



**SELECT BOARD
MEETING MINUTES
SEPTEMBER 17, 2013**

1.0 WORKSHOP - SELECT BOARD PRIORITIES AND ADMINISTRATIVE ISSUES - 5:00PM

2.0 CALL BUSINESS MEETING TO ORDER - 6:00PM

Meeting called to order at 6:05pm by Chair Dailey.

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

Others present: Thomas A. Fortier, Town Manager

3.0 PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Selectman Daley.

4.0 REQUEST TO APPROVE SELECT BOARD MINUTES

4.1 September 3, 2013 Select Board Meeting Minutes

The minutes of the September 3, 2013 were approved as presented.

5.0 TOWN MANAGER'S REPORT

It has been a very busy summer, thank you to staff, they did a great job.

At 25% of year-to-date budget and departments are in line; revenues are at 60% of anticipated for FY 13-14.

Town Manager Fortier presented a slide show to highlight 2013 projects and purchases.

Ellen Schneider, new Superintendent of Wells-Ogunquit CSD, stopped by to introduce herself to the Select Board and the public.

6.0 PUBLIC INPUT

Marjorie Katz

- Comments regarding the Main Beach Rip Rap project.

7.0 APPOINTMENTS, RESIGNATIONS, PROCLAMATIONS, RESOLUTIONS

No appointments, resignations, proclamations or resolutions before the Select Board.

8.0 PUBLIC HEARINGS, PRESENTATION

Motion made by Robert Winn and second by Chris Jarochoym to open the Public Hearing at 6:36pm; approved 5-0.

8.1 Angelina's Ristorante – Malt, Vinous & Spirituous License Renewal

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

David Giarusso was present for the public hearing.

091713-01 Motion made by Robert Winn and second by David Barton to approve the Malt, Spirituous & Vinous License Renewal for Angelina's Ristorante; approved 5-0.

8.2 York County Budget Committee Request for Financial Assistance for Legal Services - John Sylvester, York County Budget Committee Chair

Mr. Sylvester was present to explain the request for funding for legal services regarding the ongoing issue between the York County Commissioners and the York County Budget Committee.

Of the 29 cities and towns in York County, 17 towns are on board with the funding request. Currently, 90% of the York County budget is paid by the 29 municipalities.

The crux of the issue is the "Code of Ethics" that the County Commissioners are requiring the members of the York County Budget Committee to sign. It has been determined by the Budget Committee's legal counsel that this is illegal and advised the members of the Budget Committee not to sign. The York County Budget Committee is the Plaintiff in the suit against the York County Commissioners.

- 8.3 Ogunquit Fire Department Slide Show Presentations- Chief Mark O'Brien
Review of response to recent Fire and Search & Rescue efforts

Slide show of the fire on Shore Road "Your Body Works" and of the search and rescue for a missing fisherman.

- 8.4 Title V Ordinance Amendment, 1206-Types of Vehicles, 1206.2 Commercial Buses & Vans – Thomas A. Fortier, Town Manager

Stacy Crowell, Ogunquit Beach n' Sport, who operates a golf cart taxi service; asked how this amendment would affect her.

Selectman Jarochym had a question regarding the follow up to question asked at the last meeting about the definition of a "van".

No additional public comments or questions.

- 8.5 Title V Ordinance Amendment, Taxicab Operators and Taxicab Companies – Selectman David Barton

No public comments or questions.

- 8.6 November 5, 2013 Special Town Meeting

- *Article 2: Proposed Charter Amendment, Article III, Section 310.16, Powers of the Board, Mid-Year Report*

No comments or questions from the public.

- *Article 3: Proposed Charter Amendment, Article III, Section 310.19, Powers of the Board, Select Board Members on Committees*

Ben Hershensom – commented on the need for the word "single" in the amendment.

- *Article 4: Proposed Charter Amendment, Article V, Section 504, Revenues and Expenditures, Transfers*

Selectman Daley - proposed a percentage formula for transfers.

Stillman Bradish – the Board of Selectmen years ago used to be able to transfer 5%

- *Article 5: Proposed Charter Amendment, Article V, Section 506, Independent Annual Audit, Annual Report*

No comments or questions from the public.

- *Article 6, Proposed Amendment to the Ogunquit Municipal Code, Title XII, Article 2 – Applicable Codes*

Selectman Winn – stated that this would bring Ogunquit into compliance with State standards.

Motion made by Robert Winn and second by Chris Jarochoym to close the public hearing at 8:12pm; approved 5-0.

9.0 ADMINISTRATIVE ITEMS – UNFINISHED BUSINESS

Motion by David Barton to suspend Unfinished Business and move to New Business at 8:27pm; moved back into Unfinished Business at 9:14pm.

- 9.1 Title V Ordinance Amendment, 1206-Types of Vehicles, 1206.2 Commercial Buses & Vans – *Thomas A. Fortier, Town Manager*
 Select Board Action on the Amendment to Title V, 1206 Types of Vehicles

1206 Types of Vehicles

1206.2 Commercial Buses & Vans

1206.2.1 The operator of any passenger laden bus, ~~commercially operated van~~ or motor vehicle having the capacity of more than fifteen (15) or a commercially operated van having the capacity of fifteen (15) or less ~~or more persons~~ may drop-off passengers in designated areas within municipal parking lots or as otherwise directed by a Parking Lot Attendant or Police Officer, and ~~may~~ shall be subject to the beach impact fee set forth in Appendix A. (Also see Section 1203.3.)

091713-02 Motion made by Robert Winn and second by John Daley to accept the amendment to Title V, 1206-Types of Vehicles, 1206.2 Commercial Buses & Vans as presented; approved 5-0.

- 9.2 Municipal Officer’s Certification of Official Text of a Proposed Ordinance [30-A MRSA §3002(2)]
 Select Board Certification of the Amendment to Title XII, Article 2, Applicable Codes for the November 5, 2013 Special Town Meeting - Article 6

091713-03 Motion made by Robert Winn and second by David Barton to accept and certify the original text of the Amendment to Title XII, Article 2, Applicable Codes (official text on file at the Town Clerk’s Office); approved 5-0.

- 9.3 Order for the November 5, 2013 Special Town Meeting-Chair Barbara Dailey
 Select Board Action on the Order for the November 5, 2013 Special Town Meeting

ARTICLE 2: 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 III - SELECTBOARD

SECTION 310-POWERS OF THE BOARD

310.16 The Select Board shall issue a written ~~Mid-Year Report~~ each ~~February~~ January updating the citizens of the Town on the Articles passed at the last Annual Town Meeting and any subsequent Special Town Meetings. This report shall also summarize the ~~include any~~ important activities and issues currently before the Select Board. The Mid-Year Report Annual Report shall cover the first six (6) months of the current Fiscal Year. Notice of this report shall be given seven (7) calendar days prior to its issuance. Notice shall be posted in three (3) conspicuous places and on the community public access channel (WOGT). This "Town State of Ogunquit Mid-Year Report" shall be posted on the town website (townofogunquit.org) and copies shall be available in Town Hall. The first item on the agenda at the Select Board's meeting following the "Mid-Year Report" shall be a public forum for questions and comments. ~~For purposes of this Charter, the Annual Report shall be considered the "Year End Report".~~

ARTICLE 3: 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~~. The symbol "*****" indicates that a portion of the Charter, which is not proposed to be changed, is not shown below, in order to save space].]

ARTICLE III - SELECTBOARD

SECTION 310 - POWERS OF THE BOARD

310.19 Provide oversight, liaison and leadership to the volunteer committees and advisory groups that serve at the Board's pleasure. No Select Board member shall serve as a voting member of a committee or advisory group.

ARTICLE 4: 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~~. All other portions of the ordinance are proposed to remain unchanged. The

symbol "*****" indicates that a portion of the Charter, which is not proposed to be changed, is not shown below, in order to save space].

ARTICLE V - FINANCIAL PROCEDURES

SECTION 504 - REVENUE AND EXPENDITURES

This transfer is limited to an amount not to exceed Twenty-Five Thousand Dollars (\$25,000.00) ~~Ten Thousand Dollars (\$10,000.00)~~ for any one department and not to exceed 1% (One Percent) of the total municipal operating budget ~~Fifty Thousand Dollars (\$50,000.00)~~ for the departments overall. Amounts above these limits require approval at a Special Town Meeting.

ARTICLE 5:

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~~. All other portions of the ordinance are proposed to remain unchanged. The symbol "*****" indicates that a portion of the Charter, which is not proposed to be changed, is not shown below, in order to save space].

ARTICLE V - FINANCIAL PROCEDURES

SECTION 506 - INDEPENDENT ANNUAL AUDIT

This information shall be published in the Annual Report which shall be made available to the voters within 90 days of the close of the Town's Fiscal Year. Extensions to this time line due to mitigating circumstances may be voted by an affirmative vote of the Select Board. In any case, the Annual Report must be available to the public ninety (90) days ~~fifteen (15) days~~ prior to the Annual Town Meeting.

ARTICLE 6:

Shall an ordinance entitled, "**An Ordinance to amend Title XII of the Ogunquit Municipal Code, Article 2**", as shown below be enacted? [Note: Proposed amendment is underlined. Language proposed to be removed is indicated by a ~~strikeout~~. A copy of Maine Uniform Building and Energy Code is and shall remain on file with the municipal clerk and is available for public use, inspection and examination.]

ARTICLE 2 - APPLICABLE CODES

2.1 ADOPTION BY REFERENCE

The following codes are hereby adopted by reference in accordance with the provisions of Title 30-A M.R.S.A. Section 3002.3, to include the insertions and deletions noted as amendments herein:

a. ~~The 2000 International Building Code~~, as published by the International Code Council, Inc., First Printing, with the following amendments:

- 1) ~~Section 101.1, Insert "the Town of Ogunquit"~~
- 2) ~~Section 101.4.1, Delete "ICC Electrical Code" and replace with "applicable regulations set forth in the National Electrical Code, National Electrical Safety Code or electrical provisions of other safety codes which have been approved by the American Standards Association in accordance with Title 30 M.R.S.A. Section 4161"~~
- 3) ~~Section 101.4.2, Delete entire text~~
- 4) ~~Section 101.4.3, Delete entire text~~
- 5) ~~Section 101.4.4, Delete "International Plumbing Code" and replace with "State Plumbing Code Internal Plumbing (144 CMR 238)"; and delete "International Private Sewage Code" and replace with "Maine Subsurface Waste Water Disposal Rules (144A CMR 241)"~~
- 6) ~~Section 101.4.5, Delete entire text~~
- 7) ~~Section 101.4.6, Delete entire text~~
- 8) ~~Section 101.4.7, Delete entire text~~
- 9) ~~Section 103, Delete entire text~~
- 10) ~~Section 105.2, Delete "Building" items 1, 2, & 12~~
- 11) ~~Section 105.2.3, Delete entire text~~
- 12) ~~Section 107.3, Delete "ICC Electrical Code" and replace with "applicable regulations set forth in the National Electrical Code, National Electrical Safety Code or electrical provisions of other safety codes which have been approved by the American Standards Association in accordance with Title 30 A M.R.S.A. Section 4161"~~
- 13) ~~Section 108.4, Delete "building official" and replace with "Board of Selectmen as set forth in Section 1.10 of this Ordinance"~~

- 14) ~~Section 108.6, Delete entire text and replace with "No refunds shall be issued following the review of the submitted plan unless~~
- 15) ~~Section 109.3.5, Delete entire text~~
- 16) ~~Section 109.3.7, Delete entire text~~
- 17) ~~Section 110.2, Delete entire text~~
- 18) ~~Section 110.3, Amend existing text to read: "After the building official inspects the building or structure and finds no violations of the provisions of this code or other applicable laws that are enforced by the department of building safety the building official shall have ten (10) days to issue a certificate of occupancy that shall contain the following:"~~
- 19) ~~Section 112.1, Amend existing text to read: "The Zoning Board of Appeals shall act as the Building Code Board of Appeals in order to hear appeals of orders, decision or determinations made by the building official relative to the application and interpretation of this code., there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business. Appeals to the Zoning Board of Appeals shall be submitted as otherwise set forth in the Ogunquit Zoning Ordinance in accordance with the Board's rules and regulations as set forth in its By Laws, subject to the payment of any fees as may be determined by the Board of Selectmen."~~
- 20) ~~Section 112.3, Delete entire text~~
- 21) ~~Section 1009.2, Delete the subsection entitled "Exception"~~
- 22) ~~Chapter 11, Delete entire text~~
- 23) ~~Chapter 13, Delete entire text~~
- 24) ~~Section 1612.3, Insert "Town of Ogunquit and July 15, 1992"~~
- 25) ~~Chapter 27, Delete entire text~~
- 26) ~~Chapter 28, Delete entire text~~
- 27) ~~Chapter 29, Delete entire text~~
- 28) ~~Chapter 30, Delete entire text~~

- 29) ~~Chapter 32, Delete entire text~~
- b. ~~The 2000 International Residential Code for One and Two Family Dwellings, as published by the International Code Council, Inc., Fourth Printing, with the following amendments:~~
- 1) ~~Section R101.1, Insert "the Town of Ogunquit"~~
- 2) ~~Section R102.7, Delete "the International Property Maintenance Code or the International Fire Code"~~
- 3) ~~Section R103, Delete entire text~~
- 4) ~~Section R105.2 Delete "Building" items 1,2, & 9~~
- 5) ~~Section R105.2.3, Delete entire text~~
- 6) ~~Section R105.3.1, Amend existing text to read "...the building official shall issue a permit therefore as soon as practicable within ten (10) days."~~
- 7) ~~Section R107.3, Delete "ICC Electrical Code" and replace with "applicable regulations set forth in the National Electrical Code, National Electrical Safety Code or electrical Provisions of other safety codes which have been approved by the American Standards Association in accordance with Title 30 A.M.R.S.A. Section 4161"~~
- 8) ~~Section R108.5, Delete entire text and replace with "No refunds shall be issued following the review of the submitted plan unless exceptional circumstances so warrant as may be determined by the Building Official."~~
- 9) ~~Section R110.2, Delete entire text~~
- 10) ~~Section R110.3, Amend existing text to read: "After the building official inspects the building or structure and finds no violations of the provisions of this code or other applicable laws that are enforced by the department of building safety, the building official shall have ten (10) days to issue a certificate of occupancy that shall contain the following:"~~
- 11) ~~Section R112.1, Amend existing text to read: "The Zoning Board of Appeals shall act as the Building Code Board of Appeals in order to hear appeals of orders, decision or determinations made by the building official relative to the application and interpretation of this code., there shall be and is hereby created a board of appeals. The building official shall be an ex officio member of said board but shall have no vote on any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its~~

~~pleasure. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and finding in writing to the appellant with a duplicate copy to the building official. Appeals to the Zoning Board of Appeals shall be submitted as otherwise set forth in the Ogunquit Zoning Ordinance in accordance with the Board's rules and regulations as set forth in its By Laws, subject to the payment of any fees as may be determined by the Board of Selectmen.~~

~~12) Section R112.2.1, Delete entire text~~

~~13) Section R112.2.2, Delete entire text~~

~~14) Section R112.3, Delete entire text~~

~~15) Section R112.4, Delete entire text~~

~~16) Section R31 0.1.1, Delete the subsection entitled "Exception"~~

~~17) Chapters 10 thru 42, Delete entire text~~

~~e. The NFPA 101 Life Safety Code, as published by the National Fire Protection Association, 2000 Edition.~~

~~d. The NFPA 1 Fire Prevention Code, as published by the National Fire Protection Association, 2000 Edition.~~

"Maine Uniform Building and Energy Code (MUBEC), as adopted on October 11, 2010 by the Maine Department of Public Safety's Building Codes and Standards Board, be adopted by reference, as authorized by 10 M.R.S.A., section 9724 (1-A) and 30-A M.R.S.A., section 3003. The penalty for violation of any provision of MUBEC shall be as provided by 30-A M.R.S.A., section 4452.

091713-04 Motion made by John Daley and second by Robert Winn to approve the Order for the November 5, 2013 Special Town Meeting as amended; approved 5-0.

9.4 Warrant for the November 5, 2013 Special Town Meeting- Chair Barbara Dailey
Select Board Action on the Warrant for the November 5, 2013 Special Town Meeting

091713-05 Motion made by Chris Jarochym and second by Robert Winn to approve the Warrant for the November 5, 2013 Special Town Meeting with edits as noted; approved 5-0.

9.5 Agamenticus Field Upgrade – Lucas Sevigney
Request to improve ballfield at Agamenticus Park

This agenda item has been tabled until the next meeting of the Select Board.

9.6 Site Work – Public Works Building

Town Manager Fortier stated that six (6) Requests for Proposals were sent out to vendors and only two (2) bids were returned:

Brex Construction	\$219,000
Foglio, Inc.	\$179,000

Mr. Fortier recommended that the Select Board reject bids as they were too high and then allow him and Clerk of the Works to solicit directly to vendors to get a bid on the project.

They have solicited a bid of \$122,146 from Foglio, Inc. but this does not include paving. There would be another cost of \$22,000 in the spring for paving.

The application for the Public Works Building was in front of the Planning Board last week and was approved to proceed. The application is on the agenda for next week's Planning Board meeting (September 23, 2013) for a Site Plan Review to construct an 80'x120' prefabricated steel building to house the Public Works Department and associated equipment.

091713-06 Motion made by Robert Winn and second by David Barton to accept the price of \$122,146 from Foglio, Inc. for the Public Works Building Site Work; approved 5-0.

10.0 ADMINISTRATIVE ITEMS – NEW BUSINESS

10.1 Dunaway Community Center and Main Beach Roofing RFP- Thomas A. Fortier, Town Manager

Select Board Action to accept bid for roofing projects

Four bids were received, of which only three were valid, for the Dunaway Community Center and Main Beach Roofing Projects.

David DiPietro	\$69,820
Kevin W. Smith & Son	\$91,250
Dick Newcomb Roofing	\$92,000

091713-07 Motion made by Robert Winn and second by Chris Jarochem to accept the bid from David DiPietro (Land Tech) in the amount of \$69,820 for the project totals; approved 5-0.

- 10.2 Fire Department Hazmat Trailer Bids- Thomas A. Fortier, Town Manager
Select Board Action to accept bid for the 1999 Featherlite Fire Department Hazmat Trailer

Three bids were received:

Henry D. Henry, Jr.	\$ 530.00
Tom Filieo	\$3,501.00
Michael Hodurski	\$6,200.00

091713-08 Motion made by Robert Winn and second by David Barton to accept the bid from Michael Hodurski for \$6,200 for the 1999 Featherlite Fire Department Hazmat Trailer; approved 5-0.

- 10.3 Ogunquit Water Testing & Water Quality – Michael Horn, Conservation Commission
Discussion on performing, maintaining, reporting and access to water quality test results for public advisory

Michael Horn, Conservation Commission Chair, explained the history of water testing of the Ogunquit River & Beaches and what the Conservation Commission is doing in a pro-active approach to protect Ogunquit's watershed.

- 10.4 Wells-Ogunquit CSD Notice of Public Hearing
Select Board Action on the October 2, 2013 Notice of Public Hearing for the Wells-Ogunquit CSD regarding the School Construction Bond (\$26,850,000)

091713-09 Motion made by John Daley and second by Robert Winn to approve the Notice of Public Hearing for the Wells-Ogunquit CSD (regarding the School Construction Bond); approved 5-0.

- 10.5 Wells-Ogunquit CSD Referendum Warrant
Select Board Action on the November 5, 2013 Wells-Ogunquit CSD Referendum Election Warrant regarding the School Construction Bond (\$26,850,000)

091713-10 Motion made by Robert Winn to accept the Wells-Ogunquit CSD Referendum Election Warrant, second by Chris Jarochym for discussion; 1 Yes, 3 No and 1 Present, therefore the motion fails.

- 10.6 Application for a Pole Permit from Central Maine Power- Thomas A. Fortier, Town Manager
Select Board Action on a Pole Permit for Central Maine Power Pole #31 on Captain Thomas Road, West/Southwest for 1000'; four (4) Poles

091713-11 Motion made by Robert Winn and second by David Barton to approve the Central Maine Power Pole Permit Application as submitted; approved 5-0.

11.0 MISCELLANEOUS BUSINESS – ORAL & WRITTEN COMMUNICATION FOLLOW-UP

11.1 Public

Ben Hershensom

- Comments regarding the lack of Part Time Police Officers during the summer; requested that this be added back in budget.

Steve Einstein

- Comments regarding Police Certification. Summer Officers in the past under Chief Hancock never carried weapons, carried radios only. Has the town considered having a force under Parks & Recreation with just radios?

11.2 Select Board

Selectman Barton

- Comments on the York County Budget issue.

Selectman Jarochym

- Comments on Reserve Officers.
- A comment regarding the town's concerned citizens and how to bring those concerns to the town.
- Recognize the people who lost their lives at the Naval Command Center and their families.

Selectman Winn

- The Selectmen are getting a better handle on the things that occur in town. Thanked all those who give input to the Select Board.
- Read letter from Don Simpson, Planning Board Chair, regarding the trend of violations that are occurring ("creepage").
- Applaud the people that come in and bring issues to the Board and the Town Manager.

Selectman Daley

- Prefer education over enforcement, it goes a lot further. Suggested future discussions "customer service".
- Liked what the Fire Chief presented to the Board and his highlight of mutual aid; very educational.

12.0 EXECUTIVE SESSION

Due to the length of the meeting, the Executive Session items will be rescheduled.

12.1 Legal [Pursuant to Title 1, Chapter 13, Subchapter 1§405.6.E]

12.2 Personnel [Pursuant to Title 1, Chapter 13, Subchapter 1§405.6.A]

13.0 ADJOURNMENT

Motion made by Robert Winn and second by David Barton to adjourn the meeting at 9:47 pm; unanimous vote to adjourn.

Respectfully submitted,

Cheryl L. Emery, Administrative Assistant to the Town Manager