

**SELECTMEN'S MEETING**  
**7:00 P.M. MONDAY JANUARY 28th, 2008**  
**YORK LIBRARY**

**MINUTES**

**Attendees:** Michael L. Estes, David F. Marshall, Kinley Gregg, Edward W. Little, Robert G Yandow, Town Manager and, Kathryn Danylik, Recorder, and Members of the Press & Public.

Mr. Bardwell was not in attendance

**Call to Order** - Chairman Estes called the meeting to order at 7:06 PM

**Pledge of Allegiance**

**A. Minutes**

**B. Chairman's Report**

Chairman Estes reported the Dwight Bardwell is not feeling well and he will not be joining the meeting tonight.

Chairman Estes requested that items 4 and 5 under new business be moved up after item 1, the Mount A. Tower Report.

**C. Manager's Report**

Mr. Yandow reported there was some confusion that surfaced at the last Planning Board meeting regarding ordinance amendments being available to the public before the referendum vote. Mr. Yandow explained that there is always a copy available in the Town Clerk's Office for viewing

**D. Reports**

**-LEED Green Building Rating System for New Construction and Major Renovations**

Hannah Mitchell and Bridget Rhinehart , York High School Students, presented to the Selectmen a proposal to create a Green Building Ordinance that would help York create a more sustainable future. This ordinance was

drafted based on the ordinance passed in Bangor and the one presently being proposed by the Portland Sustainable Task Force. Ms. Mitchell and Ms. Rhinehart have been before the Planning Board and the York Energy Efficiency Committee and have generated the support of the Planning Board and the Town Planner and many citizens in town.

The proposal is as follows: to adopt a requirement that all municipally funded construction project would receive LEED certification through the US Green Building Council's Leadership and Energy Environmental Design Rating System by targeting a minimum of a silver rating and encourage all non-city projects to become certified.

What is LEED? LEED is a voluntary building certification program that defines high performance green buildings, which are more environmentally responsible, healthier, and more profitable structure. LEED is based off a point system that determines level of certification; 26-32 points equals a bronze certification, 33-38 points is silver, 39-51 points is gold, and 52-69 point is a platinum certification.

LEED evaluates buildings in five areas: Sustainable Sites, Water Efficiency, Energy and Atmosphere, Materials and Resources and Indoor Environmental Quality. The benefits to LEED certification are things such as; reduction in the impacts if natural resource consumption, improved bottom line, better occupant health and comfort, and lower utility costs. There are also rebates and discounts that are associated with being a green building. If York adopts this ordinance they will be the second city in the State behind Bangor to adopt a LEED certification and will be setting a national example.

Ms. Mitchell and Ms. Rhinehart have collected over one hundred signatures on a citizen's petition in support of this ordinance. The Selectmen are supportive of this effort and Mr. Estes pointed out that there has been money budgeted into the Town Hall budget to become LEED certified. However there are some concerns raised that need to be addressed.

Ms. Gregg suggested adding a limitation to the scope or size of the project that would fall under the requirement. Mr. Marshall raised a concern regarding the working on renovations. Citing the fact that it might be very difficult to make renovations to certain buildings LEED certified.

After further discussion on these concerns the Selectmen asked Ms. Mitchell and Ms. Rhinehart to go back and re-write the language and make the changes necessary that were talked about here tonight. It was suggested to come back to the Selectmen at the next meeting with the changes and present them. Christine Grimando, Town Planner, has agreed to help correct the language so that it can go forward to Public Hearing.

**-Update on Woodside Meadows Project**

The Woodside Meadows Project is a Sub-Division located in Kittery with access roads from York. The Kittery Planning Board has approved the project pending approval from York. The project was then approved by the York Planning Board on January 10<sup>th</sup> with five conditions attached.

- 1). Approval with Memorandum of Understanding regarding trash pick up, and fire and police services
- 2). Approval of Deeds-detail access across the easement that leads from Kittery to the Public Way
- 3). Revisions to plan regarding 11 ft of roadway
- 4). Signature of Department Heads
- 5). Site Plan and Sub-Division regulation Plans 9.3

There is currently one appeal filed by the applicant in regard to the last condition and one appeal is being put together on the approval of the project itself.

**E. 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: Rick????  
 Katherine Tarbox  
 Bob Tarbox  
 Charles Stacey  
 Don Fernald

**F. Approval of Warrant #31**

Moved by Mr. Marshall and seconded by Mr. Little to approve Warrant #31. Without objection so moved

**G. ENDORSEMENTS**

Moved by Mr. Marshall and seconded by Mr. Little Betty to approve licenses application for Betty Weaver dba Lobster Barn (Coin-Op Amusement), Kathryn M. Weare dba The Cliff House (Victualers, Liquor, Special Amusement), Byron Brown dba Brown’s Ice Cream (Victualers), Marjorie Curley dba Rick’s All Season Restaurant (Victualers, Liquor) subject to taxes, fees and inspections being current and compliant with the usual noise stipulations. Without objection so ordered.

Ms. Gregg expressed some concern on licenses being approved without full inspection approval from the fire department. This will be addressed in Other Business.

**I. New Business**

**1. Mount A Tower Report**

Mike Sullivan, Parks and Recreation Director, reported on the Mount Agamenticus tower situation. He explained that the process of inventorying the

Towers on Mount Agamenticus and researching the respective contractual agreement started almost two years ago. While it was not difficult to determine who owned the towers there were some varying agreements including leases, perpetual easements, sub-leases, deals and in some cases unidentified users.

Dave Libby from Communication Facilities Inc, was instrumental in helping to sort this out as well as providing the technical assistance necessary to complete the inventory.

Central Maine Power has a perpetual right and easement to the land that their tower is located on, there is no revenue source to the town through CMP. The Department of Conservation and the Maine Forest Service has a lease that has expired with a provision that states if that Maine Forest Service abandons the tower that tower will become property of the Town of York. The State no longer owns the tower however the Fire Department has an agreement with the Forest Service that allows the Fire Department to use the tower. The volunteers at the Fire Department have agreed to maintain the tower in exchange for the use of it. Guy Gannett Broadcasting does not have a tower up but they do have a perpetual easement to a communication building located at the base of the fire tower. The antennae is located on the fire tower, there is no revenue source to the town from this tower. The York Water District owns a tower but it is located on York Water District land. Crown Castle has generated the greatest amount of revenue for the town. The Crown Castle lease has expired and they are currently in a "tenant at will" status. Finally the Boston and Maine Corporation also provided revenue to the town and they are also working with an expired lease and are currently in a "tenant at will" status.

Mr. Sullivan is looking for direction from the Board on where to go with these expired leases. Mr. Sullivan explained that the town has been actively involved in negotiations with these companies for new lease agreements. The new lease agreement with the Boston and Maine would increase the annual rent from \$500 per year to \$10,200 per year. Boston and Maine have agreed to the tentative lease agreement and they are asking for a five year lease with ten successive one year renewal terms. Crown Castle's new agreement calls for a straight \$2,400 a month or \$28,800 annually. It would also include a 3% escalator per year for the term of the lease. They are also requesting a five year lease with four successive five year renewals. Mr. Sullivan recommends that the Town limit any lease to no more than ten years.

The Selectmen asked Mr. Sullivan to speak with the Fire Department to get a more clear understanding on their agreement with the Maine Forest Service. The Selectmen also advised Mr. Sullivan to pursue agreements with these two companies that are in 5 year lease terms with an option of additional five years with stipulations that would leave options open for both the Town and the leasing company. Mr. Sullivan will come back with a formalized lease for approval from the Selectmen.

#### **4. Action on Petition to Adopt Additional Procedure for Acceptance on Non-York Sub-Divisions Which Impact York's Municipal Services**

The citizen petition that had been submitted and certified to the town was turned over to the town attorney for review. The town attorney believes that the citizen's petition is not valid and it contradictory to state statute.

Mr. Yandow will meet with the Town Attorney and one person who was a signer of the petition to form a committee to work with the petition's language.

#### **3. Growth Ordinance Amendment-Vested Sub-Divisions**

At the Selectmen's Meeting on December 10<sup>th</sup>, 2007, the Board provided direction to town staff regarding several short-term and long term actions relating to the Residential Growth Ordinance. One of the short-term tasks was to propose an amendment of the ordinance to close out the vested-subdivision list. The vested-subdivision list is dwindling and currently half of the permits are held by the same person who's land is being pursued by conservationist. The amendment would accomplish the goal of closing out this subdivision list. The policy states that on July 1<sup>st</sup>, 2008 the list would close out to new applications and those who would normally be placed on this list would be placed on the general list.

Moved by Mr. Marshall and seconded by ??? to move forward to public hearing the growth ordinance amendment to close out the vested sub-division list and also the previously viewed amendment for granting growth permits to long term property owners as separate items. Vote 4-0 motion passes.

#### **5. Proposed Ordinance Amendment to Increase Fees for Plumbing Permits**

Steve Burns, Director of Community Development, reported that the smaller and average size inspection fees do not cover the cost of the entire inspection. This would be a proposed amendment to last year's ordinance that would allow us to double the state fees. The simple goal here is to increase revenue. The Code Enforcement could build there own table of fees, the state does not require towns to use their fee schedule; they are allow to enact stricter rules supplemental fees.

Moved by Mr. Marshall and seconded by Mr. Little that the proposed amendment to the Supplemental Subsurface Wastewater Disposal Ordinance with the changes to the fee schedule be moved forward to the public hearing on February 25<sup>th</sup>, 2008. Vote 4-0 motion passes.

### **H. Old Business**

#### **1. Discussion on Disposal of Town Properties**

During previous discussions about the sale/disposal of town properties it was agreed that soil tests would be conducted on properties located at 8 Hemlock Lane, 17 Passaic Road and 61 Pine Mountain Road, and 51 and 53 Pine Mountain Road. It was determined that 17 Passaic Road and 61 Pine Mountain Road are suitable for wastewater on. 51 and 53 Pine Mountain Road are not suitable for wastewater. 11 Western Loop was also soil tested but deemed unbuildable unless sewer and water are available.

It was suggested that we should check in with Habitat for Humanity to see if they would be interested in the Town-Owned property located at 8 Hemlock Avenue. Mr. Yandow will check into the possibility of donating the land.

Mr. Marshall suggested that the making the unsuitable lots 51 and 53 Pine Mountain Road, single lots and offer them to abutters through the sealed bid process.

Mr. Yandow will look in to the best way to dispose of the 2 suitable lots, 17 Passaic Road and 61 Pine Mountain Road. It was suggested to possibly list these properties in the open market and get the best possible price for them.

Western Loop will be discussed again when there is more information available on it.

### **New Business Continued**

#### **2. Capital Budget Discussion**

The Capital Program was structured to be in conformance with the "Cap Two" recommendations from the Tax Task Force. These recommendations were originally adopted for FY 08 and suggested a \$7M annual cap on capital spending over a five-year period. As a result of minimal capital spending in FY08 (only \$500,000 projects were approved by the voters) the Tax Task Force amended their recommendations for FY09 and suggested an \$8.6M annual limitation on capital projects over a four-year period. The \$8.6M is a flexible figure in that more can be recommended in a future year during the four year period. For FY 09 the Capital Planning Committee is recommending projects that total \$11.4M but they are also recommending the use of \$2.8M in fund balance to off-set the cost. \$1.8 M is recommended from the School's fund balance to off-set the \$2,338,000 cost for the Instructional Space project and \$1 M from the town fund balance to off-set the cost of the Town Hall project. The committee is asking for the Board's action to send the Capital Plan forward to the Budget Committee on the proposed five year plan, FY 2009-FY 2013.

Ms. Gregg expressed her concern for the traffic issue at the intersection of Long Sands/York Street at the monument. Mr. Marshall agreed that the Board should sit down with Mr. Yandow and discuss some projects that should be looked at in the future, what issues are out there and what issues need attention.

Moved by Mr. Marshall and seconded by Mr. Little to move forward the five-year Capital Plan to the Budget Committee. Vote 4-0 motion passes.

### **J. Other Business**

Ms. Gregg expressed some concern over the idea that licenses are approved by the Selectmen without full approval from the fire department. Country View

Motel was the basis for this concern. Mr. Yandow will look into the process and come back with a report on how this process works.

**Adjourn**

Moved by Mr. Marshall and seconded by ??? to adjourn at 10:30 PM. Without objection so ordered

Respectfully Submitted

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Kathryn Danylik