



**SELECT BOARD  
MEETING MINUTES  
SEPTEMBER 20, 2011**

**1.0 INTERVIEW OF COMMITTEE APPLICANTS – 5:45PM**

An interview was held with an applicant for the Performing Arts Committee.

**2.0 CALL TO ORDER**

Meeting called to order at 6:02PM

Members present: Donato Tramuto, Chairman  
Christopher Jarochym, Vice Chairman  
David Barton  
Barbara Dailey  
Robert Winn, Jr.

Others present: Thomas A. Fortier, Town Manager

**3.0 PLEDGE OF ALLEGIANCE**

Those in attendance recited the Pledge of Allegiance.

**4.0 REQUEST TO APPROVE SELECT BOARD MINUTES**

4.1 September 7, 2011 – The minutes of the September 7, 2011 Select Board meeting were approved as amended.

**5.0 APPOINTMENTS, RESIGNATIONS, PROCLAMATIONS, RESOLUTIONS**

5.1 Committee Appointments – *Performing Arts Committee*  
To appoint a full member to the Ogunquit Performing Arts Committee

**092011-01** Motion made by Robert Winn and second by Barbara Dailey to approve the appointment of Philip H. Davis as a Full Member to the Ogunquit Performing Arts Committee, term to expire June 30, 2014; approved 5-0.

**6.0 PUBLIC HEARINGS, PRESENTATION**

Motion made by Robert Winn and second by Christopher Jarochym to open the public hearing at 6:09pm.

**6.1 Angelina's Ristorante - Malt, Spirituous and Vinous License Renewal**

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

**092011-02** Motion made by Robert Winn and second by Christopher Jarochym to approve the Malt, Spirituous and Vinous License renewal for Angelina's Ristorante; approved 5-0.

**6.2 Paddle to the Point – John Sevigney**

John Sevigney and Jose Perez were in attendance to review the event that took place on July 30<sup>th</sup> at the Main Beach and to present a check to Jennifer Ewing, Recreation Director, representing the Ogunquit Parks & Recreation Department, in the amount of \$4,257.87.

**6.3 Piping Plover Outstanding Service Award – Thomas A. Fortier, Town Manager**

Town Manager Thomas Fortier stated that the town was presented the Piping Plover Outstanding Service Award from Maine Audubon, Maine Department of Inland Fisheries & Wildlife and the U.S. Fish & Wildlife Service for its management of the beach and protection of the Piping Plovers. Mr. Fortier stated that without the excellent implementation of our local program by Piping Plover Coordinator Cindy Douglass and her group of volunteers, the town would not have received such an award. He also acknowledged the work done by our beach cleaner Doug Trueman and beach monitor Marie Benoit.

Motion made by Robert Winn and second by Christopher Jarochym to close the public hearing at 6:26pm; approved 5-0.

**7.0 ADMINISTRATIVE ITEMS – UNFINISHED BUSINESS****7.1 FY 2011-2012 Tax Commitment – Barbara Kinsman, Assessor's Agent & Robert Gingras, Contract Assessor (Parker Appraisal Company)**

To review the tax rate commitment for FY 2011-2012

Due to an error in the taxable valuation, the tax rate set at the September 7, 2011 Select Board meeting was not correct; the Select Board will need to revise the tax rate for the 2011-2012 Fiscal Year.

**092011-03** Motion made by David Barton and second by Robert Winn to rescind the vote taken at the September 7, 2011 Select Board meeting which set the rate tax rate at 0.007285 with an Overlay of \$5,000; approved 5-0.

**092011-04** Motion made by David Barton and second by Robert Winn to approve the minimum allowed, which would set the tax rate at 0.00731 with an Overlay of \$9,339.64; approved 5-0.

- 7.2 FY 2011-2012 Select Board Priority Updates - Donato Tramuto, Select Board Chair  
 Updates from Select Board members regarding FY 2011-2012 priorities

A power point presentation regarding *Governmental Priorities* was presented by Christopher Jarochym and Robert Winn.

A power point presentation regarding *Operational Efficiencies* was presented by Barbara Dailey and David Barton.

- 7.3 Berwick Road Drainage Project Update - Thomas A. Fortier, Town Manager  
 Update from Town Manager Fortier regarding the current status of the Berwick Road Drainage Project

Town Manager Fortier stated that he had met with all three contractors who had bid on the project. The result of the discussion was that all three provided a reduction in the bid price based on revisions to the project. These revised bids were reviewed by the project engineer. The following revised bids were submitted:

D & C Construction	\$198,879
Foglio, Inc.	\$200,000
Gorham Sand & Gravel	\$199,746

Based the Engineer’s review, it was recommended to award the bid to Foglio, Inc. of Waterboro, Maine. The contractor stated, if awarded the bid, he could start the project next week.

**092011-05** Motion made by Robert Winn and second by Christopher Jarochym to accept the proposal from Foglio, Inc. for the bid price of \$200,000; approved 5-0.

**8.0 ADMINISTRATIVE ITEMS – NEW BUSINESS**

- 8.1 One-Ton Dump Truck with Plow Bid - Thomas A. Fortier, Town Manager  
 To review and award the bid for the purchase of a One-Ton Dump Truck w/Plow for the Public Works Department

Thirteen bid packets were sent out to vendors, two were returned:

Arundel Ford	\$46,189
Morrison & Sylvester	No bid

After discussion, some members of the Select Board voiced that they were not comfortable with only one bid.

Motion made by David Barton to reject the bid, since there was no second the motion failed.

Motion made by Christopher Jarochym to accept the bid, since there was no second the motion failed.

**092011-06** Motion made by Robert Winn and second by Donato Tramuto (for discussion) to accept the bid from Arundel Ford for the bid price of \$46,189; 2 in favor (Tramuto/Winn); 3 opposed (Barton/Dailey/Jarochym). Vote fails.

Town Manager Fortier will work with Selectman Winn to contact vehicle dealers to review the details of the bid. It was the consensus of the Select Board to re-bid this item with a new set of specifications and turn-around time.

8.2 Paving Bid for 2011-2012 - Thomas A. Fortier, Town Manager

To review and award the bid for paving projects within the Town of Ogunquit for FY 2011-2012

Ten bid packets were sent out; two were received:

Libby-Scott, Inc.	\$247,318.75
Pike Industries, Inc.	\$251,000.00

**092011-07** Motion made by David Barton and second by Robert Winn to award the Paving Project for Myrtle Circle, Obeds Lane, Stearns Road and Berwick Road to Libby-Scott, Inc for the bid price of \$247,318.75; approved 50

8.3 Request from Caring Unlimited regarding the use of Veteran’s Park - Thomas A. Fortier, Town Manager

A request from Caring Unlimited to set up a table on October 22<sup>nd</sup> in Veteran’s Park to share information regarding Domestic Violence

**092011-08** Motion made by Robert Winn and second by Barbara Dailey to allow Caring Unlimited, York County Domestic Violence Program to set up a table in Veteran’s Park on Saturday, October 22, 2011 from 9:00am to 4:00pm; approved 5-0 with the caveat that a “Certificate of Liability” is provided to the town for that day.

8.4 Recreational Fire; Air Quality in Ogunquit - Thomas A. Fortier, Town Manager

Initial and preliminary discussion on the effects of recreational fires and smoke in Ogunquit

Mary Ross spoke on recreational fire smoke and how it has affected her over the past three years.

After discussion, it was the consensus of the Select Board to have Town Manager Fortier takes the lead on this issue. It was suggested that an ADHOC Committee be formed to gather information and make recommendations to the Select Board.

**9.0 MISCELLANEOUS BUSINESS – ORAL & WRITTEN COMMUNICATIONS – FOLLOW-UP**

8.1 **Public**

Bob Glidden, 13 High Ridge Lane

- Comments on recreational fires
- Requested a copy of the quote/plans regarding the Berwick Road project

Lesley Mathews, 13 High Ridge Lane

- Questions about depth of pavement on Berwick Road
- Commented on firewood smoke in Ogunquit
- Question about the removal of the kitchen (downstairs) at the Dunaway Community Center

Judy Mayer – owner of Ogunquit Inn

- Questions and comments regarding the Amusement License process (re: Beach House Grill). Town Manager Fortier stated that he would work with her to assist with this issue.

**8.2 Select Board**Selectman Dailey

- Received feedback about long term planning and have had some feedback that will be getting recommendations from the Budget Review Committee. Going back to the discussion about the dump truck, it's an example of what a long range plan for capital expenditures would provide the board so that the Town Manager's staff is not under the gun necessarily to wait until a new budget year and then try and rush through a requisitioning process in time to get for the first rain, snow or whatever. Selectman Dailey pointed out that when the board gets to that stage that was seen today, an example or two of why moving into a little bit more robust long range plan would be a helpful step for the board to help initiate.

Selectman Winn

- Had some great discussion, some good humor and really appreciate the fact that a couple of residents came up and let the board know about an issue finally come to fruition, hopefully we can work on that together.

Selectman Jarochoym

- Appreciate the fact that communication people have to come up to the podium and bring up their issues on a number of things that have heard tonight. Don't be afraid to do that, we are here to listen you and try to address things.
- From feedback received last meeting was that the Town Manager's status update, which is generally done at the end of each meeting, people like that portion of the meeting and one suggestion, was to move it up on the agenda for future Select Board meetings. This would give people the opportunity to comment on some things that they have heard from the Town Manager's report each meeting. That is positive feedback, welcome more of it.

Selectman Barton

- Stated that he considers the truck a commodity and is something that can be purchased anywhere and is driven off a lot. That is why he would be comfortable with more bids. The two bids on the paving, is okay, they have their own equipment and their own managers, their own overhead; there are many, many variable that go into running a construction company.

Selectman Tramuto

- The board will be meeting on October 11<sup>th</sup> and October 25<sup>th</sup>.
- Inquired about the status of "Fun Maps", Town Manager Fortier stated that he had submitted information to them.
- Asked that Town Fortier follow up on the ADHOC Committee for wood burning.
- The bathrooms at Main Beach continue to be an issue that comes up from people that he meets and e-mails received. Inquired about whether there were any plans to do something there. Mr. Fortier stated that the report was on the poor conditions at Moody Beach bathrooms. Among many of the town's infrastructure issues are the deplorable conditions at the town's restrooms. There are plans this winter to do work "in-house" at Perkins Cove to refurbish the bathrooms. Footbridge and Moody need to part of the capital plan somewhere down the road, but in the meantime "band-aids".

**8.3 Town Manager**

- An in-house change was made regarding the way fines are issued. The Police Department writes tickets now that can be paid at the Dunaway Center for violations such

as parking. As a result, in 2010 town collected \$11,669, in 2011 collected \$20,000 and so far this fiscal year collected nearly \$12,000.

- Informed the Select Board that staff installed a “snout” in the Windward Development. This is also known as a bio-skirt, which is installed within the culvert and has a filter attached to catch particles before they get to the Ogunquit River. Thanks to Mike Horn, Doug Mayer, Roger Brown and the Conservation Commission for this project. The “snout” was received free from the manufacturer. If all goes well, this could be a town-wide initiative.

## **10.0 EXECUTIVE SESSION**

Motion made by Barbara Dailey and second by Christopher Jarochym to go into Executive Session at 9:03pm for an Attorney-Client Consultation pursuant to M.R.S.A. , Title 1, Chapter 13 § 405.6.E; approved 5-0.

Motion made by Christopher Jarochym and second by Barbara Dailey to come out of Executive Session at 10:15pm; approved 5-0.

Chairman Tramuto stated that a legal complaint had been filed against Selectman Winn for defamation of character and that Town Manager Fortier was instructed to seek outside legal counsel to define the effect on the Town due to the lawsuit filed against Selectman Winn.

The Select Board, as discussed after coming out of Executive Session, found from reading the lawsuit that it named a Selectman as such, not as a private citizen, but as invoking public issues. As such, the text of the lawsuit appears to have implications against the Town, the Select Board, and Town Management.

It was also determined by Herbert Holz from Holz & Reed, who is highly qualified for this kind of case and has had proven experience in representing towns, that the language in the lawsuit would and could potentially have implications on the town. The deadline for response to the complaint is September 27, 2011.

Selectman Winn recused himself from participation.

Motion made by Barbara Dailey and second by David Barton that the Select Board engages the services of Holz & Reed in defense of the charge that Chairman Donato Tramuto has indicated; approved 4-0, Winn abstaining from the vote.

## **11.0 ADJOURNMENT**

Motion made by Christopher Jarochym and second by David Barton to adjourn the meeting at 10:20pm; unanimous vote to adjourn.

Respectfully submitted,

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Cheryl L. Emery, Administrative Assistant to the Select Board