1. Board Of Selectmen's Meeting Materials

Documents:

2019-05-20 BOS AGENDA.PDF
2019-05-20 BOS PACKET.PDF
BOARD OF SELECTMEN’S
MEETING AGENDA
7:00 PM  MONDAY, MAY 20, 2019
YORK PUBLIC LIBRARY

Call to Order

Pledge of Allegiance

Annual Organizational Meeting
1. Election of Chair and Vice-Chair
2. Establish a Fixed Schedule of Meetings
3. Re-adopt the Selectmen’s Policy Entitled “Disbursement of Wages to Municipal Employees”
4. Re-adopt Selectmen’s Policy Entitled “Transaction of Business”
5. Review Selectmen’s Policy Entitled “Public Participation at Selectmen’s Meeting”
6. Adopt the Town Budget as Certified by the Town Clerk and Set by the Voters per Article 2, Sections 14 (B) & (C) of the Town Charter
7. Discussion and Possible Action: Call a Special Budget Referendum in accordance with Article 2, Section 14 (F) of the Town Charter
8. Elect a member to serve on the Hartley Mason Board of Trustees
9. Review Priorities for Interaction with Municipal Committees and Set Liaison Assignments for the Coming Year
10. Update on Membership on All Municipal Boards and Committees
11. Review Selectmen’s Code of Ethics
12. Training Requirements and Opportunities for Board Members
13. Annual Adoption of Emergency Plan

B. Consent Agenda
1. May 13, 2019 Meeting Minutes
2. Business License Renewals

C. Minutes
*Listed in Consent Agenda*

D. Chairman’s Report

E. Manager’s Report

F. Awards
G. **Reports**
   1. MS4 – Kristie Rabasca, Integrated Environmental
   2. Route One/Short Sands Road Intersection – Dean Lessard
   3. FY20 Paving Update – Dean Lessard

H. **Citizens’ Forum** – The Citizens’ Forum is open to any member of the audience for comments on any Town matter. All comments should be respectful in tone and should be directed to the Chair. Comments should be brief and to the point. Questions that require extended answers or that cannot be readily answered will be referred to the Town Manager for follow-up. Anyone who wishes to submit a written request for future agenda items can do so on the form available at this meeting or may obtain the form through the Town Manager’s Office.

I. **Public Hearings**

J. **Endorsements**

K. **Old Business**

L. **New Business**
   1. Discussion & Possible Action: Process if Davis Land Vote Passes
   2. Discussion & Possible Action: State Regulation of Medical Marijuana
   3. Discussion: Criteria and Process for Selection of Town Attorney

M. **Future Agendas**
   *On the Radar*

N. **Executive Session** - Title 1 MRSA § 405.6.E (Legal)

O. **Other Business**

P. **Citizens’ Forum**

**Adjourn**
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O. Other Business

P. Citizens' Forum

Adjourn
MEMO

TO: Board of Selectmen
FROM: Stephen H. Burns, Town Manager
DATE: April 9, 2019
RE: Business of the Organizational Meeting

Per the Charter, the first meeting of the Board following the May referendum elections is considered the annual Organizational Meeting. There are certain actions required at this meeting. This memorandum documents my understanding of required actions, along with the basis for each. I have also included optional matters that I believe make sense to include in the annual Organizational Meeting.

Required by Town Charter

1. **Establish a Fixed Schedule of Meetings** – Article III, Section 1(D)(1)

2. **Annual Adoption of Selectmen’s Policy Entitled, “Transaction of Business”** – Article III, Section 1(D)(2)

3. **Election of Chair and Vice-Chair** – Article III, Section 1(D)(3)

4. **Adoption of the Town Budget** as Certified by the Town Clerk and Approved or Rejected by the Voters – Article II, Sections 14(B) & (C)

5. **(Possibly) Call a Special Budget Referendum** for Defeated Budget Requests – Article II, Section 14(F)

Required by Statute

1. **Adopt Selectmen’s Policy Entitled, “Disbursement of Wages to Municipal Employees”** – Title 30-A MRS §5603(2)(1)

Required by Board of Selectmen’s Policy

1. **Publish Timelines for the Next Three Future Referenda** – Selectmen’s Policy entitled, “Timing of Referenda-Related Requests,” Section 6. I ask that we defer this to July so I can draft a more complete schedule for the next budget cycle, which is an involved process and was the source of some angst this past year.

Page 1 of 2
2. **Set dates for Next Two Legal Training Sessions with the Town Attorney**, for the Board of Selectmen and for members of other boards and committees – Selectmen’s Policy entitled, “Legal Training for Board and Committee Members,” Section 1.

**Other**

1. **Elect One Member to Serve on the Hartley Mason Board of Trustees** – Mr. Mason’s will establishes a 3-person board of trustees, and calls for one member to be the Chair of the Board of Selectmen. If the Chair doesn’t wish to serve, another member may be appointed.

2. **Review Selectmen’s Code of Ethics** – not expressly required at this meeting, but consistent with Section 16.

3. **Review Membership on all Municipal Committees** – a good idea to review annually to see what vacancies exist and which people are up for possible renewal in June.

4. **Annual Adoption of the Town’s Comprehensive Emergency Plan** – this action is required annually by the Board pursuant to Section 9 of the Town’s Emergency Management Ordinance. Though not required at this meeting, it would be helpful to establish this as standard practice.

5. **Annual Review of the Policy about Public Participation at Meetings** – this is not required, but I believe it is a useful review because we have been through many meetings where speakers at the Citizens’ Forum have gone well past the 5-minute time limit suggested in this policy. It would be helpful to discuss if and how the Board would like to enforce this limit.
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: May 16, 2019
☑ ACTION

DATE ACTION REQUESTED: May 20, 2019
☐ DISCUSSION ONLY

SUBJECT: Establish a Fixed Schedule of Meetings

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: The Town Charter (Article III, Section 1.D.1) requires the Board to establish a fixed schedule of meetings. These are your regular meetings. To this you will likely add workshops and other special meetings as needed.

Missy and I have prepared a proposed set of meeting dates for your consideration. These are highlighted in yellow on the attached calendar and extend through next year’s annual organizational meeting. Also shown with orange boxes are the required quarterly meetings with the Planning Board.

We have worked this schedule around holidays and the Library’s annual book sale. Points worth noting in this proposed schedule:
- one meeting per month only in December this time
- annual Library Book Sale will be held the week of July 8th so we bumped the meetings in July to the 3rd and 5th Mondays
- October and November meetings are the 1st and 3rd weeks because of holidays

I may miss a meeting or two depending on my vacations and conferences, but the Board has approved Kathryn Lagasse to fill in as Acting Town Manager in such circumstances.

RECOMMENDATION: I recommend approval of the proposed schedule of meetings.

PROPOSED MOTION: I move to approve the proposed schedule of meetings for the coming year, as required by the Town Charter.

Prepared by Stephen H. Burns, Town Manager:
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: April 9, 2019

DATE ACTION REQUESTED: May 20, 2019

SUBJECT: Annual Adoption of the Policy - Disbursement of Wages to Municipal Employees

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: State law, specifically Title 30-A MRS Section 5603(2)(1), allows the Board to adopt the policy regarding disbursement of wages and benefits to municipal employees, but requires it be re-adopted annually. Practice has been to do this at the annual organizational meeting.

This policy establishes that the signature of a single member of the Board of Selectmen is adequate to approve paying employees, but requires three or more signatures for any other payments to be made by the Town. In short, one signature on the warrant allows payroll to be process, but three are required to pay the rest of the bills.

RECOMMENDATION: I recommend the Board re-adopt this policy.

PROPOSED MOTION: I moved to re-adopt the Selectmen’s Policy, Disbursement of Wages to Municipal Employees, and to direct the Town Manager to file a copy of this action and the renewed policy with the Town Clerk.

Prepared by Stephen H. Burns, Town Manager:
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: May 16, 2019

DATE ACTION REQUESTED: May 20, 2019

☐ ACTION

□ DISCUSSION ONLY

SUBJECT: Annual Adoption of the Policy – Transaction of Business

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: At the annual organizational meeting, the Town Charter requires the Board to re-adopt its policy about transaction of business. This policy establishes the Board’s practice for calling and conducting its meetings.

A copy of the currently adopted Policy is attached.

I have been asked by one of the Board members to offer a possible amendment, which is simply that any request for a special or emergency meeting be shared with all members of the Board. The change would be accomplished by adding a sentence to the end of the paragraph on Special and Emergency Meetings, as follows:

“Upon receipt of a request for a special or emergency meeting by any member of the Board, all members of the Board shall be notified of the request.”

RECOMMENDATION: I recommend the Board re-adopt this policy with the requested amended language regarding notification for Special and Emergency Meetings.

PROPOSED MOTION: I move to re-adopt the Selectmen’s Policy, Transaction of Business, with the requested amendment of the section on Special and Emergency Meetings.

Prepared by Stephen H. Burns, Town Manager:
TOWN OF YORK
SELECTMEN'S POLICY
TRANSACTION OF BUSINESS

The Board of Selectmen shall transact all official business at a public meeting. The following items deal with the transaction of business at official meetings of the Board of Selectmen.

Right to Know

Except for Executive Sessions, the proceedings of all meetings of the Board of Selectmen are open to the public.

Rules of Order

Roberts Rules of Order shall govern the proceedings of all Board of Selectmen meetings.

Regular Meetings and Work Sessions

Regular meetings and work sessions of the Board of Selectmen shall be held on the days and the time and place determined by the Board at the annual Organizational Meeting. Abbreviated Regular Meetings may be held at the same time as Work Sessions.

Selectmen will be furnished with the date, time and place for each meeting along with an agenda. This information will be provided by the Town Manager’s Office no later than two (2) workdays prior to the Regular Meeting. Agendas are to be provided by the end of the day Thursday for a meeting on Monday night. Packets with materials relating to the meeting agenda are to be provided at the same time. With regard to requested actions, the Board will not consider material unless it is included in the meeting packets, and the Board may choose to postpone the matter to a future meeting.

Special and Emergency Meetings

Special and Emergency Meetings of the Board may be called by the Chairman, or in the absence of the Chairman, by the Vice Chairman, or by a majority of the Board. The Selectmen will be furnished with the date, time and place and an agenda (if necessary) by the Town Manager’s Office. Meeting notification requirements are pursuant to State Statute.

Requests for Agenda Items

All Selectmen requests for regular meeting agenda items must be submitted to the Chairman of the Board of Selectmen along with supporting background material, or a position paper not less than one (1) week prior to the scheduled meeting date. The Chairman of the Board shall review agenda requests with the Town Manager to assure proper background and staff support has been afforded the item requested. If, in the opinion of the Chairman additional information and/or
study are required, the requested agenda item will be postponed until proper preparation has been made. The Chairman of the Board will subsequently notify the affected Selectman.

If the Chair refuses to place an item on the agenda that has been properly prepared, the written request of one Board member is sufficient to place the item on the Agenda for the next regular meeting.

Order of Business

The following shall generally be the order of business conducted at meetings of the Board of Selectmen, though the Chair shall have the latitude to adjust this as circumstances warrant.

A. Call to Order
B. Pledge of Allegiance
C. Consent Agenda
D. Minutes
E. Chair’s Report
F. Manager’s Report
G. Reports
H. Awards
I. Citizens’ Forum
J. Public Hearings
K. Endorsements
L. Old Business
M. New Business
N. Other Business
O. Future Agendas
P. Citizens’ Forum
Q. Adjournment

Majority Vote

Three affirmative votes are required for the transaction of business.

Consent Agenda

The Board Chair may prepare and propose a consent agenda for action on routine matters such as business license renewals, pole permits, special event permits, and off-site business directional sign approvals. The list of items to be considered by the Board on the Consent Agenda shall be identified in writing and included in the meeting packet, and all material associated with the individual items shall also be included in the meeting packet. Any member of the Board can request for any reason that an item be removed from the Consent Agenda prior to the Board’s vote, and that item will then be considered in the traditional manner. The Consent Agenda must
be decided by vote of the Board, where a “yes” vote approves all matters on the Agenda and a “no” vote requires individual votes on each item.

**Meeting Curfew**

No new discussion should be initiated after 10:00 P.M. The Selectmen may, on a case by cases basis, waive this restriction if requested by a member of the board and a majority of the board is in agreement.
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: May 16, 2019

DATE ACTION REQUESTED: May 20, 2019

☐ ACTION
☒ DISCUSSION ONLY

SUBJECT: Review the Selectmen’s Policy – Public Participation at Selectmen’s Meeting

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: Given the Board’s meeting time is limited and the significant amount of time some presentations during the Citizens’ Forum at some meetings, I believe it would be helpful for the Board to review this policy again. No action is required. I think it’s just helpful to level set each year.

The Board has a great deal of flexibility in applying its policy, but with flexibility can come discomfort in trying to enforce limits at any particular moment. It is a balance, and talking this over ahead of time can help the Board members establish shared expectations and thus work better in unison.

A copy of the Policy is attached.

RECOMMENDATION: n.a.

PROPOSED MOTION: n.a.

Prepared by Stephen H. Burns, Town Manager:
TOWN OF YORK
SELECTMEN’S POLICY
PUBLIC PARTICIPATION AT SELECTMEN’S MEETING

All regular and special meetings of the Board shall be open to the public and the media. Only those executive session meetings, where the Board discusses personnel, labor negotiations, or other matters where private sessions are required or permitted pursuant to State Statute, shall be closed to the public and media. Pursuant to State Law, matters discussed during such executive sessions may require public action at a regular or special Board of Selectmen’s Meeting.

The Selectmen desire to hear the viewpoints of citizens throughout the Town, but also need to conduct the Board’s business in an orderly and efficient manner. The Board shall schedule two periods during each regular Selectmen’s Meeting for public participation and comment. The Board may set a time limit on the length of these periods and/or a time limit for individual speakers.

If a presentation requires more than such time limits allow, the Town Manager shall be contacted at least one week in advance of a regular meeting so that the presentation may be considered for inclusion as a formal agenda item.

The Board shall accept comments and questions from the public concerning any issue during a short period at the beginning and end of the agenda following public hearings (if any). The Chair shall be responsible for recognizing all speakers (who properly identify themselves for the record). The Selectmen shall be given an opportunity to respond to the concerns or questions the Selectmen wish to address officially which are not in response to public comment or questions at said meeting, must be held over for the next available agenda and handled pursuant to the Selectmen Policy on Transaction of Business except that, by unanimous consent, the Selectmen may deal with emergency or special items.

The Selectmen shall give due attention to comments and contributions from the audience, but shall not be required to respond or take action immediately. Audience inquiries, other than simple questions, shall be referred to the Town Manager or that item may be included in the agenda for a subsequent meeting if necessary.

Citizens shall not be recognized by the Chair as the Board conducts its official business, except when the Board schedules, in advance, an interim public discussion period on a particular item or the majority of the Board feels that such input is pertinent to the discussion subject matter.

During the Citizens Forum and the Citizens/Selectmen’s Forum sections of the regular meeting, Citizens should limit their comments to no more than five minutes. Additional extensions of time may be granted, unless objected to by a majority vote of the Board. Members of public may speak more than once during each of these sections of the meeting unless objected to by a majority vote of the Board.

Amended 07/06/2015
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: May 16, 2019

DATE ACTION REQUESTED: May 20, 2019

SUBJECT: Adopt Town Budget

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: The Charter requires the Board to adopt the Town budget following the public voting. As the referendum has not yet taken place I haven’t included the necessary supporting documents, but will provide the documents at the meeting.

RECOMMENDATION: I recommend the Board adopt the Town budget as decided by the voters and certified by the Town Clerk, per Charter Article II, Sections B and C.

PROPOSED MOTION: I moved to adopt the Town budget as decided by the voters and certified by the Town Clerk, per Town of York Home Rule Charter Article II, Sections B and C.

(If any articles are defeated, motion should be expanded to identify each defeated article along with its resulting budget amount.)

Prepared by Stephen H. Burns, Town Manager:
REQUEST FOR ACTION BY BOARD OF SELECTMEN

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<th>DATE SUBMITTED:</th>
<th>May 16, 2019</th>
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<tr>
<td>DATE ACTION REQUESTED:</td>
<td>May 20, 2019</td>
<td>DISCUSSION ONLY</td>
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<tr>
<td>SUBJECT:</td>
<td>Call a Special Budget Referendum</td>
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DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: In the event the voters fail to approve any proposed budget warrant article, the Board of Selectmen may choose to present the matter to the voters again, with a lesser budget request, in a Special Budget Referendum. Because of the deadlines for action set in the Town Charter (see Article II, Section 14.F), the agenda for the Selectmen’s annual Organization Meeting includes an item of business to call this meeting because failure to do so would preclude compliance with the schedule deadlines. If the Board accept the results of the voters’ decisions, no action is taken on this matter.

I have not prepared any sort of timeline or response, but will do so prior to the meeting if any of the lines are rejected and, in my opinion, such votes would cause serious problems for operations. The one example that immediately comes to mind for me is the ballot question for police vehicle purchases. In the past this was treated as operating and was the same amount regardless of the outcome of the vote. Now it is treated as capital and it is an all-or-nothing decision. Failure to fund anything for vehicle purchases would be potentially crippling to Police services, so this would be an article I would recommend bringing back to the voters. Most, however, I would not. I will work out the details on this matter only if necessary.

The cost for a Special Budget Referendum would be about $1,000.

RECOMMENDATION: no recommendation at this time

PROPOSED MOTION: no proposed motion at this time

Prepared by Stephen H. Burns, Town Manager:
REQUEST FOR ACTION BY BOARD OF SELECTMEN

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<tr>
<th>DATE SUBMITTED: April 9, 2019</th>
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<tr>
<td>DATE ACTION REQUESTED: May 20, 2019</td>
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<tr>
<td>SUBJECT: Appoint member to serve on the Hartley Mason Reserve Board of Trustees</td>
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DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: Mr. Mason’s will established the Reservation for public use and enjoyment. It also created a three-person board of trustees, one member of which shall be the Chair of the Board of Selectmen. I would note that, at times in the past, the Chair has asked another member of the Board of Selectmen to serve instead.

RECOMMENDATION: n.a.

PROPOSED MOTION: I move to appoint ______ to the Hartley Mason Reserve Board of Trustees.

Prepared by Stephen H. Burns, Town Manager:
REQUEST FOR ACTION BY BOARD OF SELECTMEN

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<th>DATE SUBMITTED: May 17, 2019</th>
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SUBJECT: Interactions with Committees and Liaison Assignments

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: Under a separate Request for Action (update on committee membership) there is a list of Town committees. At this time, you should review the list and identify any priorities you have for having these committees coming to meet with the Board of Selectmen.

It would also be appropriate for the Board to appoint any liaison members if it so desired. In the past there were many such appointments, but in recent years the Board defaulted to the concept that any committee that needed to communicate to the Board could reach be scheduled to meet with or report to the Board in short order. There is the appointment to the Hartley Mason Board (addressed separately). There have also been appointments to other organizations in the past, such as the York Public Library. This entire matter is open for Board discussion and action.

RECOMMENDATION: n.a.

PROPOSED MOTION: n.a.

Prepared by Stephen H. Burns, Town Manager:
REQUEST FOR ACTION BY BOARD OF SELECTMEN

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<td>SUBJECT:</td>
<td>Update on Membership on Municipal Boards and Committees</td>
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DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: Attached is a list of members currently sitting on Boards and Committees, along with a list of vacancies.

RECOMMENDATION:

PROPOSED MOTION:

PREPARED BY: Melissa M. Avery, Assistant to the Town Manager

REVIEWED BY: [Signature]
<table>
<thead>
<tr>
<th>Board of Appeals</th>
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<tbody>
<tr>
<td>R Michael Swant</td>
<td>2021</td>
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<tr>
<td>R Joseph Carr</td>
<td>2019</td>
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<td>R Britton Garon</td>
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<td>R Robert Lascelles</td>
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<td>R David Woods</td>
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<td>A Victor Manougian</td>
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<td>A Eugene Sullivan</td>
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<td>A Leon Moulton</td>
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<th>Assessment Review Board</th>
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<td>R Leon Moulton</td>
<td>2020</td>
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<td>R Gregory Gosselin</td>
<td>2021</td>
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<td>R Barbara Kinsman</td>
<td>2019</td>
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<td>R Joseph Carr</td>
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<td>R Robert Hand</td>
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<th>Bike/Ped Committee</th>
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<tr>
<td>R Virginia Adamowicz</td>
<td>2020</td>
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<td>R Donna Hayford</td>
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<td>R Brian Ross</td>
<td>2021</td>
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<td>R David McCarthy</td>
<td>2021</td>
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<td>R Leah Drennan</td>
<td>2019</td>
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<th>Cable TV Regulatory Board</th>
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<th>Cliff Walk Committee (4-Year Terms)</th>
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<tr>
<td>R Thomas Rose</td>
<td>2019</td>
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<tr>
<td>R Robert Gordon</td>
<td>2019</td>
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<td>R Robert Luttman</td>
<td>2019</td>
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<tr>
<td>R Diane Kleist</td>
<td>2021</td>
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<tr>
<td>R Edward Little</td>
<td>2020</td>
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<th>Conservation Commission</th>
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<tr>
<td>R Michael Morgillo</td>
<td>2020</td>
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<tr>
<td>R Pricilla Cookson</td>
<td>2019</td>
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<tr>
<td>R Stephen Arsenault</td>
<td>2022</td>
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<td>R Stephanie Byrne</td>
<td>2022</td>
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<td>R Laura Brogan</td>
<td>2022</td>
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<tr>
<td>A Alan McDonald</td>
<td>2021</td>
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<tr>
<td>A Cameron Frecker</td>
<td>2022</td>
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<th>Energy Steering Committee</th>
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<tr>
<td>R Wayne Boardman</td>
<td>2021</td>
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<td>Name</td>
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<tr>
<td>Rozanna Patane</td>
<td>2019</td>
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<tr>
<td>Stephen Kosacz</td>
<td>2020</td>
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<tr>
<td>Gerry Runde</td>
<td>2019</td>
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<td>David White</td>
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<td>Nicholas Strater</td>
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<td>John Graning</td>
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<td>Kurt Hultstrom</td>
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<td>Frederick Scott Stevens</td>
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<td>Amy Phalon</td>
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Rep - Lindsay Road Representative
Rep - Harbor Representative
Rep - Village Representative

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<td>Robert Luttmann</td>
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<td>Connie Hanley</td>
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<td>Karen Gilroy</td>
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<td>Edward Little</td>
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<td>Deanna Martin</td>
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<td>Pat Conner</td>
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<td>Kathleen Kluger</td>
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<td>Al Cotton</td>
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<td>Lewis Stowe</td>
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<td>Wayne Boardman</td>
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Applications
*Scott Doughty

*William Olsen, Sr.
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<tr>
<th>Committee Name</th>
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<td>Senior Citizens Advisory Board</td>
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<td>Emily Cambray</td>
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<td>Jacqueline A. Valentino</td>
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<td>Jeanette McGrath</td>
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<td>Deborah J. Meyers</td>
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<td>Sohier Park Committee</td>
<td>Evelyn Lipka</td>
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<td>Brian Ross</td>
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<td>Francis Hartwell</td>
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<td>Susan Moran</td>
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<td>James Carabello</td>
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<td>Village Revitalization Steering</td>
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<td>Antonia Desoto</td>
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<td>York Harbor Site Design Review Board</td>
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<td>R Joseph Dominquez</td>
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<td>R Jud Knox</td>
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<td>R Ellen Baldwin</td>
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<td>R Sarah Newick</td>
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<td>R Ruth Ann Fatscher</td>
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<td>R Robin Cogger</td>
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Town Board and Committee Vacancies
AS OF 05/16/2019

- **Cable TV Regulatory Board**
  
  (2 Regular Member Vacancies)

  Two member Board that exercise continuing regulatory jurisdiction and supervision over the construction and operation of the cable television system installed with representatives from North Berwick, Wells and Ogunquit. Meetings are held as needed.

- **Cliff Walk Committee**
  
  (2 Regular Member Vacancies)

  Pursue the interests of the Town and its citizens, in keeping the Cliff Walk open for use by the public and ensuring that the walk is safe and properly maintained. Meetings are held on the second Monday – 5:30PM.

- **Historic District Commission**
  
  (3 District Representatives - Lindsay Road, the Village and the Harbor Districts Vacancies)

  Assist, advise and educate owner of historic structures, buildings or site on physical aspects of preservation, renovation and rehabilitation with the application process for Certificates of Appropriateness and Certificates of Demolition. Meetings are held the first Wednesday – 5:30PM.

- **Planning Board**
  
  (1 Alternate Member Vacancy)

  The Board’s principal responsibilities are the review of subdivision and site plan applications to assure compliance with the Town’s Land Use Ordinances, Subdivision and Site Plan Regulations and the Comprehensive Plan, and the continuing review and amendment of the Town Land Use Ordinances and Comprehensive Plan. Meetings are held on the second and fourth Thursday – 7:00PM.

- **Senior Citizens Advisory Board**
  
  (1 Regular/1 Alternate Member Vacancy)

  Manage, supervise and direct the operations of the York Senior Center in conjunction with the Senior Center Coordinator. Meetings are held on the third Tuesday – 1:00PM.

- **Shellfish Conservation Commission**
  
  (3 Regular Member Vacancies)

  Administer the Shellfish Conservation Program in the town. Meetings are held as needed.

- **Sohier Park Committee**
  
  (1 Alternate Member Vacancy)

  Responsible for policy-level management of Sohier Park, which is located at the eastern-most end of The Nubble and includes the Cape Neddick Light Station. Meetings are held on the fourth Tuesday.

- **York Harbor Site Design Review Board**
  
  (1 Regular Member Vacancy)

  Authorize variances from the site development requirements, off-street parking and supplemental provisions of the Zoning Ordinance. Meetings are held as needed.

- **York Housing Authority**
  
  (1 Regular Member)

  By State Law, undertake and carry out studies and analyses of the housing needs within its area of operations. Meetings are held the seconded Wednesday – 9:00AM.
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: April 9, 2019
DATE ACTION REQUESTED: May 20, 2019
SUBJECT: Review the Selectmen’s Code of Ethics

□ ACTION
☒ DISCUSSION ONLY

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: Per Section 16, the Board has set an expectation for itself that it will review its Code of Ethics on a regular basis. This meeting is an opportunity to discuss the policy and raise questions or concerns.

The Policy itself, in Section 16, requires that new members acknowledge that they have received, read and understand with this Policy. Any new members can simply sign below when they have read and understood the Policy. The signed page should be returned to Missy Avery.

I have received, read and understand the Board of Selectmen’s Code of Ethics.

________________________________________ (signature)

________________________________________ (date)

RECOMMENDATION: n.a.

PROPOSED MOTION: n.a.

Prepared by Stephen H. Burns, Town Manager: ____________________________
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATESubmitted: May 17, 2019

DATE ACTION REQUESTED: May 20, 2019

☐ ACTION
☒ DISCUSSION ONLY

SUBJECT: Board training dates

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: Our goal is to have two legal training sessions for board members and staff again this year. We are hoping to have the first session during July or August, with Shana Mueller covering financial matters. The second session should be in October or November, and that will be with Mary Costigan and will probably be more of a Q&A session for board and committee members.

RECOMMENDATION: no action is required – if agreeable I’ll reach out to Shana and Mary to make the arrangements.

PROPOSED MOTION: n.a.

Prepared by Stephen H. Burns, Town Manager:
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: May 20, 2019

DATE ACTION REQUESTED: May 20, 2019

SUBJECT: Adopt of 2019 Town of York Comprehensive Community Emergency Checklist Plan

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: The Plan which has been supplied to the Town Manager and available for review by the Selectmen is the current emergency response plan for the Town of York which has been updated as of May 14, 2019. Under the Town’s Emergency Management Ordinance it is the duty of the emergency management director to keep these plans up to date and submit them to the Board of Selectmen to be adopted on a yearly basis.

RECOMMENDATION: Approval of the Town of York Comprehensive Emergency Checklist Plan dated May 20, 2019


PREPARED BY:  Chief Douglas P. Brady  REVIEWED BY:
MEMORANDUM

DATE: May 16, 2019
To: Town Manager Stephens Burns
Cc: Board of Selectmen

FROM: Chief Douglas Bracy (DB)

SUBJECT Discussion of Emergency Management and Adoption of Town’s Comprehensive Community Emergency Plan

The intent of this discussion is to educate the Board and public as to the Town’s Emergency Management Program and to answer questions about the authority and intent of the Town’s Emergency Management Ordinance and the state of the Town’s Emergency Management Plans. I have provided copy of the ordinance, state statues covering the appointment of a municipal emergency management director and the requirement to have an emergency plan. A copy of the basic public plan section of the Town’s emergency management plan is available at the Town Manager’s Office. The full emergency plan is confidential and shared with those officials and employees involved in working with it.

Our Emergency Management Ordinance requires that the plan be updated as necessary to stay current with changing requirements and concerns as well as to keep the list of contacts updated. The Town Manager has set this renewal up to be done at the first Board of
Selectmen after the election of officers in May to meet this legal requirement.

As most know the last few years have been very busy ones in emergency management with one declared federal disaster in each of those years. Thanks to our public safety entities and public works we met those challenges and are now working to recover from the damages incurred. Damages for both storms may total over $1,000,000 or more and we are working with FEMA officials to recover what is allowed under the federal declaration and to mitigate and improve projects where it may be beneficial to prevent a reoccurrence.

Lastly, we are constantly working on the safety plans for our schools and meet regularly with school administration and School Board members to evaluate and assess what we have achieved and what still can be done to ensure their safety. We conduct annual refresher training for all school employees prior to the start of the school year on these school safety plans and test the plans with drills in each school periodically during the school year. We also work with employees of local businesses and town facilities to train them for safety in the workplace and active shooter. Lastly, we are still working on various sections of the plan to update it and hopefully automated it so changes in information and procedures can be made more efficiently and shared more easily.
Emergency Management Ordinance

Town of York, Maine

Most Recently Amended: May 16, 2015
Prior Dates of Amendment: May 19, 2012
Date of Original Enactment: May 22, 2004

ENACTMENT BY THE LEGISLATIVE BODY

Date of the vote to amend this Ordinance: May 16, 2015.
Certified by the Town Clerk: [Signature] on June 19, 2015.
Emergency Management Ordinance

Section 1. Title and Authority
This ordinance shall be known and may be cited and referred to as the Town of York's Emergency Management Ordinance. It is authorized by 37B M.R.S. 781 – 834 as may be amended.

Section 2. Intent and Purpose
A. It is the intent and purpose of this ordinance to establish an Office that will insure the complete and efficient utilization of all the Town's facilities to combat emergencies and disasters as defined herein.

B. The Town of York's Emergency Management Office will be the coordinating agency for all activity in connection with civil emergency preparedness.

C. This ordinance will not relieve any town department of its normal legal responsibilities or authority nor will it adversely affect the work of any volunteer agency organized for relief in disaster emergencies.

D. This ordinance shall be administered in conjunction with the appropriate elements of the Emergency Plan.

Section 3. Definitions
A. "Emergency Management" means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to minimize and repair injury and damage resulting from disasters or catastrophes caused by enemy attacks, sabotage, riots or other hostile action, or by fire, flood, earthquake or other natural or man-made causes. These functions include without limitation, fire fighting, police, medical, health, emergency welfare, rescue, engineering, warning and communications services; evacuation of persons from stricken areas; economic stabilization; allocation of critical materials in short supply; emergency transportation; existing or properly assigned functions of infrastructure protection; other related to civilian protection and additional activities necessary to the preparation for the carrying out of these functions.

B. "Disaster" means the occurrence of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including, but not limited to, fire, flood, earthquake, windstorm, wave action, oil spill, or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, hazardous materials incident, blight, drought, critical material
shortage and explosion; said occurrence(s) being of significant scope as to exceed
the normal ability of the town's resources to mitigate, respond to or recover from.

C. "Emergency" means any event which threatens to or actually inflicts damage to
people or property and which requires immediate action to mitigate, prevent,
control, contain or from which normal recovery is beyond the scope of the normal
resources of the town.

D. "Emergency Preparedness Forces" shall mean the employees, equipment and
facilities of all town departments, boards, and agencies; in addition, the term
includes all volunteer personnel, equipment and facilities contributed by or
obtained from volunteer persons or agencies.

E. "Emergency Preparedness Volunteer" shall mean any person duly registered,
identified, and appointed by the Town of York's Emergency Management Director.

F. "Director" shall mean the Town of York’s Emergency Management Director.

G. "Office" shall mean the Town of York’s Emergency Management Office.

H. "Emergency Plan" shall mean the Town of York’s Emergency Plan.

Section 4. Organization and Operation

A. Organization. The Director is hereby authorized to organize the Office utilizing to
the fullest extent possible the existing departments and agencies of the town.

B. Operation. The Director shall be the executive head of the Office. The Director
shall be appointed by the Board of Selectmen. The Director shall head the Office
and shall work under the general supervision of the Town Manager with the
concurrence of the Board of Selectmen. In emergency situations, the Director is
authorized to hire assistants and employees. Such hires shall be temporary and
shall not be considered full-time employees of the Town.

C. Administration. The Director shall administer the Office in accordance with the
provisions of this ordinance, the provisions of the Emergency Plan and any other
related policies adopted by the Board of Selectmen and the provisions of any
applicable state and federal laws and rules which may apply in a particular
emergency situation.

Section 5. Emergency Proclamation.
Whenever a local disaster exists or appears imminent, the Town Manager, or in the event
of his or her absence, the Chairperson of the Town of York's Board of Selectmen
shall, by proclamation, declare that fact and that an emergency exists in the Town of York. A copy of the proclamation shall be posted in the same manner as a warrant calling a town meeting, with the return to be made by the person posting it and a copy of the proclamation provided to the Town Clerk who shall retain it as a permanent record of the Town.

Section 6. Emergency Powers and Duties

A. During any period when a local disaster has been proclaimed or when the Governor has proclaimed a disaster pursuant to 37B M.R.S. 742, the Director may promulgate such regulations as deemed necessary to protect life and property and preserve critical resources. Such regulations may include, but are not limited to, the following:

(1) Regulations prohibiting or restricting the movement of vehicles in order to facilitate the work of Emergency Preparedness forces or to facilitate the mass movement of persons from critical areas within the Town.

(2) Regulations pertaining to the movement of persons deemed vulnerable to disaster or at risk.

(3) Such other regulations as may be necessary to preserve public health and safety.

B. The Director may obtain vital supplies, equipment and other properties found lacking and needed for the protection of health, life and property of the people and may bind the Town for the fair value thereof.

C. The Director may require emergency services of any Town Officer or employee. If regular Town forces are deemed inadequate, the Director may require the services of such other personnel as can be obtained including citizen volunteers. All duly authorized persons rendering emergency services shall be entitled to all privileges and immunities provided by law.

D. The Board of Selectmen is authorized to compensate volunteer/call personnel for time spent during a declared emergency involving the Town of York.

Section 7. Termination of Emergency

Whenever the Town Manager, or in the event of her or his absence, the Chairperson of the Board of Selectmen, is satisfied that a local emergency or disaster no longer exists, he or she shall terminate the emergency proclamation by posting another proclamation so stating. The proclamation shall be posted in the same manner as the original one with a copy to the Town Clerk. Local representatives of the news media shall be advised of the termination of the emergency as soon as is practicable.
Section 8. Duties of the Director
The Director shall be responsible to the Town Manager in regards to all phases of Emergency Preparedness activity. The Director shall be responsible for planning, coordinating and operating the Emergency Preparedness activity within the Town. The Director shall maintain liaison with county, state and federal authorities and the authorities of nearby municipalities to insure the most effective response to an emergency. The duties of the Director shall include but not be limited to the following:

A. Coordinating the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the Town for response in an emergency.

B. Development of plans for the immediate use of all the facilities, equipment, manpower and other resources of the Town for the purpose of minimizing or preventing damage to persons and property; and protecting and restoring to usefulness government services and public utilizes necessary for the public health, safety and welfare.

C. Negotiating and concluding voluntary agreements with owners or persons in control of buildings or other property for Emergency Preparedness purposes and identifying suitable buildings for use as public shelters.

D. Through use of educational programs, informing the Town's population about Emergency Preparedness matters and advising as to what actions should be taken during an emergency to protect life and property.

E. From time to time, conducting public practice alerts and drills to familiarize the Town's population with emergency response procedures.

F. Assuming such authority and conducting such activity as the Town Manager or the Board of Selectmen may direct to promote and better execute Emergency Preparedness activities.

Section 9. Emergency Plan
An Emergency Plan shall be adopted annually by the Board of Selectmen. An initial draft Plan shall be prepared by the Director and the Town Manager. The Board of Selectmen may amend this Plan prior to adoption. The Plan shall complement this Ordinance and shall provide the framework within which Emergency Response activities shall happen.
Section 10. Violations
It shall be a violation of this ordinance for any person to obstruct, hinder or delay any member of the Emergency Preparedness Forces as herein defined in the enforcement of any provision of this ordinance or any regulation promulgated under its authority. Any person, firm or corporation found to have violated any provision of this ordinance or any regulation promulgated under its authority in a court with jurisdiction to act on a complaint from the Town shall be subject to a civil penalty of $100.00 for the first offense, $150.00 for the second offense, and $250.00 for the third and subsequent offenses.

Section 11. Waiver/Payment of Fines
Any person charged with a violation of this section, shall be allowed to waive such violation and tender to the Town of York the fine amount if paid within 20 days of issuance of the summons. If the waiver fine is paid, no appearance before a District Court Judge or other judicial officer shall be required. If the offender pays the waiver fine, the matter will be closed in the York Police Records system and listed as a subsequent offense for future violations.

If the offender chooses not to pay the waiver fine, he/she shall appear in court on the specified date to answer for the ordinance violation. If the offender is found to have committed the offense in court, fines, applicable court fees, attorney’s fees, and prosecution costs may apply.

Section 12. Severability
Should any provision of this ordinance be declared invalid for any reason by a court with jurisdiction to do so, such a declaration shall not affect the validity of other provisions of this ordinance or the ordinance as a whole it being the legislative intent that the provisions of this ordinance shall be severable and shall remain valid notwithstanding such a judicial declaration against one provision.

Section 13. Conflicting Ordinances, Orders, Policies and Regulations
At all times during declared periods of emergency, the provisions of this ordinance shall supersede all existing ordinances, orders, policies and regulations insofar as the later may be inconsistent therewith.

Section 14. Effective Date
This ordinance shall take effect immediately upon this passage by the voters at an annual or special town meeting in the Town of York.
§781. Municipal, county and regional agencies

1. Municipal or interjurisdictional agencies. Each municipality of the State must be served by a municipal or interjurisdictional agency responsible for emergency management.

A. [2003, c. 510, P t. C, §14 (RPR).]

B. [2003, c. 510, P t. C, §14 (RPR).]

C. [2003, c. 510, P t. C, §14 (RPR).]

[ 2003, c. 510, P t. C, §14 (RPR).]

2. County or regional agencies. Each county shall maintain a county emergency management agency or create regional emergency management agencies that serve the member counties. Each county or regional agency is responsible for coordination of the activities of municipal and interjurisdictional emergency management agencies within the region or county and for emergency management in the unorganized territories within its jurisdiction. A county or regional emergency management agency must receive support from the municipalities within its jurisdiction.

[ 2003, c. 510, P t. C, §14 (RPR).]

3. Structure of county and regional agencies. The director shall advise upon the organizational structure of county and regional emergency management agencies, including the manner in which the directors of those agencies are appointed by governing bodies of the jurisdictions involved.

[ 2003, c. 510, P t. C, §14 (RPR).]

4. List of agencies. The agency shall publish and maintain a current list of municipal, interjurisdictional, county and regional emergency management agencies established pursuant to this section.

[ 2003, c. 510, P t. C, §14 (RPR).]

SECTION HISTORY
Title 37-B: DEFENSE, VETERANS AND EMERGENCY MANAGEMENT
Chapter 13: MAINE EMERGENCY MANAGEMENT AGENCY
Subchapter 3: LOCAL EMERGENCY MANAGEMENT PROGRAMS

§782. Agency directors

A director must be appointed for each municipal and county or regional emergency management agency. A director of an emergency management agency may not be at the same time an executive officer or member of the executive body of a municipality or interjurisdictional or county or regional agency of the State or a county commissioner. Notwithstanding this section or any other law, a town manager or administrative assistant may also be appointed to serve as the director of an emergency management agency. A director may be removed by the appointing authority for cause. [2003, c. 510, Pt. A, §35 (RPR).]

1. Municipal emergency management director. The municipal officers shall appoint the director of the municipality’s emergency management agency. In each municipality that has not established an agency of its own, the municipal officers shall designate an emergency management director to facilitate cooperation in the work of disaster mitigation, preparedness, response and recovery. The emergency management director shall serve as liaison to the appropriate county or regional agency.

[2003, c. 510, Pt. A, §35 (RPR).]

2. County agency director. The county commissioners shall appoint the director of that county’s emergency management agency.

[2003, c. 510, Pt. A, §35 (RPR).]

3. Interjurisdictional and regional agency directors. The director of an interjurisdictional or regional emergency management agency must be appointed in the manner prescribed by the director in accordance with section 781, subsection 3.

[2003, c. 510, Pt. A, §35 (RPR).]

4. Annual meeting with Director of the Maine Emergency Management Agency. The director of each county or regional organization for emergency management in the State and the respective appointing authority shall meet each year with the Director of the Maine Emergency Management Agency or the agency’s successor, in order to review the performance of the county or regional emergency management organization in carrying out its federal and state mandate and to jointly set new goals for the coming year.

[2003, c. 510, Pt. A, §35 (RPR).]

SECTION HISTORY

The Revisor’s Office cannot provide legal advice or interpretation of Maine law to the public. If you need legal advice, please consult a qualified attorney.
§783. Disaster emergency plan

Each municipality, county and regional emergency management agency shall prepare and keep a current disaster emergency plan for the area subject to its jurisdiction. The plan must be approved by the jurisdiction’s governing body. The plan must follow the risk assessment and planning guidance provided by the director under section 704, subsection 10 and address the hazards and threats that pose the greatest risk to the jurisdiction and the capabilities and actions needed to respond to and recover from disasters. [2013, c. 146, §14 (AMD).]

1. Identification of disasters.
   [ 2013, c. 146, §14 (RP) .]

2. Action to minimize damage.
   [ 2013, c. 146, §14 (RP) .]

3. Personnel, equipment and supplies.
   [ 2013, c. 146, §14 (RP) .]

4. Recommendations.
   [ 2013, c. 146, §14 (RP) .]

5. Other.
   [ 2013, c. 146, §14 (RP) .]

Each municipal, county and regional emergency management agency, as part of the development of a disaster emergency plan for the area subject to its jurisdiction, shall consult as it considers appropriate with institutions, organizations and businesses within its jurisdiction to ensure that the disaster plans developed by the municipality or agency and those institutions, organizations and businesses are compatible. Institutions, organizations and businesses with which the municipality or agency may consult include, but are not limited to, hospitals, schools, health care facilities, group homes and day care centers. [2013, c. 146, §14 (AMD).]

SECTION HISTORY

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public. If you need legal advice, please consult a qualified attorney.
For the purpose of convenience and for expediting meetings, matter of business that are repetitive or routine nature (i.e. Business License Applications, Pole Permits, Special Event Permits, Off-site Business Directional Signs, etc.) are included in the Board of Selectmen’s Consent Agenda, and all such matters of business contained in the Consent Agenda are voted on collectively.

A particular matter of business may be singled out from the Consent Agenda for debate or for a separate vote upon the request of any of the Selectmen. In the case of a separate vote, the excluded matter of business is severed from the Consent Agenda and only the remaining matters of business contained in the Consent Agenda are voted on collectively.

**Agenda Items:**
1. May 13, 2019 Meeting Minutes
2. Business License Renewals

*Example Motion to Accept all Items: I move to accept the Consent Agenda.*

*Example Motion when an Item is being pulled out of the Item List: I move to accept the Consent Agenda, minus item ____ (i.e. “2 – York Restaurant Business License”).*
BOARD OF SELECTMEN'S
MEETING MINUTES
6:00 PM / 6:40 PM / 7:00 PM  MONDAY, MAY 13, 2019
YORK PUBLIC LIBRARY

6:00 PM – Executive Session: Title 1 MRSA § 405.6.C (Real Estate)

Present: Chairman Todd A. Frederick, Robert E. Palmer, Jr., Elizabeth D. Blanchard, Michael L. Estes and Town Manager Stephen H. Burns.

Moved by Mr. Estes, seconded by Mr. Palmer to enter into executive session. Without objection, so ordered.

Moved by Mr. Estes, seconded by Mr. Palmer to exit out of executive session. Without objection, so ordered.

6:40 PM – Interviews for York Water District’s Board of Trustees

Present: Chairman Todd A. Frederick, Robert E. Palmer, Jr., Elizabeth D. Blanchard, Michael L. Estes, Town Manager Stephen H. Burns and Interviewees: George Safrine, Russell Peterson and Lawrence Graves.

7:00 PM – Regular Meeting

Present: Chairman Todd A. Frederick, Robert E. Palmer, Jr., Elizabeth D. Blanchard, Michael L. Estes, Town Manager Stephen H. Burns and members of the press and public.

Call to Order

Chairman Todd A. Frederick called the meeting to order at 7:05 PM.

Pledge of Allegiance

A. Consent Agenda

1. April 22, 2019 Meeting Minutes
2. Business License Renewals
3. Special Event Permit Applications
4. Business Directional Sign Permit
Moved by Mr. Palmer, seconded by Ms. Blanchard to approve the Consent Agenda. Vote 4-0, motion passes.

B. Minutes

C. Chairman’s Report

D. Manager’s Report

E. Awards

F. Reports

1. Energy Matters – Lucy Brennan

2. Veterans’ Affairs Committee Update

G. Citizens’ Forum – The Citizens’ Forum is open to any member of the audience for comments on any Town matter. All comments should be respectful in tone and should be directed to the Chair. Comments should be brief and to the point. Questions that require extended answers or that cannot be readily answered will be referred to the Town Manager for follow-up. Anyone who wishes to submit a written request for future agenda items can do so on the form available at this meeting or may obtain the form through the Town Manager’s Office.

Public Comment: Michelle Hanson
Ted Little
David Chase
Julia Glidden
William Gladhill
William Catlee
Cindy Donnell
Amy Phalon
Cheryl Neiverth
Patrick Garon
Joey Donnelly
Ed Harding
Spiro Paras
Patrick Moore
Paul Radochia
Matt Donnell
Jim Smith
Julie Edminster
David Webber
Kevin McKinney
H. Public Hearings

I. Endorsements

J. Old Business

1. Discussion & Possible Action: Treasurer’s Report

Moved by Mr. Palmer, seconded by Ms. Blanchard to accept the report of the Town Treasurer. Vote 4-0, motion passes.

2. Discussion & Possible Action: Appointment of York Water District Trustee

Moved by Mr. Palmer, seconded by Ms. Blanchard to appoint Russell Peterson as a Water District Trustee filling the remainder of an unexpired term expiring in May 2021, per the York Water District Charter. Vote 4-0, motion passes.

3. Discussion & Possible Action: Appointments to Senior Citizens Advisory Board

This item was postponed.

4. Discussion & Possible Action: York River Docks/Capacity Study RFP

Moved by Mr. Palmer, seconded by Ms. Blanchard to propose that the York Harbor River Study RFP to identify boat traffic, dock replacement, safety, congestion, and capacity issues in the River be funded for $25,000 to $50,000 from the York Harbor Maintenance Account. Vote 4-0, motion passes.

5. Discussion & Possible Action: Sustainability Fund Administrative Framework

Moved by Ms. Blanchard, seconded by Mr. Palmer to approve the proposed Sustainability Fund Application Form and Process. Vote 4-0, motion passes.

6. Discussion & Possible Action: Granite Lane Properties

Moved by Mr. Palmer, seconded by Ms. Blanchard to direct the Town Manager and Town Attorney to initiate action for forceable entry and detainer at 9 and 13 Granite Lane. Vote 4-0, motion passes.

K. New Business

1. Discussion & Possible Action: Electric Vehicle Charging Stations and Grant Opportunities
Moved by Mr. Palmer, seconded by Ms. Blanchard to authorize the Energy Steering Committee to issue an RFP to vendors for installation and maintenance of two charging stations, evaluate the results and present a recommended award to the Selectboard at a future meeting. Vote 4-0, motion passes.

2. Discussion: Strawberry Island Easement to State of Maine

3. Discussion & Possible Action: Legislative Solar Bill (LD 1711) – Draft Testimony from Rozanna Patane

Moved by Mr. Palmer, seconded by Ms. Blanchard to authorize Rozanna Patane to testify on behalf of the Town of York at the hearing for LD 1711 with the draft testimony, as amended. Vote 4-0, motion passes.

L. Future Agendas

1. Harbor Board Questions for Town Attorney

2. Stephanie Byrne – Open Space Conservation Ordinance

3. Spiro Paras – Paras Building

4. Ted Little – Article 45 on Budget Referendum

M. Other Business

N. Citizens’ Forum

Public Comment: Jim Smith
Spiro Paras

Adjourn

Moved by Mr. Palmer, seconded by Mr. Estes to adjourn the meeting at 10:20 PM. Without objection, so ordered.

Respectfully Submitted,

Melissa M. Avery
Assistant to the Town Manager
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: May 16, 2019
DATE ACTION REQUESTED: May 20, 2019
SUBJECT: Business License Renewals

☑ ACTION
☐ DISCUSSION ONLY

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: All approvals are contingent on taxes being current and all appropriate departments (inspections) giving approval; See “Department Approvals” on page two of each application. Signed business license applications and certificates will not be released to the applicant until all necessary department approvals have been received.

RECOMMENDATION: Approve the Business License(s) attached.

PROPOSED MOTION: I move to approve the following licenses:
- Kiersten Mayes DBA: The Central Bean and Bakery (Food Service, Liquor); 127 Long Sands Road
- Kiersten Mayes DBA: The Central Restaurant and Bar (Food Service, Liquor); located at 127 Long Sands Road
- Huw Collins DBA: Molly O’s Restaurant (Food Service, Liquor); located at 2 Main Street

All subject to taxes, fees and inspections being current and compliant with the usual noise stipulations.

PREPARED BY: ___________________________ REVIEWED BY: ___________________________
Melissa M. Avery, Assistant to the Town Manager
BUSINESS LICENSE APPLICATION

NOTE: Business Licenses are not transferable to another person, business or location.

Business Name: The Central Bean & Bakery
Street Address: 127 Long Sands Rd
Business Owner: Kiersten Mages
Mailing Address: 10 Snowdin Ridge, York, ME 03909
Phone Number: (603) 366-8413
E-mail Address: kierstenmages@gmail.com

Business Manager:
Mailing Address:
Phone Number:
E-mail Address:

Please indicate who is to be the Primary Contact with the Town: ☐ OWNER or ☐ MANAGER

Is the Business Owner same as the prior year? ☐ YES ☐ NO ☐ NEW BUSINESS

Please indicate which Licenses or Local Approvals you seek:

Lodging:
☐ Bed and Breakfast License (C/F)
☐ Innkeeper License (C/F)
Number of Rooms: ____________

Food and Beverage:
☐ Food Service License (C/F)
☐ Liquor License (F/P)
☐ Bottle Club License (F/P)
Number of Seats: 22 (Existing / Proposed)

Entertainment:
☐ Special Amusement License (F/P)
☐ Dance Hall License (F/P)
☐ Bowling Alley License (F)
☐ Coin-Operated Amusement License (P)
☐ Bingo, Beano and Games of Chance

Miscellaneous:
☐ Transient Seller’s License
☐ Flea Market License
☐ Junkyard, Auto Graveyard/Recycling License
☐ Other: ___________________________

C – Code Enforcement Inspection Required F – Fire Department Inspection Required P – Police Department Inspection Required
S – Sewer District Inspection Required W – Water District Inspection Required

Code Enforcement: (207) 363-1002
Village Fire Department: (207) 363-1015
York Sewer District: (207) 363-4232
Police Department: (207) 363-1031
Beach Fire Department: (207) 363-1014
York Water District: (207) 363-2265

Other Municipal Water and Sewer Districts may apply depending on your business location

CONTINUE TO BACK PAGE OF APPLICATION -
BUSINESS LICENSE APPLICATION

NOTE: Business Licenses are not transferable to another person, business or location.

Business Name: The Central Restaurant & Bar DBA
Street Address: 127 Long Sands Rd
Business Owner: Kiersten Mayes
Mailing Address: 10 Snowdon Ridge, York, ME 03909
Phone Number: 207-363-043
E-mail Address: kierstenmayinges@gmail.com
Business Manager:
Mailing Address:
Phone Number:
E-mail Address:

Please indicate who is to be the Primary Contact with the Town: [ ] OWNER or [ ] MANAGER

Is the Business Owner same as the prior year? [ ] YES [ ] NO [ ] NEW BUSINESS

Please indicate which Licenses or Local Approvals you seek:

Lodging:
[ ] Bed and Breakfast License (C/F)
[ ] Innkeeper License (C/F)
Number of Rooms: ___

Entertainment:
[ ] Special Amusement License (F/P)
[ ] Dance Hall License (F/P)
[ ] Bowling Alley License (F/P)
[ ] Coin-Operated Amusement License (P)
[ ] Bingo, Beano and Games of Chance

Food and Beverage:
[ ] Food Service License (C/F)
Number of Seats: [28] (Existing / Proposed)
[ ] Liquor License (F/P)
[ ] Bottle Club License (F/P)

Miscellaneous:
[ ] Transient Seller’s License
[ ] Flea Market License
[ ] Junkyard, Auto Graveyard/Recycling License
[ ] Other: ___

C – Code Enforcement Inspection Required F – Fire Department Inspection Required P – Police Department Inspection Required
S – Sewer District Inspection Required W – Water District Inspection Required

Code Enforcement: (207) 363-1002
Village Fire Department: (207) 363-1015
York Sewer District: (207) 363-4232

Police Department: (207) 363-1031
Beach Fire Department: (207) 363-1014
York Water District: (207) 363-2265

Other Municipal Water and Sewer Districts may apply depending on your business location

- CONTINUE TO BACK PAGE OF APPLICATION -
THE TOWN OF

YORK, MAINE

186 York Street, York, Maine 03909

BUSINESS LICENSE APPLICATION

NOTE: Business Licenses are not transferable to another person, business or location.

Business Name: MOLLY'S RESTAURANT, LLC
Street Address: 2 MAIN ST, YORK, ME 03909
Business Owner: H. COLLINS
Business Manager: H. COLLINS
Mailing Address: P.O. BOX 20, YORK, ME 03909
Phone Number: 310-765-0686
E-mail Address: HUMO1652@RESTAURANT.COM

Please indicate who is to be the Primary Contact with the Town: ☑ OWNER or ☐ MANAGER

Is the Business Owner same as the prior year? ☑ YES ☐ NO ☐ NEW BUSINESS

Please indicate which Licenses or Local Approvals you seek:

Lodging:
☐ Bed and Breakfast License (C/F)
☐ Innkeeper License (C/F)
Number of Rooms: __

Food and Beverage:

☐ Food Service License (C/F)
☐ Liquor License (F/P)
Number of Seats: 48 / 48 (Existing / Proposed)
Bottle Club License (F/P)

Entertainment:

☐ Special Amusement License (F/P)
☐ Dance Hall License (F/P)
☐ Bowling Alley License (F)
☐ Coin-Operated Amusement License (P)
☐ Bingo, Bean and Games of Chance

Miscellaneous:

☐ Transient Seller's License
☐ Flea Market License
☐ Junkyard, Auto Graveyard/Recycling License
☐ Other: ____________

C – Code Enforcement Inspection Required  F – Fire Department Inspection Required  P – Police Department Inspection Required
S – Sewer District Inspection Required  W – Water District Inspection Required

Code Enforcement: (207) 363-1002
Village Fire Department: (207) 363-1015
York Sewer District: (207) 363-4232

Police Department: (207) 363-1031
Beach Fire Department: (207) 363-1014
York Water District: (207) 363-2265

Other Municipal Water and Sewer Districts may apply depending on your business location

- CONTINUE TO BACK PAGE OF APPLICATION -
This is a snapshot of most of the MS4 regulated area and the mapped stormwater infrastructure in York. The Town has:
- 631 catch basins/drain manholes
- 2,766 pipe segments,
- 266 ditch segments
- 134 outfalls
The current MS4 General Permit requires that the Town inspect and maintain this infrastructure, and take action to prevent pollutants from entering it.

Future MS4 Permits will likely include the following items:
- More detailed maps (catchment areas for each outfall, easements, treatment systems, etc.)
- Retrofits of municipal properties for stormwater treatment
- Requirements for retrofits of private properties for stormwater treatment (ordinances)
- Wet weather sampling/analysis
- More detailed requirements to address water quality impairments

Considerations for York:
- MS4 Permit Requirements are not going away
- "If after implementing the permit requirements there is still water quality impairment associated with discharge from the MS4, after successive permit terms the permittee will need to expand or better tailor its BMPs within the scope of the six minimum control measures for each subsequent permit"
- Protection of Water Quality is much less costly and time consuming than correcting water quality impairments.
## Proposed FY2020 Capital Paving Projects

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<th>From</th>
<th>To</th>
<th>Surface Size (inches)</th>
<th>Surface Length (Feet)</th>
<th>Width (Feet)</th>
<th>Quantity (Tons)</th>
<th>Quantity (Sq.Yds)</th>
<th>Surface Paving Estimate</th>
<th>Cost/ (Sq.Yds)</th>
<th>Running Total ($)</th>
<th>Actual Cost ($)</th>
<th>Balance ($)</th>
<th>Utilities</th>
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REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: May 17, 2019

DATE ACTION REQUESTED: May 20, 2019

☐ ACTION

□ DISCUSSION ONLY

SUBJECT: Davis Property Acquisition Process

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: This matters only if the voters approve the non-binding ballot question directing the Board of Selectmen to negotiate the purchase of the Davis property. There will be 4 tasks, which must be delivered to the Town Clerk no later than September 6th for a ballot question at a November 5th Special Budget Referendum:

1. Negotiate the Terms of Purchase. There is no price right now – only a range. All the details of the purchase need to be negotiated. Two Board members should be appointed to do this.

2. Future Use of the Property. We have not established any plan to use the Davis property if acquired, so we need to begin working towards a plan of future use. An ad hoc committee should be appointed, and a draft committee charter is attached. Two Board members serve on this Committee.

3. Develop the Finance Strategy. This is a job for staff. I’ll work on this with the Finance Director, Town Treasurer, the financial advisor and Bond Counsel. The key issue here will be tax exempt versus taxable bond financing. In all likelihood this will need to be a taxable bond, and the first payment will need to be pushed off into FY21 – both of which are readily possible.

4. Trigger a Special Budget Referendum to be held on November 5th. Per the warrant article, this could be held at any time in November, but clearly it would be best to have this vote on the same day as the General Referendum. A copy of the relevant Charter provision (Article II, Section 20) is attached. If we move forward we will need to create a timeline for this Referendum in cooperation with the Budget Committee.
RECOMMENDATION: Assuming the article passes, I recommend the three actions listed below.

PROPOSED MOTION: At this time there are 3 motions:

1. I move to approve the Committee Charter as proposed and to seek members by June 10th.

2. I move to appoint ____ and ____ to negotiate purchase conditions with the Davis Family.

3. I move to appoint ____ and ____ to the Committee

Prepared by Stephen H. Burns, Town Manager:
Davis Property Use Committee – Committee Charter

Adopted by the Board of Selectmen – May 20, 2019

Ad Hoc Committee. The Davis Property Use Committee is an ad hoc committee created by and answerable to the Board of Selectmen.

Membership. The Committee shall be comprised of 7 voting members, 2 of whom shall be members of the Board of Selectmen. A quorum for purposes of meeting and voting shall require a minimum of 4 members present and voting and decisions shall be by majority vote. Appointments shall be for the life of the ad hoc committee.

Meetings. All meetings of the Committee shall be public meetings, which shall be conducted in conformance with the Maine Freedom of Access Law (Title 1, M.R.S.A. Ch 13) and Robert’s Rules of Order. A notice of the meeting, which may be simply the meeting agenda, shall be posted publicly at least 48 hours in advance of each meeting, and shall be provided to the Town Manager’s office for inclusion on the Weekly Meeting List. Meetings shall be televised whenever possible.

Minutes. Minutes shall be taken at each meeting in accordance with Robert’s Rules of Order. Approved minutes shall be provided to the Town Clerk for archiving.

Mission. The mission of the Committee is to recommend to the Board of Selectmen a conceptual plan for future use or uses of the Davis property if acquired by the Town. The goal is to provide some sense to the voters of what the Town anticipates doing with the property if it decides to acquire it. In making its recommendation, the Committee shall broadly engage the public in this process through whatever means it deems appropriate, recognizing there is no budget for this effort (beyond incidental costs such as copying and staff time). The output of this Committee will be used to create the ballot question and will be used to make decisions about financing.

Duration. The Committee shall complete its work and present its recommendation to the Board at the meeting of August 12, 2019. Following this presentation, the Committee shall be dissolved.

Modification of Committee Charter. Any time after its formation, the Committee may propose to the Board of Selectmen any modification of its Charter believed necessary to enhance the ability to achieve its mission. The Board of Selectmen may accept, modify, or reject proposed changes to the Committee Charter.
2. Provide for a fine or establish a rule or regulation by which a fine is imposed;

3. Convey or lease or authorize the conveyance or lease of any land/s of the Town, except that property acquired for nonpayment of taxes;

4. Adopt, with or without amendment, ordinances proposed under the initiative power.

**Section 20: SPECIAL REFERENDA**

A. In addition to the Budget Referendum, the Special Budget Referendum authorized under Article II, Section 14(F) of this Charter, and the General Referendum, the Board of Selectmen may call any number of Special General Referenda or Special Budget Referenda said board feels are in the best interest of the Town, provided that:

1. All restrictions of this Charter and state law are met;

2. No proposed Town Budget is voted upon at any Special General Referendum called under this section;

3. Calling of a Special General Referendum shall not obviate the requirement for a General Referendum, and

4. Except as authorized under Article II, Section 14(F) of this Charter, the Board of Selectmen may call a Special Budget Referendum only in accordance with the following procedure:

   a) A Special Budget Referendum may be called only upon an affirmative vote by at least a two-thirds \((2/3)\) majority of the Board of Selectmen, except that a Special Budget Referendum for a school construction project that has received concept approval from the State Board of Education requires approval only by a simple majority of the Board of Selectmen. The subject matter of any Special Budget Referendum called under this provision shall be limited to two categories: 1) items which, if not acted upon before the annual Budget Referendum, will result in a significant loss to the town, such as, but not limited to, the capital purchase of land, buildings or substantial equipment or facilities, for which the Board of Selectmen has reason to believe will no longer be available to the Town, the acceptance of gifts, grants, etc. from the State of Maine or some other entity, and school construction projects that receive concept approval from the State Board of Education and the appropriation, if necessary, of
matching funds for said grants, gifts, other funds, etc.; and 2) items
which, because of accident or natural catastrophe, may require the
appropriation of funds for expenditures to protect the public health,
safety, and welfare, such as, but not limited to disaster relief, or the
replacement of public safety apparatus(es) or facilities."

b) The Board of Selectmen shall refer items for the Special Budget
Referendum to the Budget Committee, and upon receipt of said referral
from the Board of Selectmen, the Budget Committee shall schedule a
single public hearing to be held within ten (10) days for the purpose of
receiving comments from the public and Town officers concerning the
subject matter of the Special Budget Referendum.

c) At the conclusion of the public hearing, the Budget Committee shall vote
either to approve the subject matter of the Special Budget Referendum as
submitted by the Board of Selectmen; to approve the subject matter of the
Special Budget Referendum with amendments, except that the amount
submitted to the voters in a Special Budget Referendum for a school
construction project that has received concept approval from the State
Board of Education may not be amended; or to disapprove the subject
matter of the Special Budget Referendum.

d) If the Budget Committee votes to disapprove the subject matter of the
Special Budget Referendum, the Selectmen shall take no further action
with respect to that Special Budget Referendum, except that with respect
to referendum articles for school construction projects that have received
concept approval from the State Board of Education, a Special Budget
Referendum shall be called as provided in subparagraph e) of this
section.

e) If the Budget Committee votes to approve the subject matter of the
Special Budget Referendum, either as submitted or with amendments, the
Board of Selectmen shall call a Special Budget Referendum on the
approved subject matter of the Special Budget Referendum to be held no
sooner than forty (40) days, and no later than seventy (70) days, after the
vote of the Budget Committee.

Section 21: ORDINANCES IN GENERAL

A. FORM: Every proposed ordinance shall be introduced in writing and in the
form required for final adoption. No ordinance shall contain more than one
subject, which shall be clearly expressed in its title. The enacting clause shall
be "the Town hereby ordains...". Any ordinance which repeals or amends an
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: May 16, 2019

DATE ACTION REQUESTED: May 20, 2019

☐ ACTION
☒ DISCUSSION ONLY

SUBJECT: Medical Marijuana

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: Per the request of the Town Manager I have attempted to assess the newer/modified (2018) Maine Medical Use of Marijuana Act and subsequent rules, and how it may apply to York’s Ordinance standards/parameters.

York’s current ordinance standards relative to “Medical Marijuana” were enacted in 2014 and (I believe) resulted as a reaction to a facility that was established on White Birch Lane that at the time utilized permitted land use definitions and standards that had nothing to do with Medical Marijuana. The Town, as a way to get ahead of a possible onslaught of these types of businesses, came up with medical marijuana definitions, uses, and performance standards to limit these types of business setting up shop in all districts and areas of Town that might seemingly allow for them. From what I gather, the ordinance that passed did succeed in doing that.

However, current State law regarding Medical Marijuana has changed not only medical marijuana use definitions, but also requires municipalities (before a Medical Marijuana business is established in a Town) to “opt in” through a vote of the legislative body (Town vote) to allow for the operations of any new medical marijuana establishments. These establishments are defined as registered caregiver retail stores, registered dispensaries, testing facilities and manufacturing facilities. If a Town has not or does not “opt in” then a Medical Marijuana establishment, that is not already a grandfathered use, may not operate legally in a municipality. At the time that York developed the current medical marijuana ordinance standards there was not an “opt in” requirement or option in state law, and as I stated before, the reason the Town developed the current standards was likely a reaction to a possible proliferation of these types of businesses operating in Town. It was a way, at the time, to get ahead of the curve per se’.

So, what are we doing?
Currently, I am researching with/for the Planning Board, ordinance amendments that would change our definitions/use/performance standards to match current State law. We are not looking to make major changes (permit or prohibit everything), but are merely trying to match current State definitions (i.e. Registered Dispensaries) within our current regulatory fabric. I am also looking into this “opt in” requirement with MMA and the Town Attorney regarding whether if the Town already did so (opt in) by establishing the current standards in zoning and business licensing ordinances, or whether the Town needs to officially “opt in” before new medical marijuana establishments can exist in Town as the law specifies.
RECOMMENDATION: If it is found that the Town needs to “opt in” to allow for new medical marijuana establishments to be permitted in York then I recommend placing ballot language on the November 2019 referendum regarding “opting in” as well as developed proposed zoning and business licensing ordinance changes that modifies our current medical marijuana regulatory fabric. If it is deemed that we have already “opted in” then I recommend we make changes to our current zoning and business licensing language that matches current state law and have that ready to be voted on in November.

PROPOSED MOTION: N/A

FISCAL IMPACT: N/A

DEPARTMENT LINE ITEM ACCOUNT: N/A

BALANCE IN LINE ITEM IF APPROVED: N/A

PREPARED BY: Dylan Smith, Planning Director  REVIEWED BY:
Medical Marijuana

This packet is intended for general informational purposes only. It is not meant, nor should it be relied upon, as legal advice in any particular situation. Links to documents herein are provided as examples for informational purposes only and have not been reviewed by MMA Legal Services. Do not use any sample unless it has been reviewed by your legal counsel. The information herein is not a substitute for consultation with legal counsel and legal review or other specific guidance on the subject. The statutes and other information herein are only current as of the date of publication.

Date of last revision: 04/2019

This packet includes the following attachments:
- Title 22 M.R.S. §§ 2421-2430-B
- Maine Revenue Service Bulletin No. 60 on Taxable Sales of Medical Marijuana and Related Products
- Maine Marijuana Statutes Cheat Sheet
- Sample warrant articles generally authorizing medical marijuana facilities
- Department of Administrative and Financial Services, Maine Medical Use of Marijuana Program website

Important Issues and considerations include:

I. Overview

The use of marijuana for medical purposes has been legal in Maine since 1999. However, it was not until 2009 when the Legislature passed the Maine Medical Use of Marijuana Act (MMUMA) (22 M.R.S. §§ 2421-2430-B), that the use, possession, cultivation and distribution of marijuana for medical purposes took full effect in the State. Under the MMUMA, patients with a qualifying medical condition could legally obtain marijuana for medical use by growing it themselves or by designating a State-registered caregiver or dispensary to assist them with the cultivation and use of medical marijuana.

Recent amendments to MMUMA significantly alter the 2009 framework for medical marijuana access and distribution in the state of Maine. For example, patients no longer need to have a qualifying medical condition or designate a specific caregiver or dispensary to access marijuana for medical purposes. These amendments took effect on December 13, 2018.

Most significantly for municipalities, the MMUMA now clarifies that municipalities possess home rule authority to regulate the production and distribution of medical marijuana by registered caregivers, caregiver retail stores, registered dispensaries, marijuana testing facilities, and manufacturing facilities (the previous statutes were ambiguous with respect to local authority to regulate all types of medical marijuana operations except registered dispensaries). The recent amendments also allow municipalities, as of December 13, 2018, to “opt-in” to the operation of commercial medical marijuana establishments — caregiver retail stores, dispensaries, products manufacturing and testing facilities — through a vote of the legislative body. This means that after December 13, 2018, no new retail store, manufacturing facility, testing facility, or dispensary may begin operation in a municipality unless or until the municipal legislative body affirmatively votes to allow that particular type of establishment to locate in the municipality. However, all such facilities already in operation with municipal approval prior to December 13, 2018, are grandfathered (i.e., may continue to operate regardless of whether the municipality votes to opt in).

How the new MMUMA governs patient access, caregiver and dispensary distribution, and municipal regulatory authority is discussed further in the paragraphs below.

II. Authorized Conduct for the Medical Use of Marijuana
The MMUMA establishes the authorized conduct for qualifying patients, medical providers, caregivers, dispensaries, manufacturing facilities, and testing facilities, in the course of cultivating, using, distributing, or assisting with the use of marijuana for medical purposes. In general, the Maine Department of Administrative and Financial Services (DAFS) is responsible for oversight and regulation of the activities and operations authorized by the MMUMA (22 M.R.S. § 2424).

**Patients.** The MMUMA allows patients with a written certification from a physician to possess up to 8 pounds of marijuana for medical purposes, cultivate up to 6 marijuana plants for their own medical use, or give away up to 2 ½ ounces of marijuana to another qualifying patient (22 M.R.S. § 2423-A(1)). Qualifying patients may also visit registered caregivers or dispensaries to obtain up to 2 ½ ounces of medical marijuana per transaction.

A patient does not need to have a specific medical condition to legally possess and use marijuana for medical purposes. All that is needed under the MMUMA is a written certification from a physician indicating the physician's professional opinion that the patient's medical diagnosis will be alleviated by the medical use of marijuana (22 M.R.S. § 2423-B(6)). Patients also are not required to designate a specific registered caregiver or dispensary from which they obtain their medical marijuana, unless the patient is a minor, or a visiting patient from another jurisdiction that authorizes the medical use of marijuana (22 M.R.S. §§ 2423-A(1)(F-1), 2423-D).

**Caregivers.** The MMUMA authorizes individuals, identified as "caregivers," to assist qualifying patients with the use of medical marijuana, provided they are at least 21 years of age and have not been convicted of a disqualifying drug offense. Caregivers may transfer up to 2 ½ ounces of harvested marijuana to a qualifying patient in one transaction, and are entitled to receive reasonable compensation for their assistance (a caregiver may provide delivery services to his or her patients if necessary). Caregivers who are registered with the State may cultivate up to 30 mature marijuana plants and possess and distribute all the harvested marijuana produced by those plants to qualifying patients, sell or buy marijuana plants or harvested marijuana wholesale to or from other caregivers or dispensaries, organize as a business entity, and operate a retail store (22 M.R.S. § 2423-A(2)).

Generally caregivers must be registered with the State to operate (22 M.R.S. § 2425-A(2)). There is an exception for caregivers providing assistance to a member of that caregiver's household or a family member. Such "unregistered" caregivers may only assist up to two family or household members, and may not sell marijuana plants wholesale, operate a retail store, or organize as a business entity (22 M.R.S. § 2423-A(3)(C-1)).

**Dispensaries.** In addition to caregivers, patients may also obtain medical marijuana from dispensaries. Under the MMUMA, a "dispensary" is an entity registered with the state to "acquire[], possess[], cultivate[], manufacture[], deliver[], transfer[], transport[], sell[], supply[] or dispense marijuana or related supplies and educational materials to qualifying patients and the caregivers of those patients" (22 M.R.S. § 2422(6)). The MMUMA does not place a limit on the number of plants a dispensary may cultivate, or the number of patients a dispensary may assist, but dispensaries are only authorized to dispense up to 2 ½ ounces to a qualifying patient per transaction. Like caregivers, dispensaries are entitled to receive compensation for their services to patients. A dispensary cannot be located within 500 feet of the property line of a preexisting public or private school.

There are currently eight registered dispensaries operating within the state. Starting December 13, 2018, DAFS will start issuing six additional dispensary registrations to qualified entities. After January 1, 2021, there will be no limit on the number of dispensary registrations that may be issued by the department.

**Manufacturing Facilities.** Individuals may also operate medical marijuana products manufacturing facilities, provided they register their manufacturing operations with the State in accordance with the MMUMA (22 M.R.S. § 2423-F). The manufacturing of marijuana products is different from the cultivation of marijuana; it is a process that occurs after the marijuana plant has been cultivated and harvested. Individuals engaged in manufacturing blend, infuse, or extract parts of the marijuana plant to make marijuana products and concentrate. Registered manufacturing facilities are authorized to manufacture marijuana products and marijuana concentrate from the harvested marijuana received from qualifying patients, caregivers or dispensaries. The marijuana products manufactured must be returned to the qualifying patient, caregiver, or dispensary from which the facility received the harvested marijuana. Manufacturing facilities may receive reasonable compensation for such services, but a manufacturing facility may not engage in retail sales of marijuana products or concentrate unless otherwise authorized to engage in retail sales (i.e. if they are a vertically integrated registered dispensary or caregiver with both manufacturing and retail components).

There are three types of registration for medical marijuana products manufacturing: Tier 1 manufacturing facilities, allowed to process up to 40 pounds of harvested marijuana; Tier 2 manufacturing facilities, allowed to process up to 200 pounds of...
harvested marijuana; and manufacturing through extraction using inherently hazardous substances (22 M.R.S. § 2423-F). An “inherently hazardous substance” (IHS) is defined as “a liquid chemical; a compressed gas; carbon dioxide; or a commercial product that has a flash point at or lower than 100 degrees Fahrenheit, including, but not limited to, butane, propane and diethyl ether.” It does not include any form of alcohol or ethanol (22 M.R.S. § 2422(4-E)).

All manufacturing facilities must obtain a registration identification card from the State to operate legally. Anyone using an IHS as a method of extraction must also be able to produce on demand a certification from a licensed professional engineer that the equipment used for extraction meets all standard safety operating procedures, as well as all applicable state and local building, electrical, and fire safety codes (22 M.R.S. § 2423-F(3)). Anyone manufacturing food products must also obtain a commercial kitchen license pursuant to 22 M.R.S. § 2167.

Qualifying patients, caregivers, and dispensaries are all allowed to manufacture medical marijuana products from their own harvested marijuana, without obtaining a separate registration to engage in products manufacturing, as long as the manufacturing does not include production of marijuana food products or extraction using IHS. (22 M.R.S. §§ 2423-A(1)(J), 2423-A(2)(G), 2428(H), and 2428(I)). Otherwise, the patient, caregiver, or dispensary must comply with the IHS registration or commercial kitchen licensing process under 22 M.R.S. § 2423-F or § 2167, respectively.

III. Local Regulation

Opt-in. The MMUMA prevents the operation of any new registered caregiver retail stores, registered dispensaries, testing facilities, and manufacturing facilities after December 13, 2018, unless the municipal legislative body has voted to allow the operation of these types of facilities within the municipality. In other words, such facilities are, by default, prohibited unless a municipality has acted through vote of the legislative body to “opt in” to their operation. This municipal authorization is similar to the municipal “opt-in” authorization required before adult use marijuana establishments may operate under the Adult Use Marijuana Act (28-B M.R.S. §§ 101-1504).

There is one significant caveat to this default prohibition: municipalities may not prohibit registered caregiver retail stores, dispensaries, testing facilities or manufacturing facilities in operation with municipal approval prior to December 13, 2018. This means that all such facilities already operating with municipal approval are grandfathered, and may continue to operate even if the legislative body does not vote to “opt in” to the operation of new commercial medical marijuana establishments in general. What constitutes “municipal approval” is an open question, and will likely remain so until the issue is reviewed in court, or the Legislature enacts clarifying language. Arguably, a medical marijuana retail store operating absent any municipal permit, license, or other local authorization or review process is not operating with municipal approval.

Note that the default prohibition applies to registered caregiver retail stores, not to registered caregivers generally. Under the MMUMA, municipalities are expressly precluded from prohibiting or limiting the number of registered caregivers within their jurisdiction (22 M.R.S. § 2429-D(1)).

Home-Rule authority to regulate. The MMUMA expressly recognizes municipal home rule authority to regulate registered caregivers, registered caregiver retail stores, registered dispensaries, marijuana testing facilities, and manufacturing facilities (22 M.R.S. § 2429-D). By ordinance, municipalities have the authority to directly regulate registered caregiver activities through means such as permitting, performance standards, or local licensing and reasonable licensing fees, as long as such regulation does not prohibit or limit the number of registered caregivers in the municipality. Municipalities can prohibit or limit the number of caregiver retail stores, dispensaries, testing facilities or manufacturing facilities, as well as impose permitting, performance standards, or licensing requirements on some or all types of such commercial medical marijuana establishments.

Municipal access to caregiver information. The MMUMA protects as confidential the information provided to the State with a caregiver registration application (22 M.R.S. § 2425-A(12)). However, upon request by a local code enforcement officer (or if a municipality does not employ a code enforcement officer, a municipal officer), DAFS is required to verify the registry identification card and conduct of a caregiver, including the location of the caregiver’s operations. The state must disclose this information within 2 business days of the request, without disclosing more information than is reasonably necessary to verify authenticity of the registry identification card. The CEO or municipal officers must keep any information received confidential except as necessary to verify whether the registry identification card is valid and whether the conduct is authorized.

IV. Enforcement

Violations of the MMUMA (e.g., the distribution of medical marijuana or marijuana products without the required state
registration or without opt-in authority from the municipality) are subject to civil and/or criminal penalties that must be enforced by DAFS and/or state/local law enforcement (22 M.R.S. § 2430-F). If a municipal official becomes aware of such violations, they should be reported to DAFS or the state/local police. The municipality is only responsible for enforcing violations of municipal land use or licensing regulations, to the extent such regulations have been enacted and are applicable.

V. Relation to Adult Use Marijuana

It is important to remember that Maine has two separate statutes to regulate medical marijuana and adult use marijuana. The MMUMA only governs the state and local regulation of medical marijuana. The use and possession of adult use marijuana, as well as the licensing and local regulation of adult use marijuana establishments, is governed by Maine's Adult Use Marijuana Act. This means that municipalities attempting to regulate both medical and adult use marijuana activity must do so separately, pursuant to the authority outlined in each respective statute. This also means that marijuana stores, dispensaries, testing facilities or manufacturing facilities operating under the authority of the medical marijuana laws may not transition into adult use activity without also complying with the licensing requirements and restrictions of the adult use marijuana statute. It would not be possible for a registered caregiver operating a medical marijuana storefront to start selling adult use marijuana until the municipality has opted in to the operation of adult use marijuana stores and the caregiver has obtained a license to sell adult use marijuana. Moreover, a caregiver with the opportunity to transition into adult use marijuana sales would not be able to sell adult use marijuana in the same location as his or her medical marijuana sales are conducted. The Adult Use Marijuana Act expressly prohibits the sale of adult use marijuana in the same facility or building as the sale of medical marijuana to patients (28-B M.R.S. § 504(5)). See MMA's Adult Use Marijuana Information Packet for additional information on the relationship between the adult use and medical use statutes.

VI. Taxation of Medical Marijuana Sales

The Maine Revenue Service considers registered caregivers and dispensaries as retailers involved in the taxable sale of medical marijuana and marijuana products to consumers. As such, dispensaries and registered caregivers must register with the Maine Revenue Service and are responsible for collecting sales tax on the products they sell. Most of the products sold by registered caregivers and dispensaries are subject to the general sales tax rate of 5.5%. The statutory exemption for sale of prescription medicines does not apply to medical marijuana (see 36 M.R.S. § 1760(5)). Edible medical marijuana products are considered "food products," which are subject to a sales tax rate of 8% (36 M.R.S. § 1811).

Registered caregivers who cultivate or manufacture medical marijuana and marijuana concentrate may qualify for certain sales tax exemptions for the equipment used in such operations. For more information on these exemptions, see Maine Revenue Services Bulletin No. 60, linked above.

There is no state-municipal revenue sharing of tax revenues from medical marijuana operations. Additionally, local option taxation of medical marijuana is not authorized (Note: personal property taxes and real property taxes still apply to medical marijuana operations).
LOT OF RECORD: A parcel of land, a legal description of which, or the dimensions of which, are recorded in a document or subdivision plan on file at the York County Registry of Deeds.

LOW INCOME: Household income which is not more than 80% of the median family income for the York-Kittery-South Berwick HUD Metropolitan Finance Area. This area includes the towns of York, Kittery, Eliot, South Berwick and Berwick. Income shall include household financial assets converted to income equivalents, using the federal model, which determines eligibility for affordable housing. - AMENDED 11/03/09

MANUFACTURED HOUSING: A structural unit or units designed to become a dwelling unit, constructed on a permanent chassis in a manufacturing facility and transported by the use of its own chassis to a building site. (In common language, this is what people commonly refer to as “trailers” and “mobile homes,” though these terms are not used in this context in this Ordinance.) This includes but is not limited to those units which the manufacturer certifies were constructed after June 15, 1976 in compliance with HUD standards. The manufactured housing unit is constructed with its utilities integral to the unit, and is designed to be used with or without a permanent foundation when connected to required utilities at the site. This definition is intended not to include Recreational Vehicles (RVs) as defined in this ordinance. - AMENDED 05/19/2012

MANUFACTURED HOUSING PARK: A parcel of land under unified ownership and management, approved by the Town for the placement of 3 or more units of manufactured housing. - AMENDED 05/19/2012

MARIJUANA: As defined in State Administrative Rules (10-144 CMR Chapter 122), §1.17, “Marijuana.” - AMENDED 11/04/2014

MARINA: An area for the mooring and storage of boats with frontage on a navigable body of water, with or without sale of supplies and services for watercraft and their equipment and accessories.

MARSH: A periodically wet or continually flooded land area with the surface not deeply submerged, covered dominantly with sedges, cattails, rushes, and other hydric plants.

MEAN SEA LEVEL: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD), or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced. - AMENDED 11/03/1998

MEDICAL FACILITY: A facility that provides outpatient health services. This use may include but is not limited to medical and dental offices and laboratories, diagnostic facilities, and outpatient surgical services. Medical facilities may be freestanding or may be part of a larger hospital complex. For doctor and dentist offices operated on lots where the primary use is residential, see Zoning 7.4, Home Occupations. - AMENDED 11/06/2012

MEDICAL MARIJUANA: Marijuana that is acquired, possessed, cultivated, manufactured, used, delivered, transferred or transported to treat or alleviate a qualifying patient’s debilitating medical condition or symptoms associated with the qualifying patient’s debilitating medical condition. - AMENDED 11/04/2014

MEDICAL MARIJUANA CAREGIVER: A person, licensed hospice provider or licensed nursing facility that is designated by a qualifying patient to assist the qualifying patient with the medical use of marijuana in accordance with state law. A person who is a medical marijuana caregiver must be at least 21 years of age and may not have been convicted of a disqualifying drug offense. - AMENDED 11/04/2014

MEDICAL MARIJUANA LAND USES: Any of 3 types of land uses, defined below, that cover the full range of options for lawful cultivating, processing, storing and distributing medical marijuana. - AMENDED 11/04/2014

MEDICAL MARIJUANA HOME PRODUCTION: Cultivating, processing and/or storing of medical marijuana by a qualifying patient at their own residence or a medical marijuana caregiver at their own primary year-round residence for use by a qualifying patient. This use shall be considered an accessory use. - AMENDED 11/04/2014

MEDICAL MARIJUANA PRODUCTION FACILITY: A facility used for cultivating, processing, and/or storing medical marijuana by a medical marijuana caregiver at a location which is not the medical marijuana caregiver’s primary year-round residence. This shall be considered a commercial use. - AMENDED 11/04/2014

MEDICAL MARIJUANA REGISTERED DISPENSARY: A not-for-profit entity registered pursuant to state law that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies or dispenses marijuana, paraphernalia or related supplies and educational materials to qualifying patients and the primary caregivers of those patients. Note that a dispensary may be either a single facility, or it may be divided into two separate but related facilities where growing is done at only one of the facilities. This shall be considered a commercial use. - AMENDED 11/04/2014
14. One off-street parking space must be provided for each vehicle registered to occupants of the ADU in one-bedroom units and two for two-bedroom units, in addition to the off-street parking required for the principal dwelling unit. In general, new parking must comply with current parking standards.

15. An occupancy permit must be issued by the CEO prior to occupancy of an ADU created or modified pursuant to this section.

16. The CEO shall prepare an annual report to the Board of Selectmen and Planning Board on ADUs which will include: (a) the number of units established; (b) the geographic distribution of the units; and (c) the average size of the units and other pertinent information as may be requested by the Board of Selectmen.

17. ADUs proposed to be located in an accessory structure can only be constructed in a building that has been in existence for at least two years at the time an ADU application is filed with the Code Enforcement Office. Accessory structures shall include garages, workshops, barns, studios and other similar structures that do not constitute dwelling units.

18. A detached accessory structure containing an ADU shall be located no further than 150 feet from the nearest point of the principal structure.

19. Non-conformities shall not be created or increased in the creation of an accessory unit.

20. The maximum density for any lot which is not serviced by public sewer shall not exceed the standards of the State Minimum Lot Size Law (Title 12 M.R.S.A. §4807 et seq.).

D. If any part, section or clause is found to be unlawful these shall have no effect on the legality of the remaining.

AMENDED 08/18/2013

7.18 Medical Marijuana

7.18.1 Purpose: The purpose of this Section and related provisions of this Ordinance is to control the cultivation, processing, storage and distribution of medical marijuana by controlling land uses consistent with State law and in a manner that prevents unintended consequences that could adversely impact the Town and its residents.

7.18.2 Exemptions: As an accessory use, Medical Marijuana Home Production shall be allowed in any qualifying patient's residence or any medical marijuana caregiver's primary year-round residence in every base zone and overlay zone, without any requirement for land use permitting.

7.18.3 Approval Process: Any proposal to establish a new or alter an existing Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility shall require approval of the Planning Board, even if the Planning Board was not required to grant the original local approval. The Planning Board shall follow the application procedures established in Article 18-A. In addition to other public notification requirements, the Town shall notify the York Police Department and the Maine Department of Health and Human Services, Division of Licensing and Regulatory Services prior to the public hearing on any application.

7.18.4 Performance Standards: In addition to other requirements of this and other codes, including but not limited to Article 6, the following shall apply to any application for a new or altered medical marijuana registered dispensary or a medical marijuana production facility:

A. Limit. There shall be no more than one Medical Marijuana Registered Dispensary in the Town of York.

B. Proximity Limit. Only one Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility shall be permitted per lot. Additionally, no Medical Marijuana Production Facility shall be located on a lot that is within 250 feet of another lot on which a Medical Marijuana Production Facility is located. This separation
requirement will prevent a concentration of these facilities and helps to ensure compliance with the State prohibition against collectives.

C. Safe Zones. No Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility shall be permitted within any Safe Zones established by the Board of Selectmen. (Initially designated by the Board of Selectmen on April 9, 2007, and as amended.)

D. Security. Before granting an approval, the Planning Board shall ensure the applicant has reviewed their property and building security plans with the York Police Department and the Police Department finds the security measures are consistent with State requirements.

E. Business License. As a condition of use, the operator of a Medical Marijuana Registered Dispensary or a Medical Marijuana Production Facility shall obtain and retain all required business licenses pursuant to the Town's Business Licensing Ordinance. The land use approval shall be considered abandoned if no license-holder occupies the Facility for a period of 2 years or more. - AMENDED 11/04/2014
Town of York, Maine

A. Inspections Required:
   2. Fire Inspection – annual.

B. Statutory Authority. Title 30-A M.R.S. §3753.

C. Related Laws. See also the Zoning Ordinance, and Title 30-A M.R.S. §3751-
   3760, and Title 29-A M.R.S. §1101-1112.

C. Enforcement Authority. CEO, York Police Department and Fire Chief.

4.2.13 Medical Marijuana Grower License

This license shall be required for a Medical Marijuana Registered Dispensary or
Medical Marijuana Production Facility. The following shall apply:

A. Inspections Required:
   1. Police Inspection – at initial licensing to ensure security meets State
      requirements.

B. Definitions.

1. Medical Marijuana. Marijuana that is acquired, possessed, cultivated,
   manufactured, used, delivered, transferred or transported to treat or
   alleviate a qualifying patient’s debilitating medical condition or symptoms
   associated with the qualifying patient’s debilitating medical condition.

2. Medical Marijuana Caregiver: A person, licensed hospice provider or
   licensed nursing facility that is designated by a qualifying patient to assist
   the qualifying patient with the medical use of marijuana in accordance
   with state law. A person who is a medical marijuana caregiver must be at
   least 21 years of age and may not have been convicted of a disqualifying
   drug offense.

3. Medical Marijuana Registered Dispensary. A not-for-profit entity
   registered pursuant to state law that acquires, possesses, cultivates,
   manufactures, delivers, transfers, transports, sells, supplies or dispenses
   marijuana, paraphernalia or related supplies and educational materials to
   qualifying patients and the primary caregivers of those patients. Note that
   a dispensary may be either a single facility, or it may be divided into two
   separate but related facilities where growing is done at only one of the
   facilities.

4. Medical Marijuana Production Facility. A facility used for cultivating,
   processing, and/or storing medical marijuana by a medical marijuana
   caregiver at a location which is not the medical marijuana caregiver’s
primary year-round residence or their patient’s primary year-round residence.

C. **State Authorization.** Prior to issuance, renewal or amendment of a License, the applicant must demonstrate their authorization to cultivate, process and store medical marijuana pursuant to the Maine Use of Medical Marijuana Program. Loss of such State authorization shall automatically invalidate the Town-issued License.

D. **Related Laws.** See: Zoning Ordinance; Title 22 M.R.S. Chapter 558-C, Maine Medical Use of Marijuana Act; 10-144 C.M.R. Chapter 122, Rules Governing the Maine Medical Use of Marijuana Program.

E. **Statutory Authority.** Home rule authority.

F. **Enforcement Authority.** York Police Department.

4.3 **Local Approval For State Licenses**
For any State license which requires local approval but for which no local license is required, the Board of Selectmen shall place the request on a meeting agenda and shall act on that item without the need for any local application, fee or public hearing.

4.3.1 **Bingo, Beano and Games of Chance License**
To obtain necessary State licenses, local approval is required for any organizations which offer bingo, beano and/or games of chance. The Board typically issues an annual blanket approval for all organizations which offer these games to help streamline the process for all parties. The following shall apply:

A. **State License.** Licenses from the Chief of the Maine State Police - Bingo and Beano License per Title 17 M.R.S. §312, and/or Games of Chance License per Title 17 M.R.S. §1832. These licenses are issued after local approval.

B. **Statutory Requirement for Local Approval.** Regarding Bingo and Beano – see Title 17 M.R.S. §313. Regarding Games of Chance – see Title 17 §1832(4). For general standards see Title 17 M.R.S. §311-329 (bingo & beano) and §1831-1846 (games of chance).

C. **Enforcement Authority.** York Police Department.

4.3.2 **Off-Premise Catering License**
This license is required for an establishment with a Liquor License to sell liquor at a location other than their licensed place of business, such as at a catered event. This approval is specific to the caterer, the date of the event, and the property. The following shall apply:

A. **State License.** State Liquor License and Special Permit for Catering Privileges. The Special Permit is not available before local approval is granted.
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: May 16, 2019

DATE ACTION REQUESTED: May 20, 2019

☐ ACTION
☒ DISCUSSION ONLY

SUBJECT: Selection of Town Attorney

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: The Town Attorney is appointed by the Board of Selectmen for an indefinite term per the Town of York Home Rule Charter, Article III, Section 8. This specific provision was amended in May 2013 and is the Town’s most recent Charter amendment.

Mary Costigan of Bernstein Shur entered into our current engagement with the Board of Selectmen on February 11, 2014, not long after the Charter amendment shifted this responsibility to the Board.

It is interesting to note the Town used Bernstein Shur earlier for certain services even when Durward Parkinson of Bergen & Parkinson was the Town’s attorney. It’s a bit of an over-simplification to think the Town has a single Town Attorney. The Town has a primary attorney, in our case Mary, and with her comes the rest of the firm. As necessary, the Town may retain other legal services through other attorneys or firms, as we did for the Toll Plaza challenge. This type of arrangement would be the same regardless of firm used.

TIMING: There is no deadline or requirement to take any action to change the Town’s legal services. The Board and Mary have an open-ended rather than a fixed term agreement so it has no expiration.

PROCESS: If the Board decides to act, it would prepare and release an Request for Qualifications. You goal is not to find the cheapest representation, but the most suitable for the Town’s needs. The RFQ would be distributed to attorneys and law firms in the southern Maine and seacoast NH area and the Board would go through a review and interview process to decide what to do. It’s pretty straightforward.

CRITERIA: Deciding what is important to the Town is a bit more complex, but I’d start here:
- breadth of expertise (primary attorney and firm)
- depth of expertise (primary attorney and firm)
- continuity and institutional knowledge
- quality of work
- ratio of wins to losses in court
- timeliness of work
- charge rates per hour
- cost in time and money (internally and externally) to make a change
- disruption to cases to make a change

USERS: It will be important for the Board to think about who uses the various aspects of legal services, and where the focus should be in making decisions. Probably none of the personnel and finance matters filter through the Board – they are staff-level interactions. Litigation cases and project/real estate matters are primarily handled by staff, with limited Board participation where key decisions are to be made. Research and general matters are split between staff and Board requests. My best guess is that about 25% of their work is directly driven by the Board and 75% is by staff. I believe it would be important to engage those staff who use legal services the most if the Board is considering changes. Attached is the most recent summary of legal charges, showing the mix of services we receive.

Decisions about selection of the Town’s attorney are certainly the Board’s to make. I do think it is important to let you know that I believe the Town is being very well served by our current legal team.

Prepared by Stephen H. Burns, Town Manager:
## FY19 Legal Fees
### Totals by Subject
**Last Update: 04/22/2019**

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<th>Subject</th>
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<th>August</th>
<th>September</th>
<th>October</th>
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**Starting Budget**: 90,800

**Spent**: -63,945

**Available**: 26,055

**Research Budget**: 10,000

**Spent**: -10,000

**Available**: 0