

**SELECTMEN'S MEETING
7:00 P.M. MONDAY SEPTEMBER 12, 2005
YORK LIBRARY**

Minutes

ATTENDEES: David F. Marshall, J. Dwight Bardwell, Leonard V. Dorrian, Michael L. Estes, Elizabeth McCann, Acting Town Manager, Karen Steadman, Recorder, and Members of the Press & Public.

Mr. Macdonald did not attend the meeting.

Videotapes of the meeting are available in the Town Manager's office for clarification purposes.

Call to Order - Chairman Marshall called the meeting to order at 7:05 pm.

Pledge of Allegiance

Minutes

Moved by Mr. Bardwell and seconded, to accept the minutes of the July 19, 2005 Selectmen's meeting as submitted. Without objection, it was so ordered.

Moved by Mr. Bardwell and seconded to accept the minutes of the August 9, 2005 Selectmen's meeting as submitted. Without objection, it was so ordered.

Chairman's Report

Mr. Marshall advised the audience this was the last public hearing and discussion for the Comp Plan and Zoning Amendments before it goes on the ballot.

Mr. Marshall also noted that Steve Burns, Town Planner, who is normally here for any zoning amendments, is sick and the Board will have to muddle through without his expertise.

Mr. Marshall noted the public hearing on the Ice Skating Rink is postponed until the Board has been given more information.

Mr. Marshall gave a brief update on the progress the Board was making on the search for a new Town Manager. At this time the Board is having background checks done on the two final candidates.

Manager's Report

Ms. McCann reminded citizens about the Circuit Breaker program and noted applications are available in the Town Hall.

Ms. McCann advised the Board she had hired a new IT person, Jake White, who started his employment for the Town today.

Ms. McCann reminded citizens of the "Light the Night Walk" on Saturday, September 17th at York Beach Ball Park beginning at 4:00 pm.

Ms. McCann noted two of our fire fighters, Scott Apgar and Ferris Boardman, have left for Louisiana to help the hurricane victims from Katrina who are in shelters and need to get in touch with FEMA and fill out the paperwork involved. They will be there for at least one month.

Michelle Moody from the ERA Group announced a MDA lock-up and served the Board with warrants for their arrest. They would be held at the Lobster Barn "jail" until they raised \$600.00 in contributions to MDA. She also noted the firefighters would be doing a boot drive to help raise funds for MDA.

PUBLIC HEARINGS:

➤ License Applications (New)

- J. Steward & C. Heublein dba Café at Dr. Hawke's Pharmacy
- Ann Nahill dba J. Ellen's Café & Wine

Moved by Mr. Bardwell and seconded to open the public hearing on licenses. Without objection, it was so ordered.

Public comment: None

Moved by Mr. Bardwell and seconded, to close the public hearing and approve the license applications subject to taxes and fees being current and CEO inspection approval. Without objection, it was so ordered.

➤ York Sewer District Charter Amendments

“Shall the Town of York vote to approve the amendment to the Charter of the York Sewer District as follows:

1. Require the York Sewer District to include in its annual report audited financial statements and require the Town of York to include the district’s report in the Town’s annual report;
2. Provide that decisions of the York Sewer District relating to assessments for sewer construction may be appealed to the Town of York; and
3. Authorize a citizen’s initiative process to call for a referendum to dissolve the York Sewer District and transfer its assets and obligations to the Town of York?

The foregoing amendments will become effective 90 days from the date they are approved.”

Statement of Fact: This article is the result of a group of citizens who lobbied the Maine Legislature to draft legislation that would: 1) require the inclusion of financial statements of the York Sewer District in the Town of York’s annual report; 2) establish procedures for dissolution of the York Sewer District on both a voluntary and involuntary basis; and 3) establish an appeals procedure for aggrieved parties regarding their sewer assessments. This appeal process would include the Town Manager and/or the Board of Appeals. As the Town Charter is currently drafted, neither the Town Manager nor the Board of Appeals has the authority to hear appeals of sewer assessments. Accordingly, passage of this article would require that the Town Charter be amended to grant the Town Manager and the Board of Appeals these powers.

Moved by Mr. Bardwell and seconded, to open the public hearing on the Sewer District Charter amendments. Without objection, it was so ordered.

Mr. Marshall read the warrant article into the record. Mr. McCann read a letter into the record submitted to the Board by the York Sewer District, as they could not be at tonight’s meeting.

Public Comment: Jack MacDonald

Moved by Mr. Bardwell and seconded, to close the public hearing. Without objection, it was so ordered.

➤ **York Home Rule Charter Amendments**

Shall the Town of York vote to approve amendments to the Town of York Home Rule Charter ("Town Charter") reprinted and summarized below in the event that LD 413, entitled "An Act to Amend the Charter of the York Sewer District", is approved by the voters of the Town of York?

1. Article IV, Section 4 of the Town Charter entitled "Additional Town Manager Duties" is amended to add subsection (E) as follows: "The Town Manager shall have the power and authority to hear and determine Town residents' appeals of their sewer assessments. The decision of the Town Manager may be subsequently appealed to the Town's Board of Appeals."

2. Article IV, Section 7 of the Town Charter entitled "Board of Appeals" is amended to add the following underlined language to subsection (C): "The board shall have the power to hear and determine all appeals by any person directly or indirectly affected by any sewer assessment, or, by any decision, action or failure to act with respect to any sewer assessment, license, permit, variance or other required approval, or any application, therefore, including the assessment, grant, conditional grant, denial, suspension, or revocation of any such sewer assessment, license, permit, variance or other approval (hereinafter called "a decision")."

3. Article IV, Section 7 of the Town Charter entitled "Board of Appeals" enumerates those decisions from which the Board of Appeals is empowered to hear appeals. Article IV, Section 7 is amended to add subsection (C)(11) as follows: "Rendered by the Town Manager regarding sewer assessments pursuant to LD 413 and Article IV, Section 4(E) of the Charter."

The foregoing amendments will become effective 90 days from the date they are approved."

Statement of Fact: "LD 413 establishes a new appeal procedure for individuals who wish to appeal their sewer assessments. LD 413 provides that aggrieved parties will appeal their assessments first to the Town Manager, and subsequently, to the Town's Board of Appeals if they are dissatisfied with the Town Manager's determination.

The Town Charter enumerates the powers and authority of both the Town Manager and the Board of Appeals. According to Maine law,

unless the Town Manager and/or the Board of Appeals are specifically granted a particular power, they are not permitted to exercise that power. As the Town Charter is currently drafted, neither the Town Manager nor the Board of Appeals has the authority to hear appeals of sewer assessments. The proposed amendments aim to ensure that the Town Charter is consistent with LD 413 in the event that it passes. The amendments to the Town Charter will only become effective if LD 413 is passed.”

Moved by Mr. Bardwell and seconded, to open the public hearing on the York Home Rule Charter. Without objection, it was so ordered.

Mr. Marshall read the amendments into the record.

Public comments: None

Moved by Mr. Bardwell and seconded, to close the public hearing. Without objection, it was so ordered.

➤ **Comprehensive Plan Amendments**

3. Comprehensive Plan – Economic Base Chapter
4. Comprehensive Plan – Utilities Chapter
5. Comprehensive Plan – Transportation Chapter
6. Comprehensive Plan – Growth Projections Chapter

Moved by Mr. Bardwell and seconded, to open the public hearing on Comprehensive Plan amendments. Without objection, it was so ordered.

Public comments: None

Moved by Mr. Bardwell and seconded, to close the public hearing. Without objection, it was so ordered.

➤ **Zoning Ordinance Amendments**

Moved by Mr. Bardwell and seconded, to open the public hearing for all zoning ordinance amendments. Without objection, it was so ordered.

7. Zoning Ordinance – Home Occupations

Public comment: None

8. Zoning Ordinance – Cluster Subdivisions

Public comment: None

9. Zoning Ordinance - Wetlands Protection Incentive for Cluster Subdivisions

Public comment: None

10. Zoning Ordinance - Route One Building Design Standards

Public comment: None

11. Zoning Ordinance - Increase Buffers for Elderly Congregate Housing

Public comment: None

12. Zoning Ordinance - Change Boundaries of the BUS-3 Zone in York Beach

Public comment: None

13. Zoning Ordinance - Alter Regulation of Condominium Conversions

Public comment: None

14. Zoning Ordinance - Reconsiderations by the Board of Appeals

Public comment: None

15. Zoning Ordinance - York River Watershed Overlay District

Public comment: None

16. Zoning Ordinance - Utility Pump Stations

Public comment: None

17. Zoning Ordinance - Historic Landmark Designation of Grant House

Public comment: None

18. Zoning Ordinance - Bus-as-a-Structure Issue

Public comment: None

19. Zoning Ordinance - Reduce Permitted Uses in the GEN Zones

Public comment: None

20. Zoning Ordinance - Extent of Control of the Shoreland Overlay District

Public comment: None

21. Zoning Ordinance - Amend the Shoreland Overlay Sub-district Boundaries

Public comment: None

22. Zoning Ordinance - Structure Expansion Limits in the Shoreland Overlay

Public comment: None

23. Zoning Ordinance - Amend the Septic Setbacks in the Shoreland Overlay

Public comment: Stanley Moody
Michelle Moody

24. Zoning & Floodplain Management Ordinances - Fee Schedules

Public comment: None

Moved by Mr. Bardwell and seconded, to close the public hearing. Without objection, it was so ordered.

➤ **November 8, 2005 General Referendum Warrant**

Moved by Mr. Bardwell and seconded, to open the public hearing for the General Warrant. Without objection, it was so ordered.

Public comment: None

Moved by Mr. Bardwell and seconded, to close the public hearing. Without objection, it was so ordered.

Approval of Warrant Moved by Mr. Bardwell and seconded, to approve Warrant #11. Without objection, it was so ordered.

Citizens Forum - Open to audience for comments or questions on items to be addressed on this agenda; or, to propose items for board consideration.

Public comment: None

ENDORSEMENTS

License Applications (Renewals)

- Bradford Leigh dba Cat'n Nine Tails Store (Victualer)
- TCF Corp. dba Clay Hill Farm (Victualer, Liquor & Special Amusement)
- Hannaford Bros. Co. dba Hannaford Food & Drug (Victualer)
- John & Nancy Stern dba Pie in the Sky Bakery (Victualer)
- Sentry Hill @ York Harbor, LLC (Victualer & Liquor)
- Brent Merritt dba The Union Bluff Hotel (Victualer, Liquor & Special Amusement)

Without objection, the Chair took the licenses as a whole and read them into the record. Moved by Mr. Bardwell and seconded, to approve the license renewals as read, subject to taxes and fees being current and establishments with special amusement licenses are subject to the usual noise stipulations. Without objection, it was so ordered.

Applications

- Marjory Steward - Tax Task Force Committee
- Deborah Wilson - Appeals Board, Conservation Commission, Open Space Committee or Park s& Recreation Board

The Chair read the applicant's names into the record and noted interviews would be scheduled.

New Business - Discussion and Possible Action on the following:

1. Award bid for Public Works backhoe.

Tim DePerrio from Public Works gave a brief statement on his recommendation on the backhoe

Moved by Mr. Bardwell and seconded, to award the bid to Nortrax Equipment Company in the amount of \$79,500. Without objection, it was so ordered.

2. Approve an Easement Deed for York Water District on property owned by the Town of York at Pequananac Place

Moved by Mr. Bardwell and seconded, to approve the easement deed for the Water District. Vote: 4-0. Motion passes.

3. Approve and recommend the Warrant for the November 8, 2005 Special General Referendum Warrant.

Moved by Mr. Bardwell and seconded, to forward the Special General Referendum to the ballot. Vote: 4-0. Motion passes.

4. Approve and recommend the proposed amendments to the York Sewer District Charter, for inclusion on the November 8, 2005 General Referendum Warrant.

Moved by Mr. Bardwell and seconded, to forward the proposed amendments to the Sewer District charter to the ballot. Vote: 4-0. Motion passes. Preference Vote: 4-0.

5. Approve and recommend the proposed amendments to the York Home Rule Charter, for inclusion on the November 8, 2005 General Referendum Warrant.

Moved by Mr. Bardwell and seconded, to forward the proposed amendments to the Charter to the ballot. Vote: 4-0. Motion passes. Preference Vote: 4-0.

6. Approve and recommend the proposed amendment to the Comprehensive Plan; Economic Base Chapter, Inventory and Analysis, for inclusion on the November 8, 2005 General Referendum Warrant.

Moved by Mr. Bardwell and seconded, to forward the proposed amendment to the Comprehensive Plan; Economic Base Chapter, Inventory and Analysis to the ballot. Vote: 4-0. Motion passes. Preference Vote: 4-0.

The Chair called a 5-minute recess. The meeting reconvened at 8:10 pm.

Without objection, the Chair took items 7 through 27 together for one vote with the exception of items #18, #23, and #26, which will be voted on separately.

Moved by Mr. Bardwell and seconded, to send items 7 through 27 forward to the General Referendum Warrant ballot. Vote: 4-0. Motion passes. Preference Vote on items 7 through 27: 4-0.

7. Approve and recommend the proposed amendment to the Comprehensive Plan; Utilities Chapter, Inventory & Analysis; for inclusion on the November 8, 2005 General Referendum Warrant.
8. Approve and recommend the proposed amendment to the Comprehensive Plan; Transportation Chapter, Inventory & Analysis, for inclusion on the November 8, 2005 General Referendum Warrant.
9. Approve and recommend the proposed amendments to the Comprehensive Plan; Growth Projections, Inventory & Analysis, for inclusion on the November 8, 2005 General Referendum Warrant.
10. Approve and recommend the proposed amendments to the Zoning Ordinance to change the Home Occupation standards, specifically amending: Article 2, Definitions; Article 4, Use Regulations; and Article 7, Special Provisions, for inclusion on the November 8, 2005 General Referendum Warrant.
11. Approve and recommend the proposed amendments to the Zoning Ordinance to change the Cluster Subdivision standards, specifically amending: Article 1, General Provisions; Article 2, Definitions; Article 5, Dimensional Regulations; Article 7, Special Provisions; and Article 18, Administration, for inclusion on the November 8, 2005 General Referendum Warrant.
12. Approve and recommend the proposed amendments to the Zoning Ordinance to implement a transfer-of-development-rights policy to enhance wetlands protection in the area of York Beach, specifically amending: Article 7, Special Provisions, as proposed in Article #8, for inclusion on the November 8, 2005 General Referendum Warrant.
13. Approve and recommend the proposed amendments to the Zoning Ordinance to alter the non-residential building design standards for the Route One corridor. Specifically amending; Article 6, Supplemental Use Requirements, for inclusion on the November 8, 2005 General Referendum Warrant.

14. Approve and recommend the proposed amendments to the Zoning Ordinance to increase buffers for certain Elderly Congregate Housing projects, specifically amending: Article 10-A, Elderly Congregate Housing Overlay District, for inclusion on the November 8, 2005 General Referendum Warrant.
15. Approve and recommend the proposed amendments to the Zoning Ordinance to change an area in York Beach from BUS-3 to RES-6 zoning, specifically amending: Article 3, Establishment of Zoning Districts and adopting an updated map of Base Zoning District, for inclusion on the November 8, 2005 General Referendum Warrant.
16. Approve and recommend the proposed amendments to the Zoning Ordinance to alter the Town control of condominium conversions, specifically amending: Article 18, Administration, for inclusion on the November 8, 2005 General Referendum Warrant.
17. Approve and recommend the proposed amendments to the Zoning Ordinance to bring Board of Appeals' rehearing procedures into compliance with a newly revised State law, specifically amending: Article 18, Administration, for inclusion on the November 8, 2005 General Referendum Warrant.
19. Approve and recommend the proposed amendments to the Zoning Ordinance to exempt water and sewer pump stations from certain dimensional requirements, specifically amending: Article 5, Dimensional Regulations, for inclusion on the November 8, 2005 General Referendum Warrant.
20. Approve and recommend the proposed amendments to the Zoning Ordinance to designate the Grant House as an Historic Landmark, specifically amending: Article 12, Local Historic District Regulations, for inclusion on the November 8, 2005 General Referendum Warrant.
21. Approve and recommend the proposed amendments to the Zoning Ordinance to distinguish vehicles from structures, and to regulate the storage of vehicles that are not licensed and registered, specifically amending: Article 2, Definitions; and Article 15, Parking, for inclusion on the November 8, 2005 General Referendum Warrant.
22. Approve and recommend the proposed amendments to the Zoning Ordinance to reduce permitted uses in the General zoning districts,

specifically amending: Article 4, Use Regulations, for inclusion on the November 8, 2005 General Referendum Warrant.

24. Approve and recommend the proposed amendments to the Zoning Ordinance to reclassify the sub-districts of two areas within the Shoreland Overlay District, specifically amending: Article 3, Establishment of Zoning Districts, and adopting an updated map of the Shoreland Overlay District, for inclusion on the November 8, 2005 General Referendum Warrant.
25. Approve and recommend the proposed amendments to the Zoning Ordinance to clarify how much buildings can be expanded if they fail to meet Shoreland setback requirements, specifically amending: Article 8, Shoreland Overlay District, for inclusion on the November 8, 2005 General Referendum Warrant.
27. Approve and recommend the proposed amendments to the Zoning Ordinance and the Floodplain Management Ordinance to change the fee schedules. In the Zoning Ordinance, amend: Article 1, General Provisions, and Article 18, Administration. In the Floodplain Management Ordinance, amend Article IV, Application Fee and Expert's Fee, for inclusion on the November 8, 2005 General Referendum Warrant.
18. Approve and recommend the proposed amendments to the Zoning Ordinance to establish a new overlay district to enhance environmental protection in the York River Watershed, specifically amending: Article 3, Establishment of Zoning Districts; and inserting a new Article 10-D, York River Watershed Overlay District, for inclusion on the November 8, 2005 General Referendum Warrant.

Moved by Mr. Estes and seconded, to send amendment #15 - Overlay District for York River Watershed, to the voters to be decided at the November 8th General Referendum. Vote: 2-2. Motion fails. (Mr. Dorrian and Mr. Bardwell against)

23. Approve and recommend the proposed amendments to the Zoning Ordinance regarding, specifically amending: for inclusion on the November 8, 2005 General Referendum Warrant.

Moved by Mr. Dorian and seconded, to put amendment regarding Article 3, Establishment of Zoning Districts on the ballot. Vote: 4-0. Motion passes. Preference Vote: 4-0.

26. Require septic systems in the Shoreland Overlay District be set back from wetlands, specifically amending: Article 8, Shoreland Overlay

District, for inclusion on the November 8, 2005 General Referendum Warrant.

Moved by Mr. Estes and seconded, to NOT put item #26 on the November 8th General Referendum Warrant, to remove this amendment from the warrant. Vote: 3-1. Motion passes.

28. Approve and recommend the proposed acceptance fee simple title to a road known as Squire Lane and described as shown on a plan entitled "Subdivision Plan, Bayberry Woods", US Route 1, York, Maine, by Anderson Livingston Engineers, Inc. and dated April 2000, and recorded in the York County of Deeds Plan Book 262, Page 29 on April 20, 2001, for inclusion on the November 8, 2005 General Referendum Warrant.

Moved by Mr. Bardwell and seconded, to forward the proposed road acceptance of Squire Lane to the ballot. Vote: 4-0. Motion passes. Preference Vote: 4-0.

29. Approve and recommend the proposed acceptance fee simple title to a road known as Tall Pines Way and described as shown on a plan entitled "Subdivision Plan, White Pine Ridge, US Route One, York, Maine, by Anderson Livingston Engineers, Inc. and dated March 2000, and recorded in the York County of Deeds Plan Book 262, Page 32 on April 27, 2001, for inclusion on the November 8, 2005 General Referendum Warrant.

Moved by Mr. Bardwell and seconded, to forward the proposed road acceptance of Tall Pines Way to the ballot. Vote: 4-0. Motion passes. Preference Vote: 4-0.

30. Approve and recommend the Warrant for the November 8, 2005 General Referendum

Moved by Mr. Bardwell and seconded, to approve the Warrant for the November 8, 2005 General Referendum. Vote: 4-0. Motion passes.

Other Business

Meeting schedule: September 20th – Work Session on Growth Ordinance
September 26th – Next Regular Meeting
October 10th – Columbus Day – Will have a regular Meeting

Adjourn Moved by Mr. Estes and seconded, to adjourn the meeting at 8:50 pm. Without objection, it was so ordered.

Submitted by,

Karen Steadman
Secretary/Recorder