure Committee – what were some of the methods used to determine cost savings at the Transfer Station; would like to discuss at later time.
- Stated that she had put together questions and issues regarding the location of the Public Works Department building location. These were reviewed with the Select Board, who each got a copy of the document.
- Commended Selectman Winn for his courageous rescue of a baby seal off the Marginal Way.

John Mixon, 26 Vinton Road

- Stated that he has spent the better part of 30+ years reading and understanding zoning issues. Town of Ogunquit is not exempt from its own zoning ordinance.
- Commented about the litigation issues [Bodack v. Hallett].

10.2 Select Board

Selectman Daley

- Commented on Sandra Broomfield’s point about non-voters having a say.
- Stated that he uses the beach every weekend and area restaurants. The town was run well this past summer.
- Thanked the Town Manager and all the people who work for the town.
- Skateboards are getting put in negative light again. The Skateboard Park is gone.
- Use of Undesignated Fund Balance – good use would be for the Conservation Commission to purchase land or for the Marginal Way if an emergency should occur.

Selectman Winn

- Stated that he appreciates the fact more and more people are coming out to attend the meetings and speaking to the Select Board, keep coming!

Selectman Jarochym

- Echoed Selectman Winn's comments, great to see people participating. There were a lot of great ideas tonight.
- Past practice regarding workshops and the many committees in town. Would like to extend invitations to the committees over the next year to meet with the Select Board to let them know what is going on within their committee.

Selectman Barton

- The town is well run, extremely busy this past summer; it is like running a business (as expressed by a taxpayer). Going to reach a point where we actually plan, how events are scheduled and planned. It becomes a critical component for all to know what is going to occur and when it is going to occur.

Chairwoman Dailey

- Marginal Way workshop last Thursday was well attended, at least 30 people in total who were in and out during the day. Outside facilitator ran the meeting, has received good feedback on technique; another meeting is scheduled for this Thursday, September 6th.
- Consensus is the most time consuming, most difficult, hardest way to make a decision.
- Decisions will not make everybody happy; the Select Board is here to make those hard decisions.
- Reminder - Capriccio is underway, have some great performances scheduled.

11.0 ADJOURNMENT

Motion made by Robert Winn and second by Chris Jarochym to adjourn the meeting at 8:57pm; unanimous vote to adjourn.

Respectfully submitted,

Cheryl L. Emery, Administrative Assistant to the Town Manager