1. Board Of Selectmen's Meeting Materials

Documents:

2019-10-21 BOS AGENDA.PDF
2019-10-21 BOS PACKET.PDF
BOARD OF SELECTMEN’S
MEETING AGENDA
5:00 PM/6:00 PM/ 7:00 PM  MONDAY, OCTOBER 21, 2019
YORK PUBLIC LIBRARY

5:00 PM- Executive Session – Personnel (Title 12 MRS §405.6.A)

6:00 PM - Joint meeting with the Historic District Commission

7:00 PM - Call to Order

Pledge of Allegiance

Reading the Proclamation and Taking a Photo with “Votes for Women” honoring the 100th Anniversary of Women’s Suffrage

A. Consent Agenda
   1. October 7, 2019 Meeting Minutes
   2. Business License Renewals

B. Minutes

C. Chairman’s Report

D. Manager’s Report

E. Awards

F. Reports
   1. Little Free Libraries – Ella Hanson
   2. Fuller Forest Management Plan – Doreen MacGillis
   3. LED streetlight Project- Dean Lessard
   4. Comprehensive Plan Update- Dylan Smith
   5. Small Cell Application from AT&T- Dylan Smith

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. Questions 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

5/21/2019 3:56 PM
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agenda items can do so on the form available at this meeting or may obtain the form through the Town Manager’s Office.

H. Public Hearings
   1. Impact Fee Regulations Amendment

I. Endorsements

J. Old Business
   1. Discussion: Mount Agamenticus Lease
   2. Discussion: FY21 Operating Budget
   3. Discussion: Parking Policies

K. New Business
   1. Action: Non-Union Matters
   2. Action: Sunsetting School Impact Fees
   3. Action: Class Action Law Suit
   4. Action: SMPDC Request
   5. Action: Pole Permit
   6. Action: Approval of Little Free Libraries

L. Future Agendas

M. Other Business

N. Citizens’ Forum

Adjourn
Board of Selectmen’s Consent Agenda

October 21, 2019

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. October 7th, 2019 Meeting Minutes
2. October 15th, 2019 Meeting Minutes

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/7:00 PM   MONDAY, OCTOBER 7, 2019  
YORK PUBLIC LIBRARY  

6:00 PM – Joint meeting with Budget Committee  

Present: Chairman Todd A. Frederick, Vice Chairman Robert E. Palmer, Jr., Michael L. Estes, Marilyn A. McLaughlin, Elizabeth D. Blanchard, Town Manager Stephen H. Burns, Budget Committee Members: Nan Graves, Jerry Allen, Heather Bridges-Campbell, Jim Smith, Ted Little and members of the press and public.  

7:00 PM – Regular Meeting  

Present: Chairman Todd A. Frederick, Vice Chairman Robert E. Palmer, Jr., Michael L. Estes, Marilyn A. McLaughlin, Elizabeth D. Blanchard, 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 7:00 PM.  

Pledge of Allegiance  

A. Introduction of Deputy Chief Owen Davis  

Chief of Police Charles J. Szeniawski introduced the newly promoted Deputy Chief Owen T. Davis.  

B. Special Presentation  

The Town Manager and Board of Selectmen presented Deborah McDermott with a plaque to thank her for her years of reporting in the Town of York, as she will be retiring soon.  

C. Consent Agenda  

1. September 23, 2019 Meeting Minutes  

Moved by Ms. Blanchard seconded by Mr. Palmer to approve the Consent Agenda, with Minutes as amended. Vote 5-0, motion passes.
D. Minutes

E. Chairman's Report

F. Manager's Report

G. Awards

1. Patrol Plow Truck Chassis – Matt Gray

Moved by Mr. Palmer, seconded by Ms. Blanchard to award the FY2020 Heavy Duty Truck Chassis and the proposed list of additional manufacturer's installed options to Liberty International Trucks in the amount of $69,400.00. Vote 5-0, motion passes.

H. Reports

1. Joellen Ross, Center for Active Living

2. York Village Project Update – Dean Lessard

3. Nubble Road Update – Dean Lessard

4. Connector Road Update – Dean Lessard

I. 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: John Covino
                    Bev Keough
                    Sharon McConnell
                    Dennis Weirzba
                    James Kences
                    Andrew Noel
                    Ed Harding
                    Francis Koerschner
                    David Chase

J. Public Hearings
K. **Endorsements**

1. Knights of Columbus - Tootsie Roll Proclamation

The Board of Selectmen signed the Proclamation Announcement for the annual Knights of Columbus Weekend, to be held on October 12-14, 2019 and extended an invitation to all of York's citizens, along with their friends and family, to support this great cause and the efforts of our local Knights of Columbus by patronizing local establishments and supporting the Knights of Columbus "Tootsie Roll Drive" for special needs children and their family.

L. **Old Business**

1. Discussion: Goodrich Park Deeds

M. **New Business**

1. Action: Special Event Permit-York Beach Business Sidewalk Sale

Moved by Ms. McLaughlin, seconded by Ms. Blanchard to approve the Special Event Permit for the York Beach Business Sidewalk Sale on October 12-14, 2019. Further moved to waive the parking meter revenue on Railroad Avenue only, for October 12-14, 2019 for the York Beach Business Sidewalk Sale. Vote 5-0, motion passes.

2. Action: Special Event Permit- York Soccer Club Harvest Cup

Moved by Ms. McLaughlin, seconded by Ms. Blanchard to approve the following Special Event Permit Application subject to all, if any, conditions given by Department Heads: York Soccer Club; York Soccer Club Harvest Cup on October 12-13, 2019. Vote 5-0, motion passes.

3. Discussion: MOU with York Public Library

4. Discussion: Plantings on Spur Road Median

5. Discussion: Trash Management at the Beaches

6. Action: Acceptance of donations to the Committee for Veterans' Affairs

Moved by Ms. Blanchard, seconded by Mr. Estes to accept donations to be used by the Committee for Veterans' Affairs in accordance with the mission of the Committee. Vote 5-0, motion passes.

N. **Future Agendas**

1. On the Radar
O. **Other Business**

P. **Citizens' Forum**

Public Comment: None

Q. **Executive Session: Title 1 MRSA § 405.6.C (Real Estate)**

Moved by Mr. Palmer, seconded by Ms. McLaughlin to enter into executive session. Vote 5-0, motion passes.

Moved by Mr. Palmer, seconded by Mr. Frederick to exit out of executive session. Vote 5-0, motion passes.

**Adjourn**

Moved by Mr. Palmer, seconded by Mr. Frederick to adjourn the meeting at 10:00 PM. Without objection, so ordered.

Respectfully Submitted,

Melissa M. Avery
Assistant to the Town Manager
BOARD OF SELECTMEN’S
MEETING MINUTES
7:00 PM TUESDAY, OCTOBER 15, 2019
YORK POLICE DEPARTMENT - TRAINING ROOM

7:00 PM

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

Call to Order

Chairman Todd A. Frederick called the meeting to order at 7:00 PM.

A. Executive Session for Real Estate per Title 1 MRS §405.6.C

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

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

B. Action: Real Estate

No action was taken.

C. Action: Extension Request for Property Redemption (27 Linscott North)

Moved by Mr. Estes, seconded by Ms. Blanchard to extend the deadline for redemption of the property at 27 Linscott Road North (Tax Map 0089-0015-A) from October 11 to December 11, 2019. Vote 5-0, motion passes.

Adjourn

Moved by Ms. Blanchard, seconded by Mr. Estes to adjourn the meeting at 8:36 PM. Without objection, so ordered.

Respectfully Submitted,
Melissa M. Avery
Fuller Forest Preserve (220 Acres)

- Log Landing and Future Parking Area
- Proposed Trails
- Selective Harvest Area (100 acres)
- Property Boundary

Map: J. Lawlor 2019
Data: Town of York
ESRI, Maine GIS
TO: Board of Selectmen  
FROM: Dylan Smith, Planning Director  
DATE: October 17, 2019  
RE: Small Wireless Facilities (Things to Consider)

1) Wireless telecommunications carriers (Verizon, AT&T, etc.) are “densifying” their wireless networks with small cell/wireless facilities.

2) “Small Wireless Facilities” (per state of Maine statute) means a wireless facility each antenna of which could fit within an enclosure of no more than 3 cubic feet and of which all associated wireless equipment other than antennas, electric meters and concealment elements has a cumulative volume of no more than 28 cubic feet.
   a) 28 cubic feet is the size of a good size refrigerator (not sure that is “small”).

3) Reason why companies are doing this: Provides more coverage (5g) with “minimal impact” on a community.
   a) Possible Community Considerations/Concerns: Visual appearance standards/impacts in the ROW need to be understood and possibly remedied. Is radiation concern? Feds say it’s ok); Sound/Noise of “humming” from the installations (think proximity to people or types of uses)? ROW/side walk blockage/disruption as a problem. A need to establish fee’s for ROW leases/use (annual vs. one time?).
   b) See articles provided for additional information/concerns.

4) Next Steps- There is a current application (although not quite official) before the Town that will likely be reviewed by the Planning Board that seeks to locate a small wireless facility on a utility pole owned by CMP, which is also in the Town’s ROW (Stage Neck Road).
   a) Per the Wireless Communications Facility Ordinance (WCF Ordinance) the BOS needs to approve a lease agreement that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interest of the property.
   b) Should discuss/establish a reasonable ROW lease fee with applicant and consider that as a model policy for future applications (However, perhaps different ROW’s have different fee’s?). The WCF Application fees vary for application acceptance/review, but it appears an application like this could possibly be $1,000.
   c) The WCF ordinance is need of amendments to address these facilities (definitions, process of review, performance standards, etc.). This should be done fairly quickly to avoid possible problems in the future. Amendments require a Town vote, so May or November of 2020 is recommended to get this done.
Small Wireless Facilities and Wireless Facilities in the ROW

American Planning Association

As wireless telecommunications carriers face growing demands by the public for ever-increasing capacity, speed, and reliability, and new uses of the internet continue to emerge, the wireless
industry is shifting from the older infrastructure model of macrocell monopoles to a new model: "small-cell" wireless systems.

Small-cell wireless technology refers to networks of small wireless telecommunications antennas installed as systems on existing structures, often as stealth or camouflaged installations. It is often conflated with Distributed Antenna Systems (DAS), networks of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area or structure. DAS networks are physically connected via fiber and can accommodate multiple carriers, while small-cell systems are not connected via fiber and serve a single carrier. However, from a regulatory land-use perspective, both system types are differentiated from larger antenna or monopole systems by their networks of small antennas typically installed on utility poles or existing structures, often in the public right-of-way.

From this page you can search for resources that provide background, policy guidance, and examples of local zoning and other municipal standards for small wireless facilities and wireless facilities in the public right-of-way from across the country. And you can filter these search results by various geographic and demographic characteristics.

Search

APA Resources

DAS and Small-Cell Systems

The small size of DAS and small-cell wireless facilities means they are more easily installed on existing buildings or structures and may be less aesthetically objectionable than larger cell towers. However, the shorter ranges of these antennae mean that more of them are required. Hundreds of thousands of new wireless facilities will be coming online in the coming years, and much of them will likely be installed on structures within the public right-of-way (PROW), such as utility poles.

In several cases, wireless providers or tower companies have argued that they have the right to install wireless facilities in the PROW regardless of local telecommunications regulations. Local governments do have the right to regulate wireless facilities in the PROW, but they must have the right regulations in place to do so. It is important that communities adopt language specific to wireless facility installation in the PROW so that they can appropriately respond to such requests.

Regulating DAS and Small-Cell Systems in the Public Right-of-Way

Many communities have added small-cell or DAS definitions, provisions, and standards to their codes, in some cases expressing preferences for these facilities and allowing the installation of
this equipment by right with administrative approval subject to certain standards to reduce negative visual impacts.

Local governments may control height, appearance, location/placement, and safety issues for wireless facilities in the PROW. Ordinances may allow installations with specific encroachment or ROW permits, tighten application requirements, impose design standards, and require public notification to better protect residents.

Agreements to allow installations in the PROW also can and should address compensation to the municipality for use of the PROW or municipal structures. Some jurisdictions charge an annual per-facility fee incorporating CPI adjustments; others require payments of a percentage of gross revenue.

In September 2018, the Federal Communications Commission (FCC) issued an order that clarifies the intent of the Telecommunications Act of 1996 with respect to local regulations for small wireless facilities (FCC Order 18-133). Notably, this order requires local governments to act on complete applications within specified time periods (i.e., imposes "shot clocks").
Bakersfield, Calif., Rushes to Put Small Cell Rules on the Books

City staff are rushing to write an emergency ordinance to head off what they expect to be a flood of the antennas in the public right of way.

BY SAM MORGAN, THE BAKERSFIELD CALIFORNIAN / NOVEMBER 21, 2018
Small cell antennas, like the ones pictured here, are becoming increasingly popular as telecommunications companies work to expand service in areas without cell tower infrastructure.

(TNS) — A change in cellphone technology could impact the view from your backyard, maybe your front yard.

The city of Bakersfield, Calif., is scrambling to write an emergency ordinance that will regulate small cell facilities placed on public light poles and power lines.

The advent of 5G cellphone technology has forced wireless carriers like AT&T and Verizon to switch from the tall antenna towers placed sporadically throughout cities to smaller boxes the size of backpacks or luggage placed closely together on public poles.
Although only a handful of these new facilities have been installed in the city, the city expects many more to arrive soon, said Deputy City Attorney Andy Heglund.

“The carriers aren’t disclosing their full build-out plan, but it could be hundreds of facilities,” he said.

In the impending rollout of the new technology, the city will have a limited ability to regulate the new cell facilities, prompting concerns that the aesthetics of the city’s streetscapes could be jeopardized.

The city wants to avoid light poles and power lines cluttered with buzzing electronic boxes.

The Federal Communications Commission approved new regulations in September that took away much local control of the 5G facilities.

Under the new regulations, which were made in the name of removing regulatory barriers from government, cities will be limited in their ability to charge market rates for fees associated with the installations, and they will lose some control of how the facilities will look.

“The city is not opposed to [carriers] rolling out this additional equipment, but we would like to be able to make sure that the rollout is balanced and protects the aesthetics of the right of way,” Heglund said.

He added that the difference between the market rate and the amount the city would legally be allowed to charge for fees could be as much as $1,000 per unit per year.

Last year, Gov. Jerry Brown vetoed a state bill that had similar restrictions after an opposition from a number of California cities.

Since the FCC passed the new regulations, cities across the country have been voicing
their opposition to the new rules.

Cell carriers have stood by the FCC.

"The FCC took the next step to further strengthen the United States’ lead in the race by adopting a framework for permitting and fees that will foster more widespread and robust infrastructure investment," ATT said in a statement at the time the FCC passed regulations. "We are excited about our continued expansion of our small cell facilities, to bring advanced wireless technologies and services to communities across the country.

Over the next two months, the Bakersfield City Council will consider adopting an emergency ordinance so the city can regulate what little will remain under its control when the new rules come into effect in January.

Barring legal action, cell carriers will begin installing the new facilities soon. The city Public Works Department has already received some applications for the facilities, but expects more to come.

"The city wants to encourage the rollout," Heglund said, "but it just needs to be in a managed and balanced way."

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MORE FROM NETWORK (HTTPS://WWW.GOVTECH.COM/NETWORK)
Santa Rosa's 'pause' apparently powerless in curbing disputed Verizon installations

KEVIN MCCALLUM
THE PRESS DEMOCRAT | May 29, 2018

Mary Dahl has lived in the same home in Rincon Valley for 48 years.

She doesn't have a cellphone. She doesn't have a computer. And she doesn't care to own either. So when Verizon proposed installing a wireless antenna on a pole just outside her house, she didn't take too kindly to it.

"It got my Irish dander up," says Dahl, a retired child care provider who's in her early 70s.

She sent a letter to the company's installer, Nexus Solutions, which was returned to sender. The company told her to send it to
the attention of the “Northern California Small Cell Team,” but it came back a second time, she said.

When she called the number listed, she just got the runaround, she said.

So when the Santa Rosa City Council announced in February that it was “pausing” the installation of a network of so-called “small cell” antennas in the city, she was hopeful.

Then a few weeks later, the resident of Monte Verde Drive was notified that the permit for the antenna had been granted by the city, and construction would soon begin.

She was the only one in her little neighborhood who got such a notice, she said. A few days later, the crews arrived and began installing the equipment.

“They said it was going to be high up on the pole,” Dahl said, pointing toward the assemblage of brown boxes and cables mounted on a metal bar 7 feet off the ground on the wooden utility pole outside her home. “I don’t consider that high. I go out my front door and it’s right in my face!”

Dahl is one of dozens of Santa Rosa residents who have come to realize in recent months that, when it comes to telecommunications installations, neither the City Council nor the residents they represent have the power to pause much.

The “small cells” are just one piece of Verizon’s network expansion that have riled many residents. The company’s efforts to build full-size towers, including in a new 62-foot steeple atop Community Baptist Church on Sonoma Avenue, have also triggered backlashes. Opponents voice concerns about aesthetics and exposure to electromagnetic radiation given off by communications equipment.

Wireless providers say there are no credible studies indicating such radiation presents a threat to public health. The three American agencies charged with assessing cancer risks have said the typical exposure from cell towers is well below levels considered safe for humans.

“I’m not against the radiation, I just don’t want a 60-foot tower in my front yard,” said Matthew Mendonsa.

His neighbor directly across Sonoma Avenue from the church is so enraged he recently spray-painted a huge “Stop Verizon” sign, complete with crude red stop sign, on a piece of plywood in his front yard.

Heidi Plato, a Verizon spokeswoman, could not be reached for comment Tuesday. The company has said the small-cell network will work with larger towers to dramatically improve high-speed wireless capacity and coverage in the city.

Facing a rash of criticism over the installation of the small-cell equipment all over the city, the City Council in February ordered the project halted while it processed residents’ feedback and worked with Verizon to find solutions.
But what may not have been clear to residents or even all of the City Council at the time was that the majority of the 70 small-cell installations Verizon planned in the city, about 40 of them, were being installed on wooden PG&E utility poles in the city, over which the city has scant regulatory authority.

And what limited authority the city did have, for what is known as encroachment permits, involved whether the contractor installing the equipment was doing so according to city regulations for work in city right-of-way.

For example, workers must have proper safety gear and be properly insured and the equipment can’t be installed in such a way that blocks pedestrians.

Aesthetics and health-related objections aren’t reasons the city can deny an encroachment permit, explained Eric McHenry, the city’s director of information technology.

But those objections are exactly the ones raised by Jenna Johnson over the installations across the street from her Hexem Avenue home.

“It’s 84 feet from that pole to where two of my children lay their heads on their pillows,” Johnson said.

The equipment isn’t in yet, but a new pole has been installed in preparation for that work. The workers could install it and hook it up at any time.

“Why can’t it be in a park? Why can’t it be in a cemetery? Why can’t it be in open space? Why can’t it be in an industrial area?” Johnson said from her driveway Tuesday afternoon. “There have got to be better places for this than right in the middle of a neighborhood!”

When the City Council approved changes to the city’s telecommunications policies in 2015 that allowed the project to go forward, the council and city staff were more focused on how it could impact city-owned property, namely light poles.
In fact, the presentation to the council has been criticized as misleading for focusing almost exclusively on tidy streetlight installations in downtown commercial districts when most equipment installed so far has been in residential neighborhoods on wooden PG&E power poles.

To date, the city has approved all 39 encroachment permits Verizon has requested. Twenty sites are under construction, and three are done and operational, McHenry said.

The part of the project that proposed installing about 30 small cells atop city light poles is the piece the City Council paused in February. No permits have yet been granted for those poles. On June 5, the City Council will revisit that decision.

The city expects to make $350 per year per pole — $10,500 for Verizon's poles and $70,000 altogether for all 200 that might eventually go in. Another company, Mobilitie, has plans for small cells on about 20 street poles.

The installations atop city light poles, with most of the wires running inside the poles, are a cleaner, simpler design that are aesthetically more pleasing to people, McHenry said. He said it is "our strong recommendation and hope" that the council will allow that part of the project to move forward.

"That is exactly where most people want them to go," he said.

You can reach Staff Writer Kevin McCallum at 707-521-5207 or kevin.mccallum@pressdemocrat.com. On Twitter @srcitybeat.

Editor's note: This story has been revised to remove the phrase "low-frequency" to describe the electromagnetic radiation from telecommunications equipment.
STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND NINETEEN

H.P. 1110 - L.D. 1517

An Act To Facilitate the Deployment of Small Wireless Facilities in Maine

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 30-A MRSA §4362 is enacted to read:

§4362. Small wireless facilities

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

   A. "Small wireless facility" means a wireless facility each antenna of which could fit within an enclosure of no more than 3 cubic feet and of which all associated wireless equipment other than antennas, electric meters and concealment elements has a cumulative volume of no more than 28 cubic feet.

   B. "Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including equipment associated with wireless communications; radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies and rectifiers; and comparable equipment, regardless of technological configuration. "Wireless facility" includes a small wireless facility. "Wireless facility" does not include the structure or improvements on, under, within or adjacent to which the equipment is collocated or coaxial or fiber-optic cable that is between wireless support structures or poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

2. Small wireless facilities. Notwithstanding any zoning or land use ordinance to the contrary, a small wireless facility must be a permitted use within the public right-of-way, subject to permitting requirements and duly adopted, nondiscriminatory conditions otherwise applicable to permitted uses within the municipality and consistent with state and federal law, including, without limitation, any permitting requirements in Title 35-A, chapter 25. This section does not affect or alter the rights and responsibilities of a cable television company under the franchise agreement executed pursuant to section 3008, subsection 5.
Wireless Telecommunications Facilities Ordinance

Town of York, Maine

Most Recently Amended: November 8, 2016
Prior Dates of Amendment: November 8, 2011
May 29, 2009
Date of Original Enactment: November 5, 2002

ENACTMENT BY THE LEGISLATIVE BODY

Date of the vote to enact/amend this Ordinance: November 8, 2016

Certified by the Town Clerk: May-Ann Fremont on 11/10/16
(signature) (date)
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Wireless Communications Facilities Ordinance

1.1 Title and Effective Date
This Ordinance shall be known and cited as the “Wireless Communications Facility Ordinance” of York, Maine (hereinafter “the Ordinance”). This Ordinance becomes effective as of November 5, 2002.

1.2 Authority
This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution, the provisions of Title 30-A M.R.S. A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, Title 30-A M.R.S.A. Section 4312 et seq.

1.3 Purpose
The purpose of this Ordinance is to provide a process and to set standards for the construction, Expansion and Modification of wireless communications facilities (WCF), to protect the historical, scenic and visual character of the Town of York, to comply with federal laws and regulations regarding wireless communications facilities and to provide for Reasonable Access.

1.4 Applicability
This Ordinance applies to all construction, Expansion, Modification, maintenance, and operation of wireless communications facilities except:

A. Emergency WCF - Temporary wireless communications facilities for emergency communications by public officials.

B. Maintenance or repair - Maintenance or repair of a WCF and related equipment provided that there is no change in the height or any other dimension of the facility.

C. Temporary wireless communications facility - Temporary WCF, in operation for a maximum period of seven (7) days.

D. Antenna as Accessory Uses - An antenna, other than parabolic dish antenna greater than five (5) feet in diameter, that receives only and is accessory to a permitted use, that is, related to such use but clearly incidental and subordinate.

E. Utility District Facilities – A Yagi or omni antenna utilized solely by a utility district which provides water or sewer services within the Town, and which complies with the following standards:

1. The antenna dimensions are less than 4’ in every dimension; and

2. The maximum height of the antenna either:
   a. Complies with the structure height limit for the base zoning district in which it is located, regardless of that to which the antenna is mounted; or
   b. Exceeds the structure height limit for the base zoning district in which it is located, provided the antenna is mounted on an un-guyed wooden utility pole of any height. The antenna may be mounted directly on the pole, or on a mast attached to the pole. The antenna mounting height shall be the minimum height necessary to provide the required function, as demonstrated to the CEO by a path study.

Wireless Communications Facilities Ordinance – Amended November 8, 2016
Town of York, Maine

F. Municipal WCF – any Town-owned wireless communications facility to be used for conduct of operations by the Town of York, provided such facility is not located in or within 500 feet of an historic district. Collocation by users other than the Town shall be allowed but is subject to the standard permitting process.

1.5 Approval Authority
No person or agency shall construct or expand a WCF without approval of the Code Enforcement Officer (CEO) or the Planning Board as follows:

A. Approval by the CEO is required for:

1. A WCF no greater than 65 feet in height used for licensed amateur (“Ham”) radio, which is not additionally licensed or used for any commercial purpose, other than by the licensed amateur radio operator, but only if there is no other WCF on the parcel on which the WCF is to be located.

2. Collocation on an existing Monopole WCF or other existing WCF, and which does not increase the height of the Support Structure.

3. A Disguised WCF no greater than 35 feet in height.

4. A Hidden WCF.

The CEO may, at his discretion, elect to have the Planning Board, rather than the CEO, review any such application for a WCF for approval.

B. Approval by the Planning Board is required for any other WCF permitted under this Ordinance.

1.6 Technical Assistance
The CEO or Planning Board may obtain services of professional engineers and other consultants to review and inspect the applicant’s proposal or any portion thereof. Such services are permitted to include but are not limited to engineering and technical review, planning review, environmental assessment review, soils review, mechanical and structural engineering review, and the investigation of possible alternative WCFs described in the lists of preferences herein. Such costs shall be borne by the applicant.

1.7 Locations for WCFs

A. Prohibited WCFs
New WCFs with either guy wires or latticed towers are prohibited.

B. Monopole WCFs
Ground Mounted WCFs greater than 85 feet in height are deemed to be Monopole WCFs, for the purposes of this ordinance. WCFs with Monopole Support Structures (that is, a single pole set into the ground or concrete pad) are permitted only in the Monopole WCF Overlay Districts, but not in the Shoreland Overlay Zone. The Monopole WCF Overlay Districts are as designated on the Zoning Map of York, and initially they are these two areas: the area between Route 1 and the Maine Turnpike, and the east-west corridor which is 2500 feet wide and bounded on the southwest by Route 91, on the southeast by New Boston Road and Boulter Pond and its outlet, and on the northwest by the York town line.

C. Other WCFs
Disguised WCFs, roof mounted WCFs, structure mounted WCFs, ground mounted WCFs, micro cell WCFs, Mast WCFs, Whip antenna WCFs and other short and small WCFs are permitted in any area of the Town of York, other than Historic Districts or attached to Historic Buildings. Hidden WCFs are permitted in any area of the Town of York.
D. **Priority List for WCFs**
New WCF must be located according to this list of preference or priority, listed from most preferred to least preferred:

1. Hidden WCFs.
2. Collocation on an existing Support Structure.
3. Disguised WCFs.
4. Location on existing structures, including but not limited to buildings, water towers, utility poles and towers, light poles or light stanchions, provided that such installation preserves the character and integrity of those structures.
5. Ground Mounted WCFs.

1.8 **Approval Process**
In accordance with Section 1.5 above, the CEO or Planning Board shall review applications for WCFs. The Planning Board shall follow the procedure for site plan approval in the Zoning Ordinance, and all of the substantive as well as procedural requirements for site plan approval shall apply. The CEO shall follow the procedure for building permits in the Zoning Ordinance, and other pertinent York Ordinances.

A. **Pre-Application Conference**
Applicants seeking approval of either the CEO or the Planning Board under this ordinance shall meet with the Town Planner or his or her designee prior to filing an application according to this ordinance. At this meeting, the Planner or the designee shall explain the ordinance provisions as well as application forms and fees required under this ordinance.

B. **Public Notice**
For WCFs requiring approval of the Planning Board, the applicant shall give public notice as provided for site plan applications, except that for notice purposes the term “abutter” shall mean an owner of property within 2500 feet of the property on which a Monopole WCF is proposed and such notice shall be mailed 14 days prior to the Public Hearing. For WCFs which the CEO is reviewing, the applicant shall give public notice as provided for site plan applications, except that for notice purposes the term “abutter” shall mean an owner of property immediately adjacent to the property on which a WCF is proposed.

When a Monopole WCF is proposed, a sign giving notice of the application shall be posted on a public way at or near the proposed site, and must contain the words “Tower Proposed” in large enough format to be readable from a motor vehicle driving by at 35 mph. The CEO shall review and approve the sign design and location before it is posted, the sign must contain the same information required in the public notice required for site plan applications, and the sign must be in place at least 21 days and before any balloon or crane visual testing, giving the date and time for such testing, and any alternate dates for such testing.

C. **Fees**
Fees associated with permits and reviews required under this Ordinance shall be in accordance with the fee schedule as adopted by the Board of Selectmen. Planning Board applications shall also be subject to any fees as outlined in Town of York Site Plan Regulations. In addition to the application fee, the applicant shall reimburse the Town for costs of professional engineers and other consultants hired by the Town to review and inspect the applicant’s proposal when the Town is unable to do so with its existing staffing resources. Such services include but are not limited to engineering
and technical review, legal review, planning review, environmental review, soils review, and mechanical and structural engineering review. In the event that a project requires professional services beyond that which is included in the base fee, the applicant shall reimburse the Town at the cost rate for those professional services. The Town is permitted to require that the applicant deposit an amount with the Town to cover anticipated costs of retaining services or consultants. The Town shall return to the applicant any unused funds within thirty (30) days of the decision by the CEO or Planning Board on an application.

D. Applications
Persons seeking approval of the CEO or of the Planning Board under this Ordinance shall submit an application which shall include all of the information and materials required for site plan approval, and in addition the following:

1. Qualification as an Applicant and Statement of Compliance with FCC Regulations
A copy of the FCC license for the facility, or license to operate within an assigned geographic area including the Town of York, and a signed statement from the owner or operator of the facility attesting that the facility complies with and will comply with FCC regulations. So long as such a licensee joins the application as a co-applicant, another party may seek the approval described herein.

2. Identification of Existing Facilities - A USGS 7.5 minute topographical map showing the location of all WCFs within a three (3) mile radius of the proposed facility.

3. Visual impacts of the proposed facility:
   a. Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level;
   b. Computer generated photographic simulations of the proposed facility at full capacity, showing the facility from all public rights of way and from representative nearby properties from which the facility will be visible. Each photograph must be labeled with the line of sight, elevation, and the date taken imprinted on the photograph. The photographs must show the color of the facility and the method of screening, if any screening is required.

4. A written description of the need for the particular facility in the particular location. It should also describe reasonably anticipated Expansion of the proposed facilities on the proposed site and related facilities in the region, and on reasonably anticipated changes of technology and their effect on Expansions of the proposed facility. This submission requirement does not require disclosure of confidential business information, but failure to cite reasonably anticipated expansions in this application will be a matter of public record that can be an issue to be considered in later applications for Expansion.

5. Evidence demonstrating that no existing building, site, or structure can accommodate the applicant’s proposed facility, the evidence for which shall comprise one or more of the following:
   a. Evidence that no existing facilities are located within the area targeted to be served by a proposed WCF which meet the applicant’s engineering requirements;
   b. Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant’s engineering requirements;
   c. Evidence that existing facilities do not have sufficient structural strength to support applicant’s proposed antenna and related equipment, specifically:
Town of York, Maine

(1) Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment;

(2) The applicant’s proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant’s proposed antenna; and

(3) Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.

d. For WCFs existing prior to the effective date of this Ordinance, the fees, costs, or contractual provisions required by the owner in order to share or modify an existing facility are considered to be unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a Support Structure built after the passage of the Ordinance.

e. Evidence that the applicant has made diligent good faith efforts to negotiate collocation on an existing facility, building, or structure, and has been denied access.

f. Evidence that the applicant has analyzed the feasibility of using repeaters or micro cells in conjunction with existing or proposed WCFs to provide coverage to the intended service area.

6. A signed, acknowledged statement to be recorded in the York County Registry of Deeds stating that the owner of the WCF and his or her successors and assigns agree to:

a. Respond in a timely and comprehensive manner to a request for information from a potential collocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;

b. Negotiate in good faith for shared use of the WCF by third parties, including those that can reasonably be deemed commercial competitors;

c. Allow shared use of the WCF if an applicant agrees in writing to pay reasonable charges for collocation;

d. Require no more than a reasonable charge for shared use, based on regional rates and generally accepted accounting principles. This charge is permitted to include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the Support Structure or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.

E. Waiver of Submission Requirements

1. The applicant is permitted to apply for a waiver of any of the listed submission requirements for the application in lieu of fulfilling the listed submission requirement. The applicant shall bring the application for permit before the CEO or the Planning Board, as required for the particular application, with an attached application for waiver of every submission requirement not complete. The CEO or the Planning Board, as appropriate to the application, is permitted to waive any of the submission requirements only if the CEO or Planning Board finds in writing, that due to special circumstances of the application, the specific information for which waiver is requested is not required to determine compliance with the standards of this Ordinance. If any request for waiver is rejected, the application shall be
immediately rejected as incomplete and the application for permit shall not be further considered. The applicant shall be permitted to resubmit the application when all submission requirements are fulfilled.

2. It is expected that an application for a WCF serving a Ham Radio may include a number of requests for waiver. While such waiver requests may well be granted, the CEO or Planning Board in such cases shall, at a minimum, require evidence concerning the structural integrity and strength of the WCF in all weather conditions (e.g., heavy winds and ice loading), and the visual impact of the WCF.

F. Permit Conditions and Limitations
Construction of a WCF shall commence within one (1) year from the date of the Town’s approval, with the opportunity for a six-month extension at the discretion of the CEO. If construction is not begun within one year, or within the six-month extension when granted by the CEO, the permit shall become null and void.

After approval by the CEO or Planning Board and prior to receiving a building permit, the applicant shall post a performance guarantee with the Town prior to obtaining a permit, such guarantee to include an Irrevocable Letter of Credit or a bond satisfactory in form to the Town’s counsel or funds delivered to the Town of York to be held in escrow equal to one hundred twenty-five (125) percent of the cost of removing the WCF.

1.9 Standards of Review
To obtain approval from the CEO or the Planning Board, an application must comply with the standards in this section, and the CEO or Planning Board shall make written findings with respect to each of these standards.

A. Qualification of Applicant and Right to Build - The application shall be complete and the notification of abutters as required by this Ordinance and the York Site Plan and Subdivision Regulations shall have occurred before the Planning Board reviews the application. The applicant shall meet the requirements to apply for construction, Expansion or Modification of a WCF in accordance with this Ordinance. The applicant shall demonstrate the right, title, or interest in the property on which the construction is proposed. The applicant shall demonstrate compliance with all relevant FCC regulations.

B. Priority for WCF Location - New WCFs must be located according to the priorities in Section 1.7 above. The applicant shall demonstrate that a facility of a higher priority cannot reasonably accommodate the applicant’s proposed facility.

C. Placement on Municipal Property - If an applicant proposes to locate a new WCF on municipal property or on a public right of way, the applicant must show the following:

1. The proposed location complies with applicable municipal policies and ordinances.

2. The proposed facility will not interfere with the intended purpose of the property or right of way.

3. The applicant has adequate liability insurance.

4. The applicant has a lease agreement with the Town that has been approved by the Board of Selectmen and that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interest of the property.
D. **Design for Collocation** - A new WCF and related equipment must be designed and constructed to accommodate collocation of additional WCFs or providers when technically feasible and when not in conflict with the height limitations set forth in this Ordinance.

E. **Height** - A WCF shall comply with following requirements specific to the type of facility:

1. **Height, Monopole WCF Overlay Districts** - Where the Town establishes Monopole WCF Overlay Districts (as designated in the Town zoning map), a Monopole WCF shall not exceed one hundred twenty (120) feet in height.

2. **Height of Hidden WCF** - The WCF shall not be constrained by height limitations except to the extent that Town zoning ordinances restrict the height of the structure in which the facility is concealed or hidden.

3. **Height, Ground-Mounted Facilities** - In areas other than the Monopole WCF Overlay District, a ground mounted WCF shall not project higher than twenty (20) feet above the average height of buildings within three hundred (300) feet of the proposed facility or, if there are no buildings within three hundred (300) feet, such facilities shall not project higher than twenty (20) feet above the average tree canopy height, measured from ground level. The height of the ground-mounted facility, having neither buildings nor tree canopy within three hundred (300) feet, shall not exceed the height limit of the zoning district within which the facility is located. If there are no buildings or trees within three hundred (300) feet of the proposed site of the facility, all ground mounted WCFs shall be surrounded by a buffer of tree growth, as required by this Ordinance, sufficiently dense to screen views of the base of the facility from abutting properties and all public roads and ways.

4. **Height, Side- and Roof-Mounted Facilities** - Side- and roof-mounted WCFs shall not project more than the lesser of ten (10) feet above the height of an existing building or ten (10) feet above the height limit of the zoning district within which the facility is located and does not result in Unreasonable Adverse Visual Impact.

5. **Height, Existing Utility Structures** - Expansions located on any of the following existing structures shall be exempt from the height restrictions of this ordinance provided that there no more than a ten (10) foot increase in height of the existing structure as a result of the installation of the WCF: electric transmission and distribution towers, telephone poles and similar existing utility structures, and water towers.

6. **Height, Disguised Structures** - The foregoing height limits notwithstanding, WCFs that are constructed as disguised structures, such as flagpoles or steeples, shall not exceed the height that is permitted or reasonably attributable to such structures not as disguised WCFs for the zoning district in which the facility is to be located.

F. **Setbacks** - The setback shall be the separation of the corresponding border of the footprint of the base area of the WCF, as defined by the required fencing, from the property lines, buildings, or other feature from which the setback is defined. It shall not refer to the center point of the WCF.

1. A new Monopole WCF must be set back from Route 1 and Route 91 at least one hundred fifty (150) feet.

2. A new or expanded Monopole or Ground Mounted WCF must comply with the setback requirements for the zoning district in which it is located, or be set back one hundred twenty five percent (125%) of its height from all property lines, whichever is greater. The Planning Board is permitted to reduce this 125% setback upon a showing that the support structure is reliably designed to collapse upon itself in an area shorter than its height. The Planning Board is permitted to accept setbacks obtained by including areas outside of the property.
Town of York, Maine

boundaries if secured by an easement from the owners of the affected properties. This easement shall be specifically noted on the plan and permit, and shall be recorded in the York County Registry of Deeds and indexed under the name(s) of the owners of the affected abutting property.

3. All structures accessory to a WCF and all peripheral supports used to support a WCF structure shall be located in accord with the setback requirements for the underlying zone.

4. All WCFs shall be located a minimum of sixty-five (65) feet from any residential structure located on any abutting property at the time the structure is initially constructed, unless the affected abutting property owner waives this requirement, and Monopole WCFs shall be located five hundred (500) feet from any residence located on any abutting property at the time the structure is initially constructed, unless the affected abutting property owner waives this requirement. This requirement shall not be waived with respect to the Fall Zone of any Monopole WCF. Any waiver shall be specifically noted on the plan and permit, and shall be recorded in the York County Registry of Deeds and indexed under the name(s) of the owners of the affected abutting property.

5. WCF is permitted to be located on a property on which another principal or accessory use is located, subject to concurrence of all parties that have an interest in the parcel at the time the structure is initially constructed. There shall be no minimum setback requirements from other structures located on the same property as the WCF.

6. The following exceptions apply:

   (a) The Planning Board is permitted to reduce the required setback for a WCF to be constructed on public property or on public right of ways provided that there is a showing by the applicant that the facility is designed to collapse in a manner that will not harm other property.

   (b) An antenna attached to a WCF shall be exempt from the setback requirement if it extends no more than three (3) feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.

G. Visual Impact - A WCF that fully meets the definition of Hidden WCF shall not be subject to the requirements of this section except to the extent that the existing structure in which the WCF is concealed is required to meet the zoning requirements of the Town of York.

1. Visual impact by certain larger WCFs - New Monopole WCFs and new Ground Mounted WCFs, including its related equipment and required fence, must be substantially screened from view from abutting properties. The screening must be evergreen trees when such screening is to be newly planted in construction of the WCF. All such WCFs shall maintain a buffer, except for an access road, beginning at a minimum of one hundred (100) feet from the fence at the base of the WCF and extending toward the WCF, on all sides of the parcel on which the WCF is located. The Planning Board is permitted to accept buffer obtained by including areas outside of the property boundaries if secured by an easement recorded for the deed of that property, requiring maintenance of the buffer. The Planning Board is permitted to reduce the buffer adjacent to I-95 to no less than a distance equal to one hundred (100) percent of the total height of the WCF, consistent with the goal that a buffer shall consist of mature trees having a height at least as high as the required fencing and having a density sufficient to substantially screen the base of the WCF from observation when viewed from a distance greater than 100 feet from the fence at the base of the WCF. When the WCF is placed in an area that is wooded prior to construction of the WCF, existing plants and natural landforms on the site shall also be preserved to the maximum extent practicable.
The Planning Board is permitted to require additional plantings in the buffer area, particularly when the construction area is not of the character of a wooded buffer, to enhance the quality and effectiveness of the buffer area as a visual screen, including requiring the planting of trees that will achieve effective screening within three (3) years after construction. Inside the buffer area, existing plants and natural land forms on the site shall be preserved to the maximum extent practicable while achieving the safe construction of the Support Structure, accessory structures, and required fencing.

Monopole WCFs and new WCFs to be placed (e.g., collocated) on existing Monopole or other Support Structures shall be designed to minimize their visual, perceived bulk or mass, including, but not limited to, avoiding the use of any platform, if possible, and minimizing the distance the antenna array extends out from the Support Structure, which distance may not exceed 10 feet without explicit approval of the Planning Board. The Planning Board is permitted to require the applicant to present evidence of compliance with this requirement to minimize bulk.

2. Visual impact by Certain Smaller WCFs - A new WCF which is of the types roof-mounted, structure-mounted, mast, whip or micro cell, including its related equipment, must be camouflaged from view from abutting properties, to the maximum extent practicable, including but not limited to: use of compatible building materials and colors, screening, landscaping and placement within trees. When a WCF is mounted on an existing structure, every effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public ways, including but not limited to the stepping back of the WCF from the front facade in order to limit their impact on the structure’s silhouette and the blending with the existing structure’s architecture by painting or by shielding with material which is consistent with the design features and materials of the building.

3. Disguised WCFs - A disguised WCF, made to appear as an unrelated object such as a tree, church steeple, or flagpole, shall be sufficiently realistic in size and proportion to adjacent features as to be reasonably perceived as the intended image. The disguise must encompass the entirety of the WCF including its base facilities or, alternatively, such base facilities are permitted to be isolated from the disguised support structure, for example by underground cable connections to a separate building not closely associated with the Support Structure. For the purposes of determining compliance with zoning requirements, the disguised device shall be treated as the object as which it is intended to be recognized. For example, a WCF disguised as a flagpole shall comply with all requirements that would be applicable to a flagpole that is not a disguised WCF if proposed for construction in that location.

4. Lighting - A new WCF must be illuminated only as necessary to comply with FAA or other applicable state and federal requirements.

5. Color and Materials - A new WCF must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues, or metals having dull, non-reflecting finishes shall be used. For disguised WCF, the colors and materials shall be typical of the object simulated by the disguise.

H. Fencing - A WCF must be fenced to discourage trespass on the facility and climbing on the structure by trespassers, except as further provided below for cases of use of disguised construction. A fence of not less than eight (8) feet in height from the finished grade shall be constructed around a WCF. The fence shall include barbed wire around the top. Access through the fence shall be through a locked gate. The fence shall not be located in the required buffer area. In the absence of a buffer, the fence shall be screened from view through use of appropriate landscaping and planting. A disguised
WCF shall provide for security of the supporting structure and its separate base equipment facilities against trespass and damage in a manner appropriate to the object simulated by the disguise, but shall not be required to have fencing if fencing is not typically associated with the disguised object. If a disguised WCF does have fencing, such fencing being compatible with the object simulated by the disguise, the WCF and fencing shall have a buffer as described. Security for a hidden WCF or WCF serving a Ham radio shall be provided in a reasonable manner, but need not be fencing. This fencing requirement may be waived or modified by the Planning Board or CEO in the course of their review and approval of WCFs, except in the case of a Monopole WCF.

I. Structural Standards - A new WCF must comply with all applicable standards of the American National Standards Institute, including ANSI EIA/TIA Standard 222 entitled “Structural Standards for Steel Antenna Towers and Antenna Supporting Structures,” current revisions or versions as of the time of the application for the WCF.

J. Certifications from Applicant - Agreement by the applicant to provide the CEO with a signed statement stating whether the WCF complies with all FCC regulations, including radio frequency emission regulations, at these times: (i) within six (6) months after the construction of a new WCF; (ii) annually after construction is complete, within 30 days after the anniversary date of the commencement of operation, and (iii) after each Expansion of an existing WCF. If upon review of the statement the CEO finds that WCF does not comply with FCC regulations, the CEO, after the applicant has been given a reasonable time based on the nature of the problem to comply with the federal regulations, is permitted to revoke or modify the permit. If the permit is revoked, then the WCF shall be removed in accordance with Section 1.12 Abandonment.

K. Interference with Other Signals - Certification by the applicant that the operation of the proposed facility will not interfere with other adjacent or neighboring transmission or reception functions, including but not limited to other WCFs and reception of television and radio broadcasts. If on review the CEO finds that there is significant interference, the CEO is permitted to revoke or modify the permit. The applicant shall be given a reasonable time, based on the nature of the problem, but at least 2 days and no more than 30 days, to comply with the federal license requirements or other federal standards. Providing devices designed to effectively eliminate the interference, to another party with whose signal there is interference, may be an acceptable resolution. If the permit is revoked, then the facility shall be removed in accordance with Section 1.12 Abandonment.

1.10 Amendment to an Approved Application
All substantive changes (e.g., changes to the appearance, nature, size, shape, color, bulk of a WCF) to a previously approved or pre-approved application must be resubmitted to the Planning Board, or in the case of a WCF which CEO may approve, the CEO.

1.11 Abandonment
A. A WCF that is inactive for a period of twelve (12) consecutive months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing and order removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned.

B. If the owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. All above ground structures, equipment, foundations, utilities and access roads or driveways specifically constructed to service a WCF shall be removed, and the land returned to a condition as near to the original pre-construction condition as possible. If the facility is not removed within this time period, the Town is permitted to remove the facility at the owner’s expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including removal of roads and re-establishment of
vegetation.

C. If a surety has been given to the Town for removal of the WCF, the owner of the WCF is permitted to apply to the Board of Selectmen for release of the surety when the WCF and related equipment are removed to the satisfaction of the Planning Board.

1.12 Appeals
Any person aggrieved by a decision of the CEO or the Planning Board under this Ordinance is permitted to appeal the decision to the Board of Appeals, as provided in Town of York Charter, Zoning Ordinances and Regulations. Written notice of appeal must be filed with the Board of Appeals within thirty (30) days of the decision. The notice of appeal shall clearly state the reasons for the appeal.

1.13 Administration and Enforcement
The procedure and substance for the administration and enforcement of this Ordinance shall be as provided in the Town of York Zoning Ordinance for the administration and enforcement of those Ordinances.

1.14 Penalties
Any person who owns or controls any building or property that violates this Ordinance shall be fined in accordance with Title 30-A M.R. S. A. §4452. Each day such violation continues after notification by the CEO shall constitute a separate offense.

1.15 Conflict and Severability

A. Conflicts with Other Ordinances – Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation, or statute, the more restrictive provision shall apply.

B. Severability – The invalidity of any part of this Ordinance shall not invalidate any other part of this Ordinance.

1.16 Definitions
The terms used in this ordinance shall have the meanings here listed. Definitions for the listed terms from other sources shall not take precedence over the definitions here listed for the interpretation and implementation of this Ordinance. Applications and correspondence relating to applications shall use terminology consistent with these listed definitions.

Active Operation - The continuous transmitting or receiving of radio frequency signals.

Antenna - Any system of poles, panels, and rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

Antenna Height - the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna. Measure of Support Structure height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the facility site. If the Support Structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating antenna height.

Antenna, Parabolic - (also known as a satellite dish antenna) - An antenna that is bowl-shaped, designed for the reception and/or transmission of radio frequency communication signals in a specific directional pattern.

Antenna, Whip - An antenna characterized by its “whip” shape and size, and its ability (an “omni directional antenna”) to transmit and/or receive signals in a three hundred sixty (360) degree pattern.
Average Tree Canopy Height - The average height of all trees greater than twenty (20) feet in height located within three hundred (300) feet of the footprint of the facility as determined by the required fencing in Section 1.9.B.8., provided that all such trees shall remain in place subsequent to construction and provided that the number of such trees within three hundred (300) feet of the fence shall exceed fifty (50) trees, and provided that the distribution of such trees shall satisfy the requirements for a buffer of tree growth as required in Section 1.9.B.7., Visual Impact.

Collocation - The use of a support structure or an alternative support structure by more than one wireless communication provider.

Disguised WCF - a WCF made and designed to appear to be an object recognized as other than a WCF.

Expansion - The addition of antennas or other devices to an existing structure.

FAA - The Federal Aviation Administration, or its lawful successor.

Fall Zone - The area on the ground within a radius from the base of a WCF equal to the total height of the WCF. The Fall Zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

FCC - The Federal Communications Commission, or its lawful successor.

Functionally Equivalent Services - Functionally Equivalent Services are Cellular, Personal Communication Services (PCS), Enhanced Special Mobile Radio, Specialized Mobile Radio and Paging. The Communications Act of 1996 requires local government treat these five services equally.

Ground Mounted WCF - A WCF which is mounted on the ground, and which is mast or similar structure and not a lattice tower or guy tower, and is less than 85 feet in height.

Height - The vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the building or structure. The highest point shall exclude farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks, bulkheads, or other building accessory features usually erected at a height greater than the main roofs of buildings.

Hidden WCF - A WCF fully hidden from view. A WCF is hidden when it is contained within an existing structure unrelated to a WCF, such as a building, wall or roof.

Historic District – An area designated as an historic district or area by the Town of York or one of its municipal committees or bodies, or any State or Federal Agency.

Historic Building – A building which is designated as historic by Town of York or one of its municipal committees or bodies, or any State or Federal Agency.

Line of Sight - The direct view of the object from a point or location. To avoid confusion, the applicant to describe issues of coverage should not use the phrase “line of sight”.

Micro Cell WCF - A low power radio service WCF used to provide increased capacity in high call demand areas or to improve coverage in areas of weak coverage.

Modification - The changing of any portion of a WCF from its description in a previously approved permit, including but not limited to changes in design.

Monopole WCF - A WCF with a monopole Support Structure.
Reasonable Access - The opportunity for a licensed carrier to provide one or more Functionally Equivalent Services to the extent that all or most of the Town of York may be reasonably served.

Repeater - A small receiver/relay transmitter of not more than twenty (20) watts output designed to provide service to areas that are not able to receive adequate coverage from the primary sending and receiving site in a wireless communications network.

Support Structure - Any built structure, including guy wires and anchors if used, to which antennas and associated hardware are mounted. Support structures include but are not limited to:

1. Lattice tower - A support structure that consists of a network of crossed metal braces, forming a tower, which is usually triangular or square in cross section, not normally requiring guy wires and anchors.
2. Guy tower - A support structure such as a pole or narrow metal framework that is held erect by use of guy wires and anchors.
3. Monopole - A support structure that consists of a single pole sunk into the ground and/or attached to a concrete pad or other foundation.
4. Mast - A type of mount that is thinner and shorter than a monopole.
5. Existing nonresidential structure - An existing structure, having an original principal use other than a WCF, to which wireless facility components may be attached under certain conditions.

Unreasonable Adverse Visual Impact - End results of a proposed project that: (1) would be excessively out-of-character with existing buildings, structures, and features; or (2) would significantly diminish the scenic value in an Historic District or Historic Building.

Wireless Communications Facility (or Facility) (WCF) - Any facility, building, pole, tower, or structure used to provide wireless telecommunication services, which may consist of antennae, equipment, storage and other accessory structures used to provide wireless telecommunication services. The definition of WCF includes personal wireless service facilities as that term may be defined in Title 47, United States Code, Section 332 (c)(7)(C), as may be amended.
Wireless Communications Facilities Ordinance Overlay Zone.
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 16, 2019
DATE ACTION REQUESTED: October 21, 2019
☐ ACTION
☒ DISCUSSION ONLY

SUBJECT: Mt. Agamenticus Parking & Restroom project and Lease Amendment updates

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:

As you will recall, last year the York Water District Trustees & York Board of Selectmen held a joint workshop on Feb. 12, 2018 to discuss mutual interest of use, access and facilities at the summit and base of Mount Agamenticus. At that time a sub-committee was established to include representatives from the Town of York Select Board, York Water District Trustees and staff to review the existing lease agreement and the engineering & design of the new parking areas and restrooms.

The York Water District approved $35,000 to hire their engineer to design new and improved parking areas that would ensure the Chase’s Pond water supply is protected. The Town of York added $10k for the design and engineer work for public restroom facilities at each location in the capital plan and it was approved by the voters for FY2019.

The York Water District hired Jon Edgerton of Wright-Pierce Engineering to conduct the design and engineering work. The sub-committee has been meeting with him throughout the last year and a half, and there have been many accomplishments to report to include surveys, test digs, siting of proposed facilities and conceptual designs.

In March of this year, we presented the Board with an update which included early conceptual designs, a traffic needs flow study, composting toilet specifications and a visitor use survey.

In the past 6 months a lot of progress has been made with regard to the parking & restroom infrastructure project, but also with a proposed amendment to the existing lease between the Town and The York Water District, for the Summit Road access. Before continuing with this work, and in advance of seeking planning board and voter approval, we’d like to provide the Board with an additional update.

As part of the initial Capital Planning process, the Parks and Recreation Department submitted a request for funding for the construction of base and summit parking lots along with restroom facilities at both the base and summit. The need for both of these projects has been well documented and studied. Parking is over capacity during high use periods throughout the year. The number of cars overflowing the existing 12 – 15 space area at the base is a public safety concern and expansion will greatly improve congestion and flow of traffic at the summit. The restrooms were identified in 2013 as a priority topic in a planning workshop with the Mt. A.
Steering Committee, Selectmen, York Water District Trustees and other members of the public, and as a main area of focus in the 2015 Mount Agamenticus Strategic Plan. Collectively, the parking and restroom project will better serve the growing needs and demands of the public and align with efforts to enhance accessibility and parking, and will also help to ensure good water quality in the York’s public drinking water supply.

Attached, you will find the most up to date DRAFTS of the base and summit parking lots. The base lot will require new construction and will allow for approximately 88 spaces, a restroom building to house one composting system (4 toilets), and a future welcome station (this is not part of this project). The summit lot will require less in the way of excavation as existing parking areas will be re-defined and spaces delineated, allowing for improved flow, approximately 53 parking spaces, plus designated bus parking (which can be used for overflow vehicle parking, if needed). The summit design also includes a restroom building to house one composting system (4 toilets).

As part of the contract with Wright Pierce, a budget estimate has been provided for the conceptual parking areas and restroom buildings. Additionally, we have acquired a budget estimate for the composting toilet systems. The breakdown of those estimates is as follows:

Summit Parking Area - $365,000.00
Base Parking Area - $345,000.00
Ring Trail Parking (by the barn, currently overflow parking) - $35,000.00
Buildings at the base and summit to house the toilets - $244,000.00
Toilet systems (base and summit) - $133,000.00

The total amount of the capital request for this project is $1,200,000.00 and includes approximately 10% as contingency.

As you know, York Water District owns the property where the existing parking areas and access road lie. The Town has a 50-year lease agreement with the District, dated May 12, 1980, pertaining to access and power. In the agreement, the Water District and the Town of York had the foresight to reserve a 2.5 acre parcel for proposed parking. At the time, the group that worked on this agreement had the vision of what was to come.

The York Water District is a supporting partner in these projects and has a vested interest in making sure water quality and safety is maintained.

The afore mentioned sub-committee has also worked to develop an amendment to the current lease that would extend the lease through the year 2050, with proposed 2 additional, twenty-year terms (pending MPUC approval). The development of the amendment has not been without challenges including setting terms that are mutually agreeable to the Town and the Water District, but that will also meet any requirement placed on the District by the Public Utilities Commission and/or any requirement on the Town relative to bond funding compliance. We believe that the amendment is reaching near final DRAFT form. This has been accomplished through several meetings, discussions, and legal review by both the Town and The Water District counsel.

Prior to seeking final legal “sign-off”, we would like to share the DRAFT with you for your review. Attached, you will find a copy of the original 1980 lease along with the most up to date DRAFT form of the proposed lease amendment.
In short, the following list outlines the amendment as it differs from the current lease:

- Provides for extension of lease through 2050
- Allows for two, 20-year terms, pending MPUC approval
- Provides the Town with continued access to the summit and trails
- Widens the access road from 49.5 feet to 66 feet
- Allows for the Town’s infrastructure improvements to include parking and restroom facilities, on Water District property
- Formalizes the existing parking areas
- Allows for composting toilets
- Authorizes the use of existing trails on Water District land
- Provides for maintaining the Town’s existing power and telecommunication rights
- Provides clarification of Town’s responsibility and ability to maintain road including signage, enforcement of Town ordinances, paving, widening, etc.
- Provides for the protection of YWD’s interests regarding water quality through parking delineation and enforcement of the Town ordinances
- Provides plan in the event the Town defaults, albeit unlikely
- Speaks to Town’s bond compliance, in the event of default/surrender, albeit unlikely (currently being negotiated between legal counsel(s))

Regarding next steps, we are planning to continue to move the parking and restroom project(s) through the Board of Selectmen approval, capital planning approval, Budget Committee approval, Planning Board approval, and public hearing/input and permitting processes, with a goal of seeking voter approval in May. Part of this process will include the installation of project boards posted at Mt. A, both at the base and summit, showing the conceptual designs and additional information including, but not limited to, project partners, examples of current parking, explanation of composting toilets, etc. We would also like to host your Board for an on-site visit this fall.

The next step as it pertains to the lease amendment is to seek final legal review, Board of Selectmen Approval, York Water District Board of Trustees’ approval and Public Utilities Commission approval. Effective date occurs upon execution by both parties, which will not happen until after (1) Maine PUC approves the lease amendment and (2) the Town receives any necessary votes on funding.

At this time, we welcome any questions that you may have.

RECOMMENDATION: None at this time

PROPOSED MOTION: None at this time

FISCAL IMPACT:
THIS AGREEMENT, made as of the 12th day of May, A.D. 1980, by and between YORK WATER DISTRICT, a quasi-municipal corporation, organized and existing under the provisions of Chapter 8 of the Private and Special Laws of the State of Maine of the year 1929, and located in the Town of York, in the County of York and State of Maine, hereinafter referred to as "the District," as party of the first part, and the INHABITANTS OF THE TOWN OF YORK, MAINE, a municipal corporation organized and existing under the laws of the State of Maine, and located at York, in the County of York and State of Maine, hereinafter referred to as "the Town," as party of the second part

WITNESSETH:

THAT, WHEREAS the District is the owner of a certain land situated in the Town of York, in the County of York and State of Maine, on the northeastern side of the highway leading from Cape Neddick, in said Town of York, to Emery's Bridge, so-called, in the Town of South Berwick, in said County, and variously known as the George Welch lot, the Samuel W. Norton lot, the Mary A. D. Wesne lot and the David Farrell lot, together with a private way leading from said highway across said premises to a point near the top of Agamenticus Mountain, so-called, in said York;

AND WHEREAS the Town is the owner of sundry lots or parcels of land situated on the top and the northwesterly, northerly and northeastern sides of said Agamenticus Mountain, adjoining, in part, the said land of the District;

AND WHEREAS the Town is in the process of building upon its said lands a public park and recreational area for both summer and winter recreational purposes, and desires to acquire certain rights and easements relative to a right of way for ingress and egress by vehicle or otherwise, a right of way for the maintenance of a power line, so-called, and the use of a parking area, on, over and across said lands of the District for the use and benefit of the said Town, its agents and servants, its patrons or customers,
prospective or otherwise, and any and all persons that may desire to use or
patronize the facilities of such recreational area.

NOW, THEREFORE, in consideration of the sum of one dollar ($1.00) paid
by the Town, the receipt whereof is hereby acknowledged, and the mutual
covenants and agreements herein contained, it is hereby mutually agreed by
the parties hereto as follows:

The District does hereby grant and lease to the Town, for the term and
upon the conditions hereinafter set forth, the following described rights
and easements, to wit:-

1. An easement for the building, repairing and maintenance of a
right of way for ingress and egress by vehicle or otherwise, over and across
said lands of the District for the use and benefit of the said Town, its
agents and servants, its patrons or customers, prospective or otherwise, and
any and all persons that may desire to use or patronize the facilities of
such recreational area.

The easement hereby granted and leased shall cover the road that was
laid out and built by the U. S. Government during World War II, leading from
the above described highway to the top of Agamenticus Mountain. The strip
of land hereby made subject to the easement shall be three (3) rods (49½ ft.)
in width, except that if any unusual problem of drainage or construction is
presented, the width may be increased to four-(4)-rods (66 ft.).

2. A right of way for the erection, construction, maintenance, repair
and/or replacement of a power line, so-called, consisting of poles, wires and
such other appurtenances and equipment as are ordinarily used, or may here-
after be used, in the conduct and transmission of electric power, extending
from said highway, in a northeasterly direction, to said lands of the Town
at or near the top of said Agamenticus Mountain, said power line to commence
at said highway, a short distance westerly of the southwesterly terminus of
said right of way for vehicles; thence running approximately parallel to the
westerly side of said right of way to a point near the former location

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of the sentry box or cut post used by the U. S. Government during World War II; thence running easterly, across said right of way, to a point in a line of telephone wire, attached to trees, originally strung by the U. S. Government, and presently being used for communication with the forest service tower on said A留言ticus Mountain; thence following the approximate line of said telephone, in a northeasterly direction, in a straight line, to said land of the Town near the top of said A留言ticus Mountain. Said right of way for said power line to include the right to cut down and remove all trees within twenty (20) feet of either side of the line of poles so to be set for said power line, and the right to said Town and its successors in title, to enter upon said strip of land, twenty (20) feet in width on either side of said power line, for the purpose of erection, maintenance, repair and/or replacement of said power line, and the cutting and removing of trees as hereinbefore provided.

3. Also the right to said Town to use, for the purpose of making a parking area, a tract of land approximately two and one-half (2½) acres in area, situated immediately southeasterly of the private way so hereinbefore constructed by the U. S. Government, and wholly enclosed, except on the side adjoining said highway, by a stone wall, said premises being bounded southerly by said highway; northerly by said former Government right of way, and northeasterly and southeasterly by other lands of the District, together with the right to cut and remove such trees as said Town shall deem proper, and to level the ground of said parking area so far as may be reasonably necessary to fit it for use. Free access from the westerly side of said parking area to said former U. S. Government right of way shall be permitted at any and all times. All of the foregoing privileges and facilities hereby granted and leased to the Town shall be improved, maintained and repaired at the sole expense of the Town, and the said Town shall save the District harmless from any and all claims for loss or damage that may arise for any reason from the use of said right of way or road, power line and/or parking space.
and any or all of them, by the Town, its agents or servants, its patrons, invitees, permittees or any other person or persons whatsoever.

The said Town covenants and agrees that said easements and the road, power line and parking area built, maintained and repaired in accordance herewith, shall not be used or maintained in any way, or by any person, that will contaminate the waters of the great pond known as "Chase's Pond" or "Chase's Lake," from which the District takes its water supply for the Town of York, to the extent that it is dangerous to public health or in any way distasteful or obnoxious to the District or to the takers of the water from said pond.

In the event it is found that any dangerous or obnoxious condition or conditions exist as a result of the maintenance and use of the rights and privileges hereby granted and leased, the Town, upon notice to that effect, shall forthwith correct or remove such condition or conditions, and failing to do so, the District shall have the right to close the said road and parking space and to suspend the use and occupancy of said road and parking space under this easement agreement until such time as said condition is corrected or removed.

By virtue of the rights and privileges herein contained the Town shall have the right to restrict or restrain the use of said road and/or parking space or to limit its use to its agents or servants, its customers or patrons, prospective or otherwise, and for such purpose to bar or obstruct the said road and/or parking space, or to charge a fee for the use of either or both of them, provided, however, that nothing herein contained shall be construed as preventing, restricting, or in any way limiting the District or its agents and servants in the free use and passage on or over said road and parking space at all times for any reason.

In consideration of the rights and privileges hereby granted, the Town further agrees that any portion of the proposed recreational area which lies on the water shed of said "Chase's Pond" shall be so constructed and maintained
so as to prevent any pollution of said pond or of any of the streams tributary thereto.

No commercial enterprise of any kind, other than parking, shall be carried on or conducted in the area hereinbefore provided to be used as a parking area.

4. The rights and privileges hereby granted and leased shall run and exist for a period of fifty (50) years from the date hereof, and shall be subject to renewal, provided that the terms and conditions herein are performed by the Town, provided, however, that if at any time during the term of this agreement, or any renewal thereof, the Town shall cease to own the land to which access is provided by this agreement, this agreement and the easements and rights herein provided shall all become null and void.

5. This agreement shall enure to the benefit of and be binding on the parties hereto, their successors or assigns.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be sealed with their several corporate seals and executed in the name of their respective Corporations by their duly authorized agents.

Signed, sealed and delivered in the presence of

David C. MacLean, Sept

YORK WATER DISTRICT
(Party of the first part)

INHABITANTS OF THE TOWN OF YORK, MAINE
(Party of the second part)

[Signatures]

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STATE OF MAINE
COUNTY OF YORK ss.

May 12, 1980

Then personally appeared Philip D. d'Entremont, President of the
Board of Trustees of the York Water District, and acknowledged the foregoing
instrument to be his free act and deed, in his said capacity, and the free
act and deed of said corporation,

Before me,

[Stamp]

Justice of the Peace/Attorney

York ss.
Received May 13, 1980 at 11:16 a.m.
and recorded from the original
LEASE AMENDMENT

THIS LEASE AMENDMENT is made this ___ day of 20___ (the "Effective Date"), by and between the YORK WATER DISTRICT, a quasi-municipal corporation organized and existing under the laws of the State of Maine with a mailing address of 86 Woodbridge Road, P.O. Box 447, York, Maine 03909 ("District"); and the TOWN OF YORK, a municipal corporation organized and existing under the laws of the State of Maine with a mailing address of 186 York Street, York, Maine 03909 ("Town").

WHEREAS, the District and the Town are parties to a certain lease agreement dated May 12, 1980, recorded at the York County Registry of Deeds in Book 2651, Page 118 (the "Lease Agreement"), whereby the District grants and leases to the Town certain interests in land of the District on Mount Agamenticus, York County, Maine, including an easement to use a road providing access to land owned by the Town at the summit of Mount Agamenticus and described in the deed to the Town dated April 25, 1980 and recorded at the York County Registry of Deeds in Book 2651, Page 112 (the "Summit Land"); and

WHEREAS, public use has increased with no intentional design or plan for centralized parking or public restrooms, and the parties wish to amend the Lease Agreement in certain respects to improve use, access and infrastructure while protecting water quality;

NOW, THEREFORE, the parties hereby agree as follows:

1. Mt. Agamenticus Road Easement Corridor. The easement area described in Section 1 of the Lease Agreement (the "Easement Corridor") is redefined to include that portion of Mt. Agamenticus Road shown as "Mount A Road Corridor" on the plan attached hereto as Figure A-2, and is increased in total width, from three (3) rods (49½ feet) to four (4) rods (66 feet), based off of the centerline of Mt. Agamenticus Road as it currently exists.

2. Power Line Easement. With respect to the existing line of poles and wires crossing the District’s land and providing electric power and telecommunications service to the Summit Land, to the extent necessary during the term of this Lease Agreement, the District agrees to confirm existing easement rights to the providers of such service to assure the Town has access to such service over the existing line.

3. Parking Areas, Improvements, and Town Obligations. The first paragraph of Section 3 of the Lease Agreement is deleted in its entirety and replaced with the following:

   a. Parking Areas. The areas leased to the Town are shown and described as "Lower Parking Lot," "Ring Trail Parking Lot," and "Upper Parking Lot" on the plans attached hereto as Figures B-1, B-2 & B-3 (collectively, the "Parking Areas"), and may be used by the Town solely for the purposes of constructing and operating...

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1 Effective Date occurs upon execution by both parties, which will not happen until after (i) Maine PUC approves this Lease Amendment, and (ii) Town receives any necessary vote on funding.
vehicular parking areas, except as hereinafter set forth. Within three (3) years after the Effective Date, the Town shall complete construction of all parking area improvements, located generally as shown on Figures B-1, B-2 & B-3 and more particularly described in drawings prepared by Wright-Pierce dated (collectively, the “Parking Facilities”). At all times during the term of this Lease Agreement, the Town shall maintain clear striping of the vehicular parking spaces within the Parking Areas, limited to a maximum of 88 spaces at the Lower Parking Lot, 7 spaces at the Ring Trail Parking Lot, and 53 spaces at the Upper Parking Lot, all substantially as shown on Figures B-1, B-2 & B-3, unless otherwise agreed in writing by the District.

b. Restroom Facility. In addition to said Parking Facilities, the Town shall complete construction at the Lower Parking Lot of a restroom facility, located generally as shown on Figure B-1 and to be more particularly described in plans to be prepared by the Town and approved by the District in writing (the “Restroom Facility”), within three (3) years after the Effective Date.

c. Other Facilities. The Town also shall have the right, but not obligation, to construct at the Lower Parking Lot: (i) a welcome area, center or facility within the designated footprint of the Lower Parking Lot plan attached hereto as Figure B-1, provided that the building design will be agreed upon in writing by the parties and will be specifically described in plans and specifications pertaining to water quality and/or storm water (the “Welcome Center”); (ii) standard trailhead facilities such as trail/map box, kiosk/bulletin board/wayside exhibit(s), donation/fee collection device, etc.; and (iii) a domestic drilled well. No other buildings or structures may be constructed within the Easement Corridor or Parking Areas without the prior written consent of the District.

d. Compliance with Laws. The Town shall, at its sole expense, promptly observe and comply with all present and future laws, ordinances, requirements, orders, directives, rules and regulations applicable to the Easement Corridor, the Parking Areas, and all improvements constructed by the Town pursuant to this Lease Agreement.

e. Enforcement of Town Ordinances. The Town agrees to enforce all public rules on the Easement Corridor and the Parking Areas, including those pertaining to the Animal Control Ordinance. The Town shall install signs requiring that all dogs be leashed. The Town may install other signs within the Easement Corridor and Parking Areas for safety purposes, in its reasonable discretion.

f. Authorized Trails. The Town shall direct users of the Parking Areas to use only those trails located on adjacent District lands identified on the attached Figure C, or such other approved trails that may be agreed upon in writing by the District, and prohibiting users from entering any other portions of adjacent District lands. The Town shall install signs displaying such rules, and any other rules pertaining to public use of the trails that are promulgated by the District, at all trailheads at the Parking Areas.
g. Parking Restrictions. The Town shall prohibit vehicular parking within and along the Easement Corridor, along Mountain Road from the intersection with the Easement Corridor extending to the entrance of the Center for Wildlife (385 Mountain Road), and within all portions of the Parking Areas other than the designated parking spaces within the Parking Areas; and the Town shall install signs to provide adequate notice of such parking restrictions.

h. Clearing. The Town shall have the right to cut and remove such trees within the Easement Corridor and Parking Areas as the Town shall deem proper, and to level the ground of the Easement Corridor and Parking Areas so far as may be reasonably necessary to fit it for use.

i. Town Obligations. The Easement Corridor and Parking Areas, and the improvements constructed and signs installed by the Town pursuant to this Lease Agreement, all shall be improved, maintained and repaired in good condition at the sole expense of the Town, and the Town shall save the District harmless from any and all claims for loss or damage that may arise for any reason from the use of said Easement Corridor or Parking Areas by the Town, its agents or servants, its patrons, invitees, permittees or any other person or persons whatsoever. Nothing herein shall, nor is intended to, waive any defense, immunity or limitation of liability which may be available to the Town or its respective officers, agents and employees, under the Maine Tort Claims Act or any other privileges and/or immunities provided by additional laws or regulations.

j. Costs and Expenses. No services shall be required to be provided by the District in connection with the Easement Corridor, the Parking Areas, or any improvements constructed by the Town pursuant to this Lease Agreement, and all costs, expenses and obligations relating to the Easement Corridor, the Parking Areas, and such improvements, whether foreseen or unforeseen, including (without limitation) all costs of maintaining and repairing the road within the Easement Corridor, shall be paid by the Town; provided that if the District shall elect to construct any improvements within said areas for the sole benefit of the District, such improvements shall be paid for by the District.

k. No Liens. If, because of any act or omission of the Town, any mechanic’s lien or other lien shall be filed against the District or any portion of the District land affected by this Lease Agreement, the Town shall cause the same to be discharged of record or bonded within thirty (30) days after written notice from the District to the Town of the filing thereof; and the Town shall indemnify and save harmless the District against and from all costs and liabilities, including reasonable attorneys’ fees, resulting therefrom.

4. Protection of Water Supply. The second paragraph of Section 3 of the Lease Agreement is deleted in its entirety and replaced with the following:
The Town covenants and agrees that the Easement Corridor, the Parking Areas, and the improvements built, maintained and repaired in accordance herewith, shall not be used or maintained by the Town in any way that will contaminate the waters of the great pond known as "Chase's Pond" or "Chase's Lake," from which the District takes its water supply for the Town of York, to the extent that it is dangerous to public health or in any way distasteful or obnoxious to the District or to the takers of the water from said pond.

5. **Dangerous Conditions.** The third paragraph of Section 3 of the Lease Agreement is deleted in its entirety and replaced with the following:

   In the event it is found that any dangerous or obnoxious condition or conditions exist as a result of the maintenance and use of the rights and privileges hereby granted and leased, the Town, upon notice from the District to that effect, shall forthwith correct or remove such condition or conditions, and failing to do so, the District shall have the right to close the Easement Corridor and/or some or all of the Parking Areas and to suspend the use and occupancy of said Easement Corridor and Parking Areas until such time as said condition is corrected or removed, to the reasonable satisfaction of the District.

6. **Restricted Access.** The fourth paragraph of Section 3 of the Lease Agreement is deleted in its entirety and replaced with the following:

   By virtue of the rights and privileges herein contained, the Town shall have the right to restrict or restrain the use of the Easement Corridor and/or the Parking Areas or to limit its use to its agents or servants, its customers or patrons, prospective or otherwise, and for such purpose to bar or obstruct the said Easement Corridor and/or Parking Areas, or to charge a fee for the use of any of them, provided, however, that nothing herein contained shall be construed as preventing, restricting, or in any way limiting the District or its agents or invitees in the free use and passage on or over said Easement Corridor and Parking Areas at all times for any reason.

7. **No Pollution.** The fifth paragraph of Section 3 of the Lease Agreement is deleted in its entirety and replaced with the following:

   In consideration of the rights and privileges hereby granted, the Town further agrees that any portion of the improvements constructed by the Town pursuant to this Lease Agreement that lie in the watershed of said "Chase's Pond" shall be so constructed and maintained in compliance with all applicable laws so as to prevent any pollution of said pond or of any of the streams tributary thereto from said improvements.

8. **Commercial Activity.** The sixth paragraph of Section 3 of the Lease Agreement is deleted in its entirety and replaced with the following:

   No commercial enterprise of any kind, other than parking, shall be carried on or conducted in the Parking Areas; provided, however, that in the event the Town constructs and operates a Welcome Center, then commercial activities customarily conducted at welcome centers for similar public recreation areas may be conducted at the Welcome
Center, so long as all profits earned from such commercial activities are dedicated to Mount Agamenticus conservation programs.

9. Term; Renewal.
   a. The term of the Lease Agreement is extended for an additional twenty (20) years, to May 12, 2050, provided that the terms and conditions herein are performed by the Town.
   
b. Provided that the Town is not in default in the performance of its obligations under the Lease Agreement, the term of the Lease Agreement will automatically renew for two (2) additional twenty (20) year term(s), upon the same terms and conditions, unless the Town notifies the District in writing of the Town’s intention not to renew the Lease Agreement at least one (1) year prior to the expiration of the then-existing term.
   
c. Notwithstanding the foregoing, if at any time during the term the Town shall cease to own the Summit Land, the Lease Agreement, as hereby amended, shall become null and void.

10. Default. If default shall be made by the Town in the performance or compliance with any of the agreements, terms or conditions in this Lease Agreement, and such default shall continue for a period of thirty (30) days after written notice from the District to the Town specifying the items in default, or in case of a default or contingency which cannot with due diligence be cured within said thirty (30) day period, the Town fails to proceed within said thirty (30) day period to commence to cure the same and thereafter to prosecute the curing of such default with due diligence and within a period of time which, under all prevailing circumstances, shall be reasonable, then the Town shall be in default under this Lease Agreement, and the District shall be entitled to seek whatever remedies may be available at law or in equity, including any actions may be available for damages or for specific performance; and
   
a. the District may, at its option, without waiving any claim for damages for breach of agreement, at any time thereafter cure such default for the account of the Town, and any reasonable amount paid or any reasonable contractual liability incurred by the District in so doing shall be deemed paid or incurred for the account of the Town and the Town agrees to reimburse the District therefor; provided that the District may cure any such default as aforesaid prior to the expiration of said 30-day waiting period but after notice to the Town, if the curing of such default prior to the expiration of said waiting period is reasonably necessary to protect the District’s water supply, or to prevent injury or damage to persons or property; and
   
b. if such default by the Town shall occur prior to the Town’s completion of construction of the Parking Facilities and the Restroom Facility in accordance with paragraphs 3.a and 3.b above, then the District may give written notice to the Town stating that the term extension set forth in paragraph 9 above shall be null and void,
such that the term of the Lease Agreement reverts back to the original term expiring
on May 12, 2030.

11. **Surrender.** On the last day or sooner termination of the term of this Lease Agreement, the
Town shall surrender to the District the Easement Corridor and Parking Areas, with all
buildings and permanent improvements.

12. **No Assignment or Sublease.** The Town shall not, without the District’s prior written
consent, assign, convey, mortgage, pledge, encumber or otherwise transfer (whether
voluntarily or otherwise) the Lease Agreement or any interest under it, or sublet the Parking
Areas or any part thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Lease Amendment to be under
seal by their duly authorized officers as of the day and year first above written.

**WITNESS:**

**TOWN OF YORK**

By:____________________
Print:__________________
Its:___________________

**WITNESS:**

**YORK WATER DISTRICT**

By:____________________
Print:__________________
Its:___________________

Attachments:

- Figure A-1 – Mount Agamenticus Lease Areas
- Figure A-1 – Mount Agamenticus Overview
- Figure B-1 – Mount Agamenticus Lower Parking Lot (including designated area for
  possible Welcome Center)
- Figure B-2 – Mount Agamenticus Ring Trail Parking Lot
- Figure B-3 – Mount Agamenticus Upper Parking Lot
- Figure C – Mount Agamenticus Authorized Trails
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 17, 2019

DATE ACTION REQUESTED: October 21, 2019

☐ ACTION
☒ DISCUSSION ONLY

SUBJECT: FY21 operating budget

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: At the September 9th meeting the Board discussion about the FY21 budget focused largely on possible new staff positions. At this point I think the key matter for the Board to discuss is its own intentions for policy initiatives.

I will bring forward a core budget that looks at stable operations and capital, but I need to know what the Board would like to bring forward in terms of new policy initiatives. The following list contains my thoughts about new initiatives, in order of priority. I don’t know which will survive the process and which will fall off, but it’s important now that the Board flag anything missing at this early stage.

1. Beach monitoring – required by the Dune Permit for the Long Sands Beach Sea Wall.
2. IT Coordinator Position – ready to provide more information on November 4th.
3. Regional Sustainability/Coastal Resiliency Coordinator – addressed in a separate memo.
4. Climate Action Plan – discussed at a cost of $150K.
5. Fire Department Staffing – a letter from the firefighters union is included in the packet.
7. Town Hall Expansion Project – there are tasks we need to complete to be ready for FY22.
8. Sustainability Planner – associated primarily with the Global Covenant commitment.
9. Part-time Public Information Officer – a position to be shared with the School Department.

RECOMMENDATION: Identify anything missing or alter the relative order of priorities.

PROPOSED MOTION: n.a.

Prepared by Stephen H. Burns, Town Manager:
York Firefighters Association
IAFF Local 3622

Request for Support

The York Firefighters Association IAFF Local 3622 requests the support of our local government officials and the citizens we serve to add additional full-time Career Firefighters for the Town of York. The primary purpose of this additional staffing is to transition from our current 56-hour work to to a 42-hour work week. The Town of York went from a four-person, 72-hour work week for full time firefighters to a six person 56-hour work week in the mid 1980’s. As we head into 2020, the 42-hour work week is a more desirable model to promote and can improve our recruitment and retention for future vacancies.

We have recently had a turnover for Career Firefighters in town. We are not alone. In the last year or so, the surrounding departments who have had turnover and/or an increase in their staffing levels include; Scarborough, Portland, South Portland, Biddeford, Sanford, Portsmouth, Dover, Newington and Wells have had advertisements for firefighter. Wells is the only other department in the area that currently works a 56-hour work week. All other departments work a 42-hour work week. A number of factors come into play when it comes to recruitment, transitioning to the 42-hour work week is the first step.

A few additional reasons in to make the transition now;

- Retirement of current Fire Captain in June 2020 will provide an opportunity to hire the additional firefighters from that hiring process. Proper planning and execution of applicable testing and interview processes will allow for a smooth transition to the 42-hour work week.
- In the event of an extended or unforeseen absence of a firefighter, additional positions will provide another resource for filling the vacant shifts.
- Current schedule was a factor for our most recent vacancy- a sign that we are headed towards being a ‘stepping stone’ for Career Firefighters.
- No additional staffing over last thirty-plus years. Modernizing the staffing model.
- Opportunity to improve and enhance our cross training with additional personnel.

As a growing community with the second highest property valuation in the State of Maine, we have always done a good job at meeting the needs of the Town. This includes updating polices and adding positions to various departments when it has identified a need for those positions. The fire service in our community is severely lagging in this aspect. We have had multiple studies throughout the last forty-five years that has identified the need for additional staffing and a full time Fire Chief for our community. There is no better time for planning and action than now.

There has been recent comment at the Selectman’s meetings regarding a full time Fire Chief for our Town. We fully support and encourage the development of a path and foundation in which a full time Fire Chief can be hired within the next two to three years. This will require a cooperative effort with the Fire Departments, Local 3622 and members of the community.
York Firefighters Association
IAFF Local 3622

Our current Fire Chiefs have worked hard over the years in each of their departments to be able to put us in a position where the transition to a full time Fire Chief can be achievable with less political skepticism that's portrayed or assumed. We have developed an outline of what that path could look like in order for a full time Fire Chief to successfully build upon for the best interest of the community, while also respecting the history of our Fire Departments. That outline is available upon request. We need to put the big picture of firefighter's safety, fire protection and the overall safety of our community and visitors first, above all else. Thank you for your time and support.

Respectfully,

York Firefighters Association, Local 3622
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 15, 2019

□ ACTION
☑ DISCUSSION ONLY

DATE ACTION REQUESTED: October 21, 2019

SUBJECT: Traffic Safety Ordinance / Parking Policies – Overall Review and Identify New Priorities

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: At the request of the Board, a meeting was held in February 2019 involving the Town Manager, officials from Highway, Parks and Rec., Police and Planning to discuss necessary changes to the Traffic Safety Ordinance. The group identified several issues that needed to be addressed and classified them into 4 priorities. Attached is a list of those priorities ranked from 1-4. Prior to the summer of 2019 all of first and second priorities were brought before the Board of Selectmen and adopted in the Traffic Safety Ordinance and Parking Permit Program. It was agreed at that time that this group would re-convene after the summer to discuss the priorities listed in the 3rd and 4th groups. Not included in this list are some of the concerns recently brought up from some business owners, including but not limited to length of the season and the hours of regulation and an employee parking pass program. We would like to ask the Board to review this list to see if there are any additional issues or concerns that should be addressed. We plan to meet again the next few months to begin addressing the next group of priorities.

RECOMMENDATION: Have the Board review our recommendations and add any other areas of concern that they wish the group to focus on.

PROPOSED MOTION: N/A

FISCAL IMPACT: 0

DEPARTMENT LINE ITEM ACCOUNT:

BALANCE IN LINE ITEM IF APPROVED:

PREPARED BY: Lt. Owen Davis        REVIEWED BY: [Signature]
First Priority:
Wiggly Bridge / Route 103 – Identify new spaces (loading zone/permit/public)
Oceanside Ave. – Designate no parking except for two spaces for emergency vehicles/on duty town personnel/loading zone)
Schedule E – Amend the ordinance to reflect spaces controlled by the new kiosks

Second Priority:
River Road – Restrict parking outside permit parking zone
Bog Road – Designate as a no parking zone
Short Sands Road – Designate as a no parking zone
Temporary No Parking signs – Include in the traffic safety ordinance
Mountain Road (from Summit Road northwest towards South Berwick) – Limit parking to one side of the road
York Harbor Post Office – Add one 15-minute parking space in section 3
Harbor Beach – Designate no parking at the access ramp
Amend fine amounts for Section 18 Other Violations – Increase fine amount from $35 to $50

Third Priority:
Parking near Eaton’s – Address town owned parking area on the west side of Long Beach Ave. by Camp Eaton’s
Hawk Street – Identify town owned parking and control by kiosk or permit
Harris Island Road – Designate parking area south of the Harbor Master parking as Harbor Use Permit Only
Mountain Road (from Summit Road southeast direction) – Address parking on both sides of the road as well as Mt. A access points
Robert Stevens Drive – Add under Section 14, 5th paragraph – parking prohibited between 1:00 am and 4:00 am
Scotland Bridge Road – Address parking concerns on both sides of Scotland Bridge

Fourth / Long Term Priority:
Route 1A in the Harbor – Address inconsistencies and possible changes in the current ordinance, i.e., time limits
Route 103 near Harris Island Road – Address parking concerns at the intersection of Harris Island Road and Route 103 in a southerly direction
Barrell Lane Ext. – Address parking issues due to the Fishermen’s Walk
Edwards Harborside for Fishermen’s Walk – Address parking in the roadway to access Fishermen’s Walk
Address inconsistencies and outdated language in the traffic safety ordinance; utilize intersections, street addresses and possibly GPS coordinates
Beach Ballfield parking – Is there a need to address free parking at the ballfield?
Orchard Farm Road – Address on street parking in the vicinity of the intersection of Route 1
Davis Trails – Discuss the potential need to regulate parking in the vicinity of the Davis Trails
Starboard Lane – Address parking concerns due to Cliff Walk
Route 103 – Address parking concerns in the vicinity of the Kittery line.
REQUEST FOR ACTION BY BOARD OF SELECTMEN

| DATE SUBMITTED: October 15, 2019 | ☑ ACTION |
| DATE ACTION REQUESTED: October 21, 2019 | ☐ DISCUSSION ONLY |
| SUBJECT: Non-Union Personnel Policy Update |

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:
In a continued effort to bring the non-union personnel policies closer in line with our union contracts the Board has reviewed a number of requested policy changes.

1. Approve the policy changes to the Non-Union Personnel Policy
2. Not approve policy changes to the Non-Union Personnel Policy

RECOMMENDATION: Approve the policy changes to the Non-Union Personnel Policy

PROPOSED MOTION: I move to approve the proposed changes to the Non-Union Personnel Policy.

FISCAL IMPACT:

DEPARTMENT LINE ITEM ACCOUNT:

BALANCE IN LINE ITEM IF APPROVED:

PREPARED BY: Kathryn Lagasse, HR Director    REVIEWED BY:
## REQUEST FOR ACTION BY BOARD OF SELECTMEN

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**DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:** Conduct a public hearing on the proposed regulation amendment then vote to repeal the amendment so that it goes into effect on February 1, 2020.

The purpose of this amendment is to ensure impact fees that were specifically established to assist bond payments for renovation/construction projects that took place in (roughly) 1999-2002 for the York Middle School and York High School will no longer be collected after final bond payment. Final bond payment was already made for the High School last year, and final bond payment for the Middle School will be completed in February 2020. In order to ensure the Town is not collecting impact fees developed specifically for these projects, and to ensure the Town is not liable for repayment of impact fees collected (with interest), these regulations need to be repealed before final bond payment of the York Middle School in February 2020.

**RECOMMENDATION:** Repeal “Regulations to Establish an Impact Fee for School Construction” and make it clear that the repeal of these regulations goes into effect on February 1, 2020.

**PROPOSED MOTION:** I move to repeal “Regulations to Establish an Impact Fee for School Construction” and this amendment shall go into effect February 1, 2020.

**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:
Proposed Amendments

to be considered by the

Board of Selectmen

Amendments

1. Regulations to Establish an Impact Fee for School Construction
Amendment

Regulations to Establish an Impact Fee for School Construction

Explanation of Amendment: The purpose of this amendment is to ensure impact fees that were specifically established to assist bond payments for renovation/construction projects that took place in (roughly) 1999-2002 for the York Middle School and York High School will no longer be collected after final bond payment. Final bond payment was already made for the High School last year, and final bond payment for the Middle School will be completed in February 2020. In order to ensure the Town is not collecting impact fees developed specifically for these projects, and to ensure the Town is not liable for repayment of impact fees collected (with interest), these regulations need to be repealed before final bond payment of the York Middle School in February 2020.

Amendment: Repeal the following regulations on February 1, 2020:

REGULATIONS TO ESTABLISH AN
IMPACT FEE FOR SCHOOL CONSTRUCTION

1. **AUTHORITY** These Regulations are enacted under the authority granted to the Board of Selectmen by Article 18, Administration, Section 18.12, Community Facilities Impact Fee Program of the York Zoning Ordinance.

2. **DEFINITION** Words and phrases shall be considered to have the same meaning as defined in the York Zoning Ordinance. In addition, the following words and phrases shall have the meaning listed below:

   **Bedroom**—A private room in a dwelling which is larger than 100 square feet in area, meets the bedroom egress requirements of the York Building Code, is separable from other rooms by a door or door frame (frame that can be used for a standard door), does not have facilities or furnishings for cooking, eating, laundering, and is not solely a bathroom, a living room, a den/family room, a kitchen, a dining room, a laundry room or a utility room for central heating/cooling equipment. However, if a dwelling has a subsurface wastewater disposal system, the number of bedrooms shall be considered the number indicated on the application for a wastewater disposal permit (HHE 200 form, Town of York Design Flows).

3. **PURPOSE OF SCHOOL IMPACT FEES** The fees collected under implementation of these Regulations shall be used to contribute to the Town of York debt burden for the construction or renovation of a middle school and improvements to York High School as authorized by the voters on May 23, 1998. A portion of the costs of these construction
projects are necessary due to the projected increase in enrollment due to anticipated new housing construction in the Town of York.

4. **CALCULATION OF FEE**

   **A.** The fee schedule has been developed using the February 23, 1998 cost estimates for school improvements prepared for the York School Committee. Prior to the issuance of an Occupancy Permit for a new dwelling unit a fee shall be paid to Town Treasurer based on the following schedule. (See memorandum dated September 21, 1999).

   **SINGLE FAMILY** | **APARTMENT** | **MOBILE**
   -----------------|---------------|---------
   1 Bedroom        | 0.            | 0.      | 0.      
   2 Bedroom        | 0.            | 0.      | 0.      
   3 Bedroom        | $ 1,700.      | $ 1,900. | $ 2,700. |
   4 or more Bedrooms| $ 3,400.     | $ 3,400. | $ 3,400. |

   Fees were reviewed and revised by the Board of Selectmen on November 2, 1999 and became effective for all building permits issued on or after November 23, 1999.

   Notwithstanding the definition of “bedroom” above, for the purposes of calculating impact fees, each dwelling unit shall have at least one, but not be considered to have more than four bedrooms.

   **B.** The fee for an addition to an existing dwelling unit which expands the number of bedrooms shall be the difference in the fees for the type of unit after the addition and the type of unit prior to the addition. (For example, the impact fee for adding one bedroom to a three-bedroom single family home is $3,400 – $1,700 = $1,700).

   **C.** The conversion of a seasonal dwelling unit to a year-round unit shall require payment of an impact fee as if it were new construction, in accordance with paragraph a above.

5. **PAYMENT OF FEE** The application for a permit to construct a new dwelling unit, expand an existing dwelling unit, or convert a seasonal dwelling unit shall indicate the number of bedrooms in the new dwelling unit, to be added to the existing dwelling unit, or in the converted seasonal dwelling unit. The Code Enforcement Officer shall review the plans accompanying the application and determine the number of bedrooms in the unit. For any dwelling unit served by a subsurface wastewater disposal system the number of bedrooms shall be considered the number indicated on the application for a wastewater disposal permit (HHE 200 form, Town of York Regulations, Design Flows), as shown in Town records. The number of bedrooms in a mobile home shall be determined by the number of bedrooms identified by the manufacturer’s specifications.

   At the time of issuance of a permit, the Code Enforcement Officer shall inform the applicant of the number of bedrooms assigned to the permit and the impact fee for the new unit, addition or converted seasonal unit. A Certificate of Occupancy shall not be issued by the Code Enforcement Officer until the applicant presents a receipt.
6. **EXEMPTIONS**—An impact fee shall be paid prior to issuance of a Certificate of Occupancy for all new dwelling units, all additions to existing dwelling units which construct a new bedroom and all conversions of existing seasonal dwelling units, subject to the following exemptions:

   a. dwelling units in elderly housing or congregate care facilities; and

   b. new dwelling units and additions to existing dwelling units which construct a new bedroom, which are seasonal structures as stated on the Occupancy Permit and which are not habitable in winter.

7. **EFFECTIVE DATE**—The provisions of these Regulations shall apply to all new dwelling units, all additions to dwelling units and all conversions of seasonal dwelling units for which an Occupancy Permit was issued on or after August 10, 1998, except for new dwelling units and additions to dwelling units which obtained a Building Permit on or prior to August 9, 1998 or conversions of seasonal dwelling units which obtained a Seasonal Conversion Permit on or prior to August 9, 1998 and which subsequently obtain an Occupancy Permit within the effective period of the Building Permit.

8. **APPEALS**—The appeal of the decision of the Code Enforcement Officer in determining the number of bedrooms in a new dwelling unit or the number of bedrooms in an addition shall be taken to the York Board of Appeals in accordance with Section 18.8.1 of the York Zoning Ordinance.

9. **PERIODIC REVIEW AND REVISION**—In accordance with Article 18, Administration, Section 18.12, Community Facilities Impact fee Program of the York Zoning Ordinance, the Board of selectmen shall review, and as necessary, revise the fee schedule in Section 4, at least annually. As part of the review, the Board shall request that the York School Committee inform it of any changes to the construction cost estimates, building plans or projected enrollments for the schools.

**SEPARABILITY**—Should any section or part of a section or any provision of these Regulations be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the Regulations as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.
Dylan Smith

From: Mary E. Costigan <mcostigan@bernsteinshur.com>
Sent: Monday, December 17, 2018 2:19 PM
To: Dylan Smith
Cc: Melissa M. Avery
Subject: RE: Impact Fee Regulation Change

Dylan:

I have reviewed the ordinance and regulation and both can continue in place through final payment of the Middle School bond in 2020. There is nothing in the regulation regarding allocation between the two. When the HS bond is paid off in 2019, 100% of the impact fees can go toward the Middle School bond until it is paid in full. Following final payment in 2020, the regulation can be repealed by order of the Board of Selectmen.

Let me know if you have any more questions.

- Mary

Mary E. Costigan
Shareholder
207 228-7147 direct
207 774-1200 main
MyBio | LinkedIn | Twitter

BERNSTEIN SHUR
Portland, ME | Augusta, ME | Manchester, NH

Confidentiality notice: This message is intended only for the person to whom addressed in the text above and may contain privileged or confidential information. If you are not that person, any use of this message is prohibited. We request that you notify us by reply to this message, and then delete all copies of this message including any reply. Thank you.

From: Dylan Smith [mailto:dsmith@yorkmaine.org]
Sent: Thursday, September 20, 2018 3:17 PM
To: Mary E. Costigan
Cc: Melissa M. Avery
Subject: Impact Fee Regulation Change

Hi Mary-

I have a quick question for you (hopefully). The town adopted an impact fee ordinance (authorization found in Article 18, specifically section 18.12 of the zoning ordinance) and developed regulations (attached) in the late 90's/early 2000's. The impact fees were developed to help offset costs of two projects both dealing with school construction. They included construction/renovation of the York Middle School and improvements to York High School. When this was developed the fees were distributed 55% to the high school and 45% to the middle school, although I am not sure that is being followed today. The final payment of York High School's construction bond is scheduled for March 1, 2019 and the Middle School's final bond payment is scheduled for March 1, 2020.
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 16, 2019

DATE ACTION REQUESTED: October 21, 2019

☐ ACTION

☐ DISCUSSION ONLY

SUBJECT: Class Action Law Suit – National Prescription Opiate Litigation

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: A national class-action law suit has been initiated to consolidate the many claims against a large group of pharmaceutical-related companies. A class of government entities bringing suit has been defined and York is included in this class.

The key question at the moment is whether the Town wants to remain in this class or wants to exclude itself. Board action is required only if the Board wants to opt out.

I spoke with Mary Costigan about this and she described the basic deal as this - the Town may benefit from remaining in the class and participating in this suit, and there is no risk to the Town to do so. If we participate we might receive a portion of a large national settlement. If we don’t participate, then we won’t receive any settlement unless we bring suit on our own.

I did review the list of class representatives (see page 4) and found a few nearby, including: Cumberland County, ME; Concord NH; Manchester NH; and Lowell MA.

NOTE: You’ll soon be receiving another, completely unrelated class action suit for a similar decision.

RECOMMENDATION: I recommend the Board take no action and therefore participate in this suit.

PROPOSED MOTION: no action required.

Prepared by Stephen H. Burns, Town Manager:
IF YOU WANT TO EXCLUDE YOUR COUNTY OR CITY
YOU MUST ACT BY NOVEMBER 22, 2019

EXCLUSION REQUEST FORM
Read this page carefully then turn to Page 2 if you want to sign and send

Complete this form ONLY if your County or City does NOT want to remain a Class Member and does not want to share in any potential negotiated Class settlement. If your County or City does not complete and submit this form, it will be deemed to be a Class Member so long as it is a County or City in the United States as those terms are described in the Class Notice and is on the list of Class Members found at www.OpioidsNegotiationClass.info.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

In re NATIONAL PRESCRIPTION
OPIATE LITIGATION

Class Notice Administrator
NPO Litigation
P.O. Box 6727
Portland, OR 97228-6727

Dear Class Notice Administrator:

My County or City does NOT want to be a member of the Negotiation Class certified in the In re National Prescription Opiate Litigation. I understand that by completing the information requested on page 2, signing, and submitting a copy of this form by email (to the email address on page 2) sent on or before November 22, 2019 OR by first-class U.S. mail (to the mailing address on page 2) postmarked on or before November 22, 2019, I am opting my County or City out of the Negotiation Class and it will NOT be a Class Member. I understand that by timely submitting this form, my County or City is foregoing the right to share in any Class settlement that may be obtained. I understand that my County or City is NOT guaranteed an opportunity to opt back in if there is a Class settlement, so this is our final decision. I also understand that by opting out, my County or City will not be bound by any judgment entered as part of any Class settlement.

I understand that if my jurisdiction is a Class Member and wants to remain a Class Member, it does not need to do anything now. I understand that I should NOT return this Exclusion Request Form if my jurisdiction wants to remain a Class Member.

I understand that, if I have any questions, I may contact Class Counsel at 1-877-221-7468, or visit www.OpioidsNegotiationClass.info BEFORE I mail this form to you and BEFORE November 22, 2019.

TURN TO PAGE 2 IF YOU WANT TO SIGN EXCLUSION/OPT-OUT FORM
AND FOR EMAIL AND MAILING ADDRESSES
IF YOU WANT TO EXCLUDE YOUR COUNTY OR CITY
YOU MUST ACT BY NOVEMBER 22, 2019

EXCLUSION REQUEST FORM
Read Information on Page 1 carefully before signing

Having read and understood the information on page 1, the County or City (circle one) entitled

_____________________________ in the State of ________________ hereby excludes itself

from the Negotiation Class certified by the United States District Court in the Northern District of

Ohio in In re National Prescription Opiate Litigation, MDL 2804. Under penalty of perjury and in

accordance with 28 U.S.C. § 1746, I declare that I am an official or employee authorized to take legal

action on behalf of my County or City.

Signature: ____________________________

Print name: ____________________________

Title: ____________________________

City or County Represented: ____________________________ (Circle one): City / County

Address: ____________________________

City: ____________________________ State: ________ Zip Code: ________

Phone: ____________________________ Email: ____________________________

Date: ____________________________

BY NOVEMBER 22, 2019

EMAIL TO: info@OpioidsNegotiationClass.info OR SEND BY FIRST CLASS MAIL TO:

NPO Litigation
P.O. Box 6727
Portland, OR 97228-6727
To: All U.S. Counties, Cities, and Local Governments as listed at www.OpioidsNegotiationClass.info

A court authorized this notice. This is not a solicitation from a lawyer.

- Counties and cities across the country have sued manufacturers, distributors, and retailers of prescription opiate drugs seeking, among other things, reimbursement for monies spent addressing the opioid crisis. All federal actions have been centralized into one court in Ohio and are entitled, In re: National Prescription Opiate Litigation, MDL No. 2804 (N.D. Ohio). Additional cases are pending in state courts.

- The Court in In re: National Prescription Opiate Litigation has certified a voluntary “Negotiation Class” (“Class”). The Class is defined as: all counties, parishes, and boroughs (collectively, “counties”); and all incorporated places, including without limitation cities, towns, townships, villages, and municipalities (collectively “cities”). The Class includes all counties and cities, whether they have filed a lawsuit or not. The complete current list of Class Members is available at the Class website: www.OpioidsNegotiationClass.info. This list may be updated as the Court may order.

- NO SETTLEMENT HAS BEEN REACHED. HOWEVER, IF YOUR COUNTY OR CITY STAYS IN THE CLASS, it will be bound if a Class settlement is approved in the future. Your county or city will likely NOT be provided another opportunity to be excluded from this Class action, so you should read this notice carefully and consult with your counsel regarding your county or city’s rights.

- The Court has certified two Racketeer Influenced and Corrupt Organizations Act (“RICO”) claims under Rule 23(b)(3) and two Controlled Substances Act (“CSA”) issues under Rule 23(c)(4). (see FAQ 7). The Class is certified solely to consider and vote on any future settlement offers made to the Class by one or more of 13 defendants (see FAQ 5). The purposes of the Class are (a) to unify cities and counties into a single negotiating entity to maximize their bargaining power and (b) to provide finality to opioids litigation for any settling Defendant.

- This Negotiation Class will not decide any claims or defenses in opioids litigation on the merits. It is certified as a Negotiation Class only, to facilitate Class Members’ approval or rejection of proposed settlements. There are no proposed settlements at this time, and no guarantee that there will be in the future. However, your legal rights are affected and it is recommended that you consult with counsel regarding the choice you have to make now.

Questions? Visit www.OpioidsNegotiationClass.info
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<td><strong>STAY IN THE CLASS</strong></td>
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<tr>
<td><strong>REQUIRES NO ACTION</strong></td>
</tr>
<tr>
<td>Stay in the Class. Await the negotiation outcome, but retain the right to pursue your own lawsuit in the meantime. Give up certain rights if a Class settlement is reached and approved by the Class and Court, but get a share of any Class settlement.</td>
</tr>
<tr>
<td>By taking no action in response to this Notice, you remain in the Class. As a Class Member, you will still retain your right to pursue your own case unless and until any possible Class settlement is approved by the Court. As a Class Member, you have the right to vote on any settlement proposed to the Negotiation Class. A settlement will not be accepted unless supported by 75% of the voting Class Members, counted by number, population, and allocation, for both litigating and non-litigating entities, and approved by the Court. Settlement funds will be distributed at the county level and each county’s share — and city’s suggested share — can be viewed now by utilizing the Allocation Map at the Class website, <a href="http://www.OpioidsNegotiationClass.info">www.OpioidsNegotiationClass.info</a>. If the Court approves any settlement, that judgment will prohibit Class Members from suing the settling Defendant(s) about the claims and issues in the litigation.</td>
</tr>
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</table>

| **REMOVE YOURSELF FROM THE CLASS**                |
| **REQUIRES ACTION BY NOVEMBER 22, 2019**          |
| Get out of the Class. Get no portion of any settlement. Keep rights. |
| Those who exclude themselves from the Class cannot vote on, will not have the right to be paid under, and will not be bound by, any Class settlement. You keep any rights to negotiate separately about the same legal claims in this lawsuit, even if the Court approves a settlement for the Class. Class Members may exclude themselves from (“opt out” of) the Class by having an authorized officer or employee complete and sign the Exclusion Request Form enclosed here and submit it on or before **November 22, 2019** by email or mail in accordance with the instructions in FAQ 26 below. |

- Class representatives and Class counsel will represent the Class in negotiations with Defendants who choose to do so. You may enter an appearance through an attorney (at your own expense) if you desire, but it is not required. Class Membership does not eliminate existing agreements with individual counsel. The procedure for payment of Class/common benefit attorneys’ fees/costs in connection with any Class settlement must be approved by the Court. Details of the proposed options and procedures for fees and costs are posted on the Class website.

- For complete information on the Class, the settlement allocation formulas, the Class certification motion and Order, the list of included Class Members, the voting process to be used by the Class in accepting or rejecting any Class settlement offer, and an Allocation Map determining your allocation of any proposed settlement, go to www.OpioidsNegotiationClass.info. Important information on the Opioids-related litigation, including all pertinent Orders and Schedules, and Frequently Asked Questions, will be available on the Class website on an ongoing and current basis.

**Your rights and options are further explained below.**

Any questions? Read on and visit www.OpioidsNegotiationClass.info.

**DO NOT WRITE OR CALL THE COURT OR THE CLERK'S OFFICE FOR INFORMATION**

Questions? Visit www.OpioidsNegotiationClass.info
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Questions? Visit www.OpioidsNegotiationClass.info
The purpose of the Negotiation Class is to create a cohesive group of cities and counties to negotiate Classwide settlements, on a voluntary basis, with Defendants who make, distribute, or sell opioids nationwide. Class Representatives and Class Counsel will represent the Negotiation Class. Class Members will vote on any Class settlement proposal. If 75% of those Class Members who vote (as described in FAQ 18 and 19 below) support a proposed Settlement, Class Counsel will ask the Court to approve it. The ultimate purpose of the Negotiation Class is to make settlement easier to obtain.

Yes. This is a new use of the Class action mechanism under Federal Rule of Civil Procedure 23, reflecting the unique nature of the national opioids litigation. Unlike any mass litigation before, thousands of cities and counties nationwide are pursuing claims against major defendants. The goal is to recover money to help fight the opioids epidemic, provide prevention and treatment services going forward, and change Defendants’ practices.

Joining all cities and counties together as a Negotiation Class gives them maximum negotiating power, makes the negotiation of comprehensive settlements a more practical process, enables Defendants to know the group with which they are negotiating, and enables Class Members to vote on resulting settlement offers.

The Court has authorized the following 49 counties and cities to serve as the Negotiation Class’s Class Representatives: (1) County of Albany, New York; (2) City of Atlanta, Georgia; (3) Bergen County, New Jersey; (4) City of Baton Rouge/East Baton Rouge Parish, Louisiana; (5) Broward County, Florida; (6) Camden County, New Jersey; (7) Cass County, North Dakota; (8) City of Chicago, Illinois; (9) Cobb County, Georgia; (10) City of Concord, New Hampshire; (11) Cumberland County, Maine; (12) City of Delray Beach, Florida; (13) Denver, Colorado; (14) Escambia County, Florida; (15) Essex County, New Jersey; (16) County of Fannin, Georgia; (17) Franklin County, Ohio; (18) Galveston County, Texas; (19) County of Gooding, Idaho; (20) City of Grand Forks, North Dakota; (21) County of Hennepin, Minnesota; (22) City of Indianapolis, Indiana; (23) County of Jefferson, Alabama; (24) Jefferson County/City of Louisville, Kentucky; (25) Jersey City, New Jersey; (26) Kanawha County, West Virginia; (27) King County, Washington; (28) City of Lakewood, Ohio; (29) City of Los Angeles, California; (30) City of Lowell, Massachusetts; (31) City of Manchester, New Hampshire; (32) Maricopa County, Arizona; (33) Mecklenburg County, North Carolina; (34) The Metropolitan Government of Nashville and Davidson County, Tennessee; (35) Milwaukee County, Wisconsin; (36) Monterey County, California; (37) City of Norwalk, Connecticut; (38) County of Palm Beach, Florida; (39) Paterson City, New Jersey; (40) City of Phoenix, Arizona; (41) Prince George’s County, Maryland; (42) Riverside County, California; (43) City of Saint Paul, Minnesota; (44) City of Roanoke, Virginia; (45) County of Rockland, New York; (46) City and County of San Francisco, California; (47) County of Smith, Texas; (48) County of Tulsa, Oklahoma; and (49) Wayne County, Michigan.
5. Who are the Defendants?

The Court has authorized the Negotiation Class to negotiate with 13 Defendants (including their affiliates): (1) Purdue, (2) Cephalon, (3) Endo, (4) Mallinckrodt, (5) Actavis, (6) Janssen, (7) McKesson, (8) Cardinal, (9) AmerisourceBergen, (10) CVS Rx Services, Inc., (11) Rite-Aid Corporation, (12) Walgreens, and (13) Wal-Mart. The Negotiation Class is authorized to negotiate settlements with any of these 13 Defendants, on any of the claims or issues identified below in FAQ 7, or other claims or issues arising out of the same factual predicate. If Class Counsel seek to negotiate for the Class with any other defendants, they can file a motion asking the Court to amend the Class certification order.

6. Has a Class settlement been reached with Defendants yet?

No. No Class settlement has been reached yet with any Defendant. But the existence of a Negotiation Class makes the possibility of Class settlement more feasible because a Defendant will know the group with which it is negotiating. There is no guarantee, however, that there will be a Class settlement and it is possible that there will be settlements that do not encompass the Class, such as settlements between one or more Class Members and one or more Defendants.

THE CLASS CLAIMS AND ISSUES

7. What claims and issues are certified for the Negotiation Class?

In this Negotiation Class, the Court certified two federal Racketeer Influenced and Corrupt Organizations Act ("RICO") claims and two federal Controlled Substances Act ("CSA") issues. The RICO claims and the CSA are similar across the country and the Class. The first RICO claim alleges that five Defendants misled physicians and the public about the need for and addictiveness of prescription opioids, all in an effort to increase sales. The second RICO claim alleges that eight Defendants ignored their responsibilities to report and halt suspicious opioid sales, all in an effort to artificially sustain and increase federally-set limits (quotas) on opioid sales. The CSA issues allege that the CSA required Defendants to create systems to identify, suspend, and report unlawful opioid sales, and that Defendants failed to meet those obligations. As noted in FAQ 5, above, the Negotiation Class is authorized to negotiate Class settlements concerning these claims and issues or other claims or issues arising out of the same factual predicate. However, this Negotiation Class does not involve claims by State governments against the Defendants and no Class settlement will release or otherwise interfere with any State government's current or future litigation. This Negotiation Class concerns claims only of counties and cities. You can read more about these claims and issues in the Court's Memorandum Opinion certifying this Class, which is posted at www.OpioidsNegotiationClass.info.

8. Has the Court decided any claims or issues?

No. The Court has not decided any Classwide claims or defenses on the merits and the Court will not render any Classwide decisions on the merits of any claims asserted by the Class or individual Members of it. By establishing this Negotiation Class and issuing this notice, the Court is not suggesting the Class would win or lose this case. This Class has been certified for negotiation purposes only.

Questions? Visit www.OpioidsNegotiationClass.info
WHO IS IN THE CLASS

9. What entities are included in the Negotiation Class?

The Negotiation Class is defined as:

All counties, parishes, and boroughs (collectively, “counties”); and all incorporated places, including without limitation cities, towns, townships, villages, and municipalities (collectively “cities”).

A complete current list of Class Members is available at www.OpioidsNegotiationClass.info. The list may be updated as the Court may order.

The terms “counties” and “cities” are used only as shorthand. The Class includes political subdivisions with other names, such as parishes, villages, towns, townships, etc. The list of Class Members was devised primarily from the U.S. Census Bureau lists of governmental entities that provide services to their residents. Check the Cities and Counties lists posted on the Class website to confirm whether you are a Negotiation Class Member.

10. Are counties and cities with state court-filed actions considered part of the Negotiation Class?

Yes. Counties and cities that sue in state court are Members of this Negotiation Class, with the option to opt out. However, nothing about Membership in the Negotiation Class interferes with the rights of any federal or state court plaintiffs to proceed with their own cases for litigation, trial, or individual settlement. Only if and when a Class settlement has been reached, has been approved by 75% of the voting Class Members as described in FAQ 19, and has been approved by the Court, would Class Members lose their ability to proceed on their own, in exchange for the settlement benefits that they would receive.

11. Will the Negotiation Class end the opioid litigation that my County or City has filed?

Not now and only if a Class settlement is later reached and approved. Your county’s or city’s Membership in the Negotiation Class will not immediately affect any opioid suit it has filed, whether in federal or state court. It also will not stop your county or city from filing or pursuing a lawsuit, and it will not affect any scheduled hearings or trials in any lawsuit. However, if there is a final Class settlement, approved by the required 75% of the voting Class Members and by the Court, the final settlement will likely end all other opioids-related litigation brought by Class Members. In the meantime, you do not need to opt out of the Class to file, continue to prosecute, or settle your own case, and you may keep any settlement or judgment you obtain. If any county or city obtains a judgment or settlement with a Defendant before the Negotiation Class does, however, it will not receive additional compensation through any later Negotiation Class settlement. But by remaining in the Class, your county or city does not risk foregoing its own lawsuit (although it would obtain money from a Class settlement) if a Class settlement is reached and approved.

12. How does the Negotiation Class affect other types of opioid plaintiffs that are not counties or cities?

The Negotiation Class does not directly affect the litigation or settlement of the claims of other types of plaintiffs, such as Indian Tribes, third party payors, and others, that are proceeding in federal or state courts. These plaintiffs can organize themselves as groups or propose their own Classes, for trial or settlement purposes.

Questions? Visit www.OpioidsNegotiationClass.info
THE NEGOTIATION CLASS PROCESS

13. Now that the Court has approved this process, what will happen next?

The creation of the Negotiation Class has these next steps:

- On September 11, 2019, Judge Polster, the federal judge overseeing all of the national opioids litigation, certified the Negotiation Class to go forward.

- On or before September 20, 2019, Class Action Notice will be sent via First-Class mail and posted to the Class website www.OpioidsNegotiationClass.info to all Class Members.

- Class Members have until November 22, 2019 to decide whether to participate or to opt out of the Class. This is the “opt-out period.” All Class Members are automatically included in the Class. If a Class Member wants to participate, it does not need to do anything at this point. Only Class Members that wish to exclude themselves (“opt out”) and not participate in the Class must act: they must submit a copy of the enclosed Exclusion Request Form on or before November 22, 2019, using the instructions in FAQ 26.

- After the close of the opt-out period, the Court will enter an order confirming the Membership of the Class, saying who is in and who is out of the Class.

- After that, the Class will operate if, and only if, one or more of the Defendants wishes to negotiate with the Class as a whole through the Negotiation Class mechanism.

- If a proposed Class settlement is reached, the proposal will be submitted to the entire Class Membership for its approval or rejection in accordance with the voting formula (described in FAQ 18 and 19 below). If no proposed settlement is reached, the Class will not vote and will have no other role.

14. If my County or City chooses to participate in the Negotiation Class, how will it know when there is a proposed Class settlement?

All Negotiation Class Members will be given advance notice of any Class settlement offer, including details on its terms and conditions, and they will have an opportunity to vote on each settlement offer. Class Members will be able to cast their vote securely, through the Class website, which will establish a voting identity and portal for each Class Member. Only Class settlements achieving 75% approval votes, by number, by allocation, and by population, of the litigating and non-litigating Class Members that vote (as described in FAQ 19) will be submitted to the Court, which will make the final determination of whether to approve the settlement.

15. If there is a proposed Class settlement, does the Court still have to approve it?

Yes. If there is a proposed settlement that is approved by 75% of the voting Class Members, as described in FAQ 18 and 19, the Court will review and decide whether to approve it, under the Class action settlement approval process set forth in Federal Rule of Civil Procedure 23(e). Generally, the Court will assess whether any settlement is fair, reasonable, and adequate. All applications for fees and costs also require court approval under Rule 23 procedures. (See https://www.law.cornell.edu/rules/frcp/rule_23.)

16. If there is a proposed settlement and my County or City is included in the Negotiation Class, but it disapproves of the settlement terms, can my County or City object to the settlement?

Yes. As a Negotiation Class Member, you will be entitled under Rule 23(e) to object to any settlement, even if it has received approval from the Class. However, as described in FAQ 27, you

Questions? Visit www.OpioidsNegotiationClass.info
will likely not be able to exclude yourself from the Class at that time. An objection explains your concerns to the Court for its consideration but does not remove you from the Class.

### 17. How long will the Negotiation Class last?

The Negotiation Class will last for 5 years from the date it is certified by the Court. The Court certified the Class on September 11, 2019 and the Negotiation Class will last until September 11, 2024. After that date, the Class will not exist as an entity with which a Defendant can negotiate. However, the Negotiation Class will continue to exist with regard to: (1) any Class settlements presented to the Negotiation Class for a vote before that date, to carry out the voting and approval process; and (2) any Class settlements reached before that date, to complete settlement administration and enforcement.

### VOTING

### 18. If there is a proposed Class settlement, how will the voting be done?

Each Class Member will vote only once on any particular Class settlement proposal. The vote will simply be yes-or-no, in favor of or against the proposed settlement. Class Members that do not vote will not be counted as either yes or no votes; as with an election for government office in the United States, the only votes that are counted are those of the voters who actually cast votes. Class Members’ votes will be tabulated mechanically within each applicable voting pool, to make sure that 75% of each pool is in favor of the proposed settlement before it is presented to the Court. The voting pools are described in FAQ 19. Voting tabulation does not require any effort by the Class Members. The requirement of 75% support of voting Class Members across the different voting pools ensures that no settlement will go forward without a wide cross-section of support from cities and counties of all sizes and interests.

### 19. If there is a proposed Class settlement, how many votes are needed to approve it?

The agreement to be bound by a supermajority vote means that no settlement can be reached that would bind the Negotiation Class without the approval of 75% of the voting Class Members, defined in several ways. To be binding, 75% of those voting in each of the following six categories must approve a proposed settlement:

- 75% of the total number of voting Class Members that had filed suit as of June 14, 2019 ("litigating entities"). This number is based on all individual Class Members who had suits on file regardless of size, so that each voting entity has one vote;
- 75% of the total number of voting Class Members that had not filed suit as of June 14, 2019 ("non-litigating entities"). This number is based on all individual Class Members who had not filed suit, regardless of size, so that each voting entity has one vote;
- 75% of the total population of all voting Class Members that had filed suit as of June 14, 2019. For this computation, the vote of the county or city is weighted according to its population, with each person in a voting city and each person in a voting county equal to one vote. Thus, by way of example, if a county votes yes and has a population of 20,000, and a city within the county votes yes and has a population of 10,000, the county’s vote is weighted as 20,000 votes in favor, and the city’s vote is recorded as 10,000 votes in favor. The population for each County or City will be based on current census data. The current data is presented on the Class website, www.OpioidsNegotiationClass.info. Individual residents in this category may be counted twice, once as a resident of a municipality, and once as a resident of a county;

Questions? Visit www.OpioidsNegotiationClass.info
• 75% of the total population of all voting Class Members that had not filed suit as of June 14, 2019. For this computation, the vote of the county or city is weighted according to its population, with each person in a voting city and each person in a voting county equal to one vote. Thus, by way of example, if a county votes and has a population of 20,000, and a city within the county votes yes and has a population of 10,000, the county’s vote is weighted as 20,000 votes in favor, and the city’s vote is recorded as 10,000 votes in favor. Again, the population for each County or City will be based on current census data. The current data is presented on the Class website, www.OpioidsNegotiationClass.info. Individual residents in this category may be counted twice, once as a resident of a municipality, and once as a resident of a county;

• 75% of the litigating Class Members casting votes, weighted by their settlement fund allocations as shown at the Allocation Map posted at opioidsnegotiationclass.info; and

• 75% of the non-litigating Class Members casting votes, weighted by their settlement fund allocations as shown at the Allocation Map posted at opioidsnegotiationclass.info.

For purposes of counting votes, only votes cast will be considered. In order for a proposed settlement to be binding on the Negotiation Class, 75% of those Class Members who cast votes in each of these six categories must be in favor. No settlement will be submitted to the Court for final approval unless 75% of those voting in each of the six categories are in favor. No county or city that is not a Class Member as of the deadline for a vote on a proposal will be allowed to vote on that proposal.

ALLOCATION OF CLASS SETTLEMENT FUNDS

20. If there is a Class settlement, how will my County or City's share of the settlement be determined?

Any Class settlement funds will be distributed in three steps:

Step 1: Each county’s share of the settlement will be distributed in accordance with an “allocation model.” The allocation model uses three factors, based on reliable, detailed, and objective national data, to determine the share of a settlement fund that each county will receive. These factors address the most critical causes and effects of the opioids crisis, and are each weighted equally (1/3-1/3-1/3): (1) the amount of opioids distributed within the county, (2) the number of opioid deaths that occurred in the county; and (3) the number of people who suffer opioid use disorder in the county. This model is designed not to favor either small or large counties based solely on population. Ultimately, the model allocates settlement funds in proportion to where the opioid crisis has caused actual harm.

Step 2: Counties and their constituent cities, towns, and boroughs may distribute the funds allocated to the county among all of the jurisdictions in any manner they choose. If the county and cities cannot agree on how to allocate the funds, the Class website reflects a default allocation that will apply. The default allocation formula uses historical federal data showing how the specific county and the cities within it have made opioids-related expenditures in the past. Any of the affected jurisdictions may ask a Special Master to apply a different formula.

Step 3: If the default allocation is used and a city’s share is less than $500, then that amount will instead be distributed to the county in which the city lies to allow practical application of the abatement remedy. Affected cities could seek recovery through intra-county allocation described in Step 2, or from the Class Members’ Special Needs Fund (see FAQ 24). In the rare circumstance that a city with a share of less than $500 lies in a county that does not have a county government, the amount would instead go to the Class Members’ Special Needs Fund, and Class members could seek recovery from that Fund.

Further information about the allocation formulas and their data sources are available at the Class website.

Questions? Visit www.OpioidsNegotiationClass.info
21. What happens if a county and its constituent cities make different decisions about staying in the Class?

- If a county and all of its constituent cities remain in the Class, each entity’s share will be determined as explained in FAQ 20.

- If a county remains in the Class, but one or more cities within the County are not in the Class, there are a variety of ways that a Class settlement might address that situation, but it is possible that a Class settlement would require that the County’s allocation be reduced.

- If a county is not in the Class, but cities within that county remain in the Class, there are a variety of ways a Class settlement might address that situation. One possibility is that a city would receive no direct monetary allocation because its county has opted out. But that it could seek monetary relief through the Special Needs Fund (see FAQ 24). If a settlement provides a city no possibility of monetary relief because its county has opted out, Class Counsel anticipates the city would not be required to release its claims against the settling Defendant.

22. If there is a settlement between a Defendant and a State or States, what impact will this Negotiation Class have on the division of monies between a State and the cities and counties within the State?

The Negotiation Class process does not interfere with a Defendant’s ability to settle directly with one or more States. If a Defendant reaches a settlement directly with a State, nothing about this Negotiation Class process would affect the distribution of those settlement funds between the State and its own cities or counties. The Court has explicitly ordered that the Class’s lawyers not involve themselves or the Class in the process of allocating monies secured by States between themselves and their counties and cities.

23. Will Negotiation Class Representatives receive anything more than other Class Members?

Negotiation Class Representatives do not receive preferential treatment under any settlement simply for serving as Class Representatives. Their allocation will be calculated in precisely the same manner as every other Class Member’s. However, they can apply to the Court for reimbursement of costs and expenses incurred by reason of serving as Class Representatives. Also, courts often award a modest amount to Class Representatives, called an incentive or service award, so as to encourage Class Representatives to step forward on behalf of others. Any such awards are subject to Class notice and Court approval.

24. What is the Special Needs Fund?

Fifteen percent (15%) of any Class settlement fund will be put into the “Special Needs Fund.” Any Class Member may apply for a distribution from the Special Needs Fund: (1) to recover its costs of litigating its own opioid lawsuit, if that case was filed before June 14, 2019; and/or (2) to obtain additional relief for any local impact of the opioid crisis that is not captured by the Class Member’s allocation. Applications will be made to and approved by a court-appointed Special Master, on a case-by-case basis. Any unawarded amount remaining in this Special Needs Fund would revert to the Class.

YOUR RIGHTS AND OPTIONS

25. Can my county or city exclude itself from the Negotiation Class?

Yes. You have a one-time opportunity to exclude your county or city from the Class and you must do so before November 22, 2019. You must follow the procedure set forth in FAQ 26 below to exclude yourself from the Class.

Questions? Visit www.OpioidsNegotiationClass.info
exclude your county or city. As explained in FAQ 27, you will likely not be given a second opportunity to exclude your county or city from the Class if a settlement is later reached and you should not count on such an opportunity being available at that time.

26. How does my county or city exclude itself from the Negotiation Class?

You may exclude your county or city ("opt out") by signing and sending, either by email or by first-class U.S. mail, the enclosed Exclusion Request Form.

- If submitted by email, the form must be sent to info@OpioidsNegotiationClass.info on or before November 22, 2019.
- If submitted by mail, the form must be postmarked on or before November 22, 2019 and sent by first-class U.S. mail to:

  NPO Litigation
  P.O. Box 6727
  Portland, OR 97228-6727

The Exclusion Request Form must be signed by an authorized official or employee of the county or city itself, under penalty of perjury pursuant to 28 U.S.C. § 1746, and is subject to verification by the Court. If you exclude your county or city from the Negotiation Class, your county or city will not be bound by any Orders or Judgments regarding the Class, and it will have no right to share in any settlement reached by the Class.

27. If my county or city stays in the Negotiation Class, can it exclude itself later if it doesn’t like a proposed settlement?

Not under the current Court Order. The Court’s Order certifying the Negotiation Class provides only one opportunity for a county or city to exclude itself from the Class. The exclusion deadline ends on November 22, 2019. If a settlement is reached and proposed to the Class for its approval, Class Members who do not support the settlement may (1) vote against it and/or, (2) if the settlement is nonetheless approved by the Class votes, file objections with the Court. Rule 23 permits a court to offer a second opportunity for Class Members to opt out when a settlement is proposed, but the Rule does not require the Court to give Class Members a second opportunity to opt out. In this case, it is anticipated that the Court will not give Class Members a second opportunity to opt out. Therefore, Class Members should not rely on that possibility. Class Members should expect that there will be no opportunity to opt out of the Class after November 22, 2019.

THE LAWYERS REPRESENTING THE CLASS

28. Who are the Class Counsel?

The Court has authorized the following six lawyers to jointly represent the Negotiation Class: Jayne Conroy and Christopher A. Seeger are Co-Lead Negotiation Class Counsel and Gerard Stranch, Louise Renne, Mark Flessner, and Zachary Carter are Negotiation Class Counsel. Each of these six lawyers represents only cities or counties in Opioids-related litigation.

29. How do Class Counsel get paid?

Class Counsel will apply to the Court for approval of fees and costs under Rule 23(h). As a Class Member, you will receive notice and have an opportunity to object to any such application. The Court may appoint fee committees to make recommendations of any fee awards, to avoid duplication of payment, and to ensure appropriate compensation of those whose efforts provided a common benefit. The Court will make the final decision about all fees paid out of the Class’s recovery to any lawyer.

Questions? Visit www.OpioidsNegotiationClass.info
30. Under this proposal, what happens to my County or City's current fee agreement with outside counsel?

The current fee agreement that a county or city has with its outside counsel remains in effect. Membership in the Negotiation Class does not change that. In the event of any settlement that achieves Class and Court approval, there would be a "Private Attorneys Fund" from which outside counsel for Class Members that had signed retainer agreements for opioid epidemic-related litigation before June 14, 2019 could apply for fees and costs in lieu of any current fee agreement. That would be a voluntary decision between the county or city and its outside counsel. A total of up to 10% (maximum) of any approved Class settlement amount will be held in the Private Attorneys Fund. Any unawarded amount remaining in this Fund would revert to the Class. The Court must approve all payments from this Fund.

GETTING MORE INFORMATION

31. How can my County or City keep up with what's going on in this case?

Pertinent news and information will be posted at the Class website, www.OpioidsNegotiationClass.info on an ongoing basis. As a Class Member, you also will have the opportunity to sign up, through the Class website, for email notices alerting you to the fact that new information has been posted to the Class website.

DO NOT WRITE OR CALL THE COURT OR THE CLERK’S OFFICE FOR INFORMATION

DATE: September 11, 2019.

Questions? Visit www.OpioidsNegotiationClass.info
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 16, 2019

ACTION

DATE ACTION REQUESTED: October 21, 2019

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: Attached is a request for policy and financial support from the Southern Maine Planning and Development Commission. The Commission is looking to add a professional staff position for two years, to work exclusively for the six towns of Kittery, York, Ogunquit, Wells, Kennebunk and Kennebunkport. The Commission is looking to strengthen our collective approach in two areas in particular – coastal resiliency and energy. The scope of work for each community would be tailored to the needs of each because we’re all going in similar directions but at different speeds and in different ways. His ask is for $7,500 in the current fiscal year, $15,000 in FY21, and $7,500 in FY22.

In York I think our big potential gain here is starting to get into the details of coastal resiliency and the implications to municipal infrastructure, tax base and so forth. We have been struggling through the sea wall issue all on our own, and I think there is a great opportunity to work collectively with our neighbors moving forward. We will all face similar coastal issues, and I think this is a great way to accomplish this work in a cost effective manner, with no long-term funding commitment (it’s a 2-year deal). This opens up a significant possibility of advancing implementation activities for our Sea Level Rise Chapter of our Comp Plan.

I think York will be more down in the weeds than the other communities when it comes to energy and the Global Covenant of Mayors. I think a Sustainability Planner and/or Vista Volunteer will be necessary to keep up with the details of compliance and such. There may be some room for this regional person to help get all the communities learn from each other’s approaches, but I think we’ll get more bang for the buck with an in-house position.

Paul Schumacher, Executive Director of SMPDC, has determined he could leverage local funds as match for grants so this is a way for us to receive the benefit of grant-funded work without any of the risks associated with grant management and compliance. This is quite similar to the approach he took when he guided us through the process of creating our Sea Level Rise Chapter for the Comp Plan. He leveraged our commitment into a much larger scope.

The Board may support this, ask for additional information, or reject this. If supported, then we need to discuss the funding mechanism. In the current year I believe we could fund this request from the
existing budget. Alternatively, it would be funded with contingency. In the subsequent fiscal years, this would need to be treated as a funding request and run through the budget process.

I believe there is more bang for the buck with this proposal than there would be in adding the position of Sustainability Planner. The reason is simply that we make a short-term commitment to gain professional support, we share the costs with other communities, and we hopefully will gain added resources through the grants. I still think the Sustainability Planner position is important and would be focused elsewhere, but I would place this higher on the priority list if a choice must be made.

Kennebunkport Selectmen have supported this request. Kennebunk will consider it on the 22nd. Kittery will consider it on the 28th. I'm not sure about Wells and Ogunquit.

RECOMMENDATION: I recommend the Board support this regional initiative and direct me to fund the current year request with existing budget resources, and to include a policy request in FY21 for the $15,000.

PROPOSED MOTION: I move to support the request of the Southern Maine Planning and Development Commission, and to direct the Town Manager to fund the FY20 request of $7,500 with existing budget resources and include a policy request in FY21 for $15,000.

Prepared by Stephen H. Burns, Town Manager:
October 1, 2019

Dear Steve,

Over the past couple of months, a group of six towns have been meeting to discuss jointly establishing a position at the Southern Maine Planning and Development Commission (SMPDC) to work on issues related to energy planning, sustainability and coastal resiliency due to the impacts from rising sea levels and more frequent storm events.

As a result of these discussions, the six towns (Kittery, York, Ogunquit, Wells, Kennebunk and Kennebunkport) agreed that pursuing such a position, as a two year pilot program, would be the most cost effective and efficient way to address these issues. SMPDC has worked with the communities and plans to establish a dedicated position which can support the efforts of all the communities. The proposal not only establishes a Sustainability/Coastal Resilience position, it provides cash match for ongoing grant efforts. At the end of two years all communities and SMPDC will assess the results. The proposal is as follows:

Outline of Job
- We would advertise for a full time Sustainability/Coastal Resilience Coordinator with an expertise in energy and sustainability.
- The person would work with all six communities and their various committees dealing with energy, sustainability, climate change and sea level rise. The communities currently are in different places with respect to what has been done or is needed. We are ready to take that into account, so the support will be tailored to each community.
- The Coordinator will work with Abbie Sherwin, our Senior/Coastal Planner who has expertise in sea level rise and resiliency. The position will also be supported by other staff at SMPDC as needed.

SMPDC has put together a job description which is available if desired.

Current Efforts
SMPDC is currently working on coastal issues and hopes to be able to leverage additional dollars for this work. It is important to note that dedicated funds from the towns can be used as match for the following projects:
- SMPDC and three of the towns (York, Wells and Kennebunk) recently received a Maine Coastal Program for $75,000 to study seal level rise implications for municipal infrastructure and finances. Additional funds though the communities could leverage more research and data for the entire six town region. A $10,000 match is needed for this project.
- As York County was the only national designated disaster area in Maine for the March 2018 storms, we are eligible and plan to apply for a federal Economic Development Administration
grant. We are readying an application for approximately $100,000 to study business and local economic impacts and detail what actions the communities might take to lessen those impacts. (as an aside, the six communities make up 13% of Maine Restaurant sales tax and 24% of Maine Lodging sales tax). A $20,000 cash match is required for this project.

Summaries of these grant projects are available if desired. We would also note we hope to leverage additional grants funds as we identify projects and implementation ideas.

Funding
This would be a full time position requiring about $90,000 for salary, benefits and overhead.
- Funding would be 15,000 per year/per town, of which $30,000 will go towards matching grant funds as described above.
- As we will be basically half way through a budget year soon, we are asking each town for $7,500 for this year (FY20) and $15,000 for a full year (FY21) beginning in July.
- We are looking at this as essentially a pilot program but the understanding through our discussions, is that we would need two years to assess results.

With the increased emphasis on energy, sustainability and resiliency at the state level, this seems to be an opportune time to begin this important regional effort.

Please let me know if you have any questions or if you would like me to attend a meeting.

Sincerely,

Paul Schumacher
Executive Director
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 16, 2019  ☒ ACTION
DATE ACTION REQUESTED: October 21, 2019  ☐ DISCUSSION ONLY
SUBJECT: Pole Location Permit

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: The permit requests have been reviewed by Director of Public Works Dean Lessard and onsite inspections have been completed; Mr. Lessard recommend approval of the permits requested by Central Maine Power.

RECOMMENDATION: Approve the Pole Location Permits

PROPOSED MOTION: I move to approve the Pole Location Permit for 1 pole on Long Sands Road as described in the application from Central Maine Power.
I move to approve the Pole Location Permit for 2 poles on Clay Hill Rd/Ogunquit Rd as described in the application from Central Maine Power.

FISCAL IMPACT: N/A
DEPARTMENT LINE ITEM ACCOUNT: N/A
BALANCE IN LINE ITEM IF APPROVED: N/A

PREPARED BY: ___________________________  REVIEWED BY: ___________________________
Kathryn Lagasse
CENTRAL MAINE POWER COMPANY

APPLICATION FOR POLE LOCATION OR UNDERGROUND LOCATION

In the City/Town of: York, Maine

To the: ☑️ Town

Central Maine Power hereby applies for permission to:

☒ Construct and maintain poles together with attached facilities and appurtenances upon, along or across certain streets and highways in said City/Town as described below.

☐ Construct and maintain buried cables, conduits, manholes and handholes, together with wire and cables, transformers, cutouts, and other equipment therein, under, along, and across certain streets and highways in said City/Town as described below.

Central Maine Power Company and Northern New England Telephone Operations L.L.C.

jointly apply for permission to construct and maintain poles together with attached facilities and appurtenances upon, along or across certain streets and highways in said City/Town as described below.

1. Starting Point: 129
2. Road (State & CMP): Clay Hill Rd/Ogunquit Road
3. Direction: Westerly
4. Distance: 210′ feet
5. Number of Poles: 2

☒ Overhead wires shall have a minimum clearance of 18 feet over the public highway and be constructed to conform with the requirements of the National Electric Safety Code.

☐ Buried cable facilities shall be placed at a minimum depth of 36 inches under pavement and 30 inches elsewhere and be constructed to conform with the requirements of the National Electric Safety Code.

Any person, firm, or corporation to be adversely affected by this proposed location shall file a written objection with the State Department of Transportation, City, Town or County stating the cause of said objection within fourteen (14) days after the publication of this notice or ninety (90) days after installation of facilities without publication.

☐ Public Notice of this application has been given by publishing the text of the same

In: 

On: 

CENTRAL MAINE POWER COMPANY

By: Elaine Titherington Date: 08/21/2019

Northern New England Telephone Operations LLC

By: Date: 08/21/2019
Facilities to consist of wood poles and appurtenances with a minimum clearance of wire and cables not less than 21 feet over the public highway, and/or underground facilities to consist of buried cables, conduits, transformers and manholes for operation at 7200 volts to ground single phase. Construction to be suitable for future operation at a voltage not to exceed 22KV to ground single phase. Right-of-way limits indicated are based on the best field information available. Poles/Pads are staked. For further information call: Elaine Tilhertingon at Central Maine Power Company tel: 207-626-2842. Pole/Pad spans shown are approximate.
LOCATION PERMIT

Upon the Application of Center Maine Power Company and Northern New England Telephone Operations LLC dated 08/21/2019, asking for permission, in accordance with law, to construct and maintain poles, buried cables, conduits, and transformers, together with attached facilities and appurtenances over, under, along or across certain highways and public roads in the location described in said application, permission is hereby given to construct, rebuild, maintain and relocate in substantially the same location, said facilities and appurtenances in the City / Town of York approximately located as follows:

1. Starting Point: 129
2. Road (State & CMP): Clay Hill Rd/Ogunquit Road
3. Direction: Westerly
4. Distance: 210' feet
5. Number of Poles: 2

Facilities shall consist of wood poles and appurtenances with a minimum of wire and cable not less than 18 feet over the public highway and/or buried cables or conduit and appurtenances placed a minimum depth of 36 inches under pavement and 30 inches elsewhere, all in a manner conforming to the National Electrical Safety Code.

By: ____________________________
By: ____________________________
By: ____________________________
By: ____________________________
By: ____________________________

Municipal Officers

Office of the ____________________________
Received and Recorded in Book __________, Page __________

Attest: ____________________________
Clerk
Hi Missy & Kathryn,
I have reviewed the CMP pole permit for Clay hill Road/Ogunquit Road. DPW doesn’t anticipate any issues with the proposed location. DPW recommends approval.

Thanks
Dean

Dean A. Lessard, P.E. | Director of Public Works
Town of York, Maine
186 York Street | York, Maine 03909
Phone: (207) 363-1010, Ext. 6201
Fax: (207) 363-1012
E-Mail: dlessard@yorkmaine.org
Online: www.yorkpublicworks.org

Follow us!
Facebook: www.facebook.com/YorkMainePublicWorks

From: Melissa M. Avery <mmavery@yorkpolice.org>
Sent: Wednesday, October 09, 2019 11:14 AM
To: Dean Lessard <dlessard@yorkmaine.org>
Cc: Kathryn Lagasse <klagasse@yorkmaine.org>
Subject: FW: pole permit York 2nd request

Melissa M. Avery
Administrative Assistant
York Police Department
9 Hannaford Drive, York, ME 03909
Phone: (207) 363-1031 | Fax: (207) 361-6818

Please consider the environment before printing this email.

From: Libby, Anita <Anita.Libby@cmpco.com>
Sent: Wednesday, October 9, 2019 11:01 AM
To: Melissa M. Avery <mmavery@yorkpolice.org>
Subject: pole permit York 2nd request

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 15, 2019

DATE ACTION REQUESTED: October 21, 2019

SUBJECT: Free Little Libraries

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:

My name is Ella Hanson. I am a senior at York High School and a Girl Scout. I am working towards earning my Girl Scout Gold Award, which is the highest honor in Girl Scouting; similar to the Boy Scout Eagle Award.

I am addressing reading rates among people in York. Although there have not been any studies specific to York, many national studies show that reading rates have significantly decreased in the last 10 years. Some studies show that increasing the visibility and accessibility to books can help increase reading rates, particularly in kids.

The Free Little Library movement began in 2009. It is a nonprofit organization that “inspires a love of reading, builds communities and sparks creativity by fostering neighborhood book exchanges around the world.”

I began working with Robin Cogger of York Parks and Recreation Department. We determined that 6 locations in York would benefit from a Free Little Library. The location we are targeting are:

(1) Bog Field
(2) Harbor Beach
(3) Mt. Agamenticus
(4) Village Elementary School fields
(5) York Community Service Association (YCSA)
(6) York Public Library

I contacted organizations who maintains these locations. The first 4 locations are maintained by York Parks and Recreation and I was already working with Robin Cogger. I contacted Michelle Surdoval and she was supportive of having a Free Little Library at the YCSA thrift store location, even offering to use some of their donated books to help fill all 6 Free Little Libraries. I contacted Michelle Sampson, Director, York Public Library, who is also very supportive of having a Free Little Library on the premises. She has provided us with positive feedback from some of her counterparts in other communities who
have Free Little Libraries in their communities and on the property of their public libraries. After getting tentative approval for the locations, I began looking for funding.

I made a presentation for York Rotary on June 21st, 2019. They graciously agreed to fund this project with a $2,000 grant. I use these funds for six (6) Free Little Library structures, posts, initial books and plaques which register the Free Little Libraries with the national organization.

On September 20th, Robin Cogger and I meet with Amber Harrison, Director of York Code Enforcement, at Town Hall. She reviewed our sites and did not find any code issues with any of our locations. We are providing her with photos of the locations, and she will be marking their locations on a map.

I will work with the Parks and Recreation Department to manage any ongoing maintenance and upkeep of the structures, as needed.

I am hopeful that these structures can be installed before the ground freezes.

I think that Free Little Libraries will make a great addition to our town by increasing reading awareness and fostering community.

Thank you for your support.

RECOMMENDATION: I recommend that the Board approve the installation of the Free Little Libraries at the Town owned properties that have been identified and approved by Parks and Recreation and Code Enforcement.

PROPOSED MOTION: I move that the Board approve the installation of the Free Little Libraries at the Town owned properties that have been identified and approved by the Parks and Recreation Department and Code Enforcement.

FISCAL IMPACT: None at this time.

DEPARTMENT LINE ITEM ACCOUNT: N/A

BALANCE IN LINE ITEM IF APPROVED: N/A

PREPARED BY: Ella Hanson

REVIEWED BY: [Signature]
BOARD OF SELECTMEN’S
MEETING AGENDA
5:00 PM/6:00 PM/7:00 PM  MONDAY, OCTOBER 21, 2019
YORK PUBLIC LIBRARY

5:00 PM- Executive Session – Personnel (Title 12 MRS §405.6.A)

6:00 PM - Joint meeting with the Historic District Commission

7:00 PM – Call to Order

Pledge of Allegiance

Reading the Proclamation and Taking a Photo with “Votes for Women”
honoring the 100th Anniversary of Women’s Suffrage

A. Consent Agenda
   1. October 7, 2019 Meeting Minutes
   2. Business License Renewals

B. Minutes

C. Chairman’s Report

D. Manager’s Report

E. Awards

F. Reports
   1. Little Free Libraries – Ella Hanson
   2. Fuller Forest Management Plan – Doreen MacGillis
   3. LED streetlight Project- Dean Lessard
   4. Comprehensive Plan Update- Dylan Smith
   5. Small Cell Application from AT&T- Dylan Smith

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

5/21/2019 3:56 PM
Page 1 of 2
agenda items can do so on the form available at this meeting or may obtain the form through the Town Manager's Office.

H. Public Hearings
   1. Impact Fee Regulations Amendment

I. Endorsements

J. Old Business
   1. Discussion: Mount Agamenticus Lease
   2. Discussion: FY21 Operating Budget
   3. Discussion: Parking Policies

K. New Business
   1. Action: Non-Union Matters
   2. Action: Sunsetting School Impact Fees
   3. Action: Class Action Law Suit
   4. Action: SMPDC Request
   5. Action: Pole Permit
   6. Action: Approval of Little Free Libraries

L. Future Agendas

M. Other Business

N. Citizens' Forum

Adjourn
Board of Selectmen’s Consent Agenda
October 21, 2019

For the purpose of convenience and for expediting meetings, matter of business that are
t 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. October 7th, 2019 Meeting Minutes
2. October 15th, 2019 Meeting Minutes

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 / 7:00 PM  MONDAY, OCTOBER 7, 2019
YORK PUBLIC LIBRARY

6:00 PM – Joint meeting with Budget Committee

Present: Chairman Todd A. Frederick, Vice Chairman Robert E. Palmer, Jr.,
Michael L. Estes, Marilyn A. McLaughlin, Elizabeth D. Blanchard, Town Manager
Stephen H. Burns, Budget Committee Members: Nan Graves, Jerry Allen, Heather
Bridges-Campbell, Jim Smith, Ted Little and members of the press and public.

7:00 PM – Regular Meeting

Present: Chairman Todd A. Frederick, Vice Chairman Robert E. Palmer, Jr.,
Michael L. Estes, Marilyn A. McLaughlin, Elizabeth D. Blanchard, 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 7:00 PM.

Pledge of Allegiance

A.   Introduction of Deputy Chief Owen Davis

Chief of Police Charles J. Szeniawski introduced the newly promoted Deputy
Chief Owen T. Davis.

B.   Special Presentation

The Town Manager and Board of Selectmen presented Deborah McDermott with
a plaque to thank her for her years of reporting in the Town of York, as she will be
retiring soon.

C.   Consent Agenda

1.   September 23, 2019 Meeting Minutes

Moved by Ms. Blanchard seconded by Mr. Palmer to approve the Consent
Agenda, with Minutes as amended. Vote 5-0, motion passes.
D. Minutes

E. Chairman's Report

F. Manager's Report

G. Awards

1. Patrol Plow Truck Chassis – Matt Gray

Moved by Mr. Palmer, seconded by Ms. Blanchard to award the FY2020 Heavy Duty Truck Chassis and the proposed list of additional manufacturer's installed options to Liberty International Trucks in the amount of $69,400.00. Vote 5-0, motion passes.

H. Reports

1. Joellen Ross, Center for Active Living

2. York Village Project Update – Dean Lessard

3. Nubble Road Update – Dean Lessard

4. Connector Road Update – Dean Lessard

I. 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: John Covino
Bev Keough
Sharon McConnell
Dennis Weirzba
James Kences
Andrew Noel
Ed Harding
Francis Koerschner
David Chase

J. Public Hearings
K. **Endorsements**

1. Knights of Columbus - Tootsie Roll Proclamation

The Board of Selectmen signed the Proclamation Announcement for the annual Knights of Columbus Weekend, to be held on October 12-14, 2019 and extended an invitation to all of York’s citizens, along with their friends and family, to support this great cause and the efforts of our local Knights of Columbus by patronizing local establishments and supporting the Knights of Columbus “Tootsie Roll Drive” for special needs children and their family.

L. **Old Business**

1. Discussion: Goodrich Park Deeds

M. **New Business**

1. Action: Special Event Permit-York Beach Business Sidewalk Sale

Moved by Ms. McLaughlin, seconded by Ms. Blanchard to approve the Special Event Permit for the York Beach Business Sidewalk Sale on October 12-14, 2019. Further moved to waive the parking meter revenue on Railroad Avenue only, for October 12-14, 2019 for the York Beach Business Sidewalk Sale. Vote 5-0, motion passes.

2. Action: Special Event Permit- York Soccer Club Harvest Cup

Moved by Ms. McLaughlin, seconded by Ms. Blanchard to approve the following Special Event Permit Application subject to all, if any, conditions given by Department Heads: York Soccer Club; York Soccer Club Harvest Cup on October 12-13, 2019. Vote 5-0, motion passes.

3. Discussion: MOU with York Public Library

4. Discussion: Plantings on Spur Road Median

5. Discussion: Trash Management at the Beaches

6. Action: Acceptance of donations to the Committee for Veterans’ Affairs

Moved by Ms. Blanchard, seconded by Mr. Estes to accept donations to be used by the Committee for Veterans’ Affairs in accordance with the mission of the Committee. Vote 5-0, motion passes.

N. **Future Agendas**

1. On the Radar
O. Other Business

P. Citizens' Forum

   Public Comment: None

Q. Executive Session: Title 1 MRSA § 405.6.C (Real Estate)

   Moved by Mr. Palmer, seconded by Ms. McLaughlin to enter into executive
   session. Vote 5-0, motion passes.

   Moved by Mr. Palmer, seconded by Mr. Frederick to exit out of executive session.
   Vote 5-0, motion passes.

   Adjourn

   Moved by Mr. Palmer, seconded by Mr. Frederick to adjourn the meeting at 10:00
   PM. Without objection, so ordered.

   Respectfully Submitted,

   Melissa M. Avery
   Assistant to the Town Manager
BOARD OF SELECTMEN’S MEETING MINUTES
7:00 PM  TUESDAY, OCTOBER 15, 2019
YORK POLICE DEPARTMENT - TRAINING ROOM

7:00 PM

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

Call to Order

Chairman Todd A. Frederick called the meeting to order at 7:00 PM.

A. Executive Session for Real Estate per Title 1 MRS §405.6.C

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

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

B. Action: Real Estate

No action was taken.

C. Action: Extension Request for Property Redemption (27 Linscott North)

Moved by Mr. Estes, seconded by Ms. Blanchard to extend the deadline for redemption of the property at 27 Linscott Road North (Tax Map 0089-0015-A) from October 11 to December 11, 2019. Vote 5-0, motion passes.

Adjourn

Moved by Ms. Blanchard, seconded by Mr. Estes to adjourn the meeting at 8:36 PM. Without objection, so ordered.

Respectfully Submitted,
Melissa M. Avery
 Fuller Forest Preserve (220 Acres)

- Log Landing and Future Parking Area
- Proposed Trails
- Selective Harvest Area (100 acres)
- Property Boundary

Map: J. Lawlor 2019
Data: Town of York
ESRI, Maine GIS
TO: Board of Selectmen
FROM: Dylan Smith, Planning Director
DATE: October 17, 2019
RE: Small Wireless Facilities (Things to Consider)

1) Wireless telecommunications carriers (Verizon, AT&T, etc.) are “densifying” their wireless networks with small cell/wireless facilities.

2) “Small Wireless Facilities” (per state of Maine statute) means a wireless facility each antenna of which could fit within an enclosure of no more than 3 cubic feet and of which all associated wireless equipment other than antennas, electric meters and concealment elements has a cumulative volume of no more than 28 cubic feet.
   a) 28 cubic feet is the size of a good size refrigerator (not sure that is “small”).

3) Reason why companies are doing this: Provides more coverage (5g) with “minimal impact” on a community.
   a) Possible Community Considerations/Concerns: Visual appearance standards/impacts in the ROW need to be understood and possibly remedied. Is radiation concern? Feds say it’s ok); Sound/Noise of “humming” from the installations (think proximity to people or types of uses)? ROW/side walk blockage/disruption as a problem. A need to establish fee’s for ROW leases/use (annual vs. one time?).
   b) See articles provided for additional information/concerns.

4) Next Steps- There is a current application (although not quite official) before the Town that will likely be reviewed by the Planning Board that seeks to locate a small wireless facility on a utility pole owned by CMP, which is also in the Town’s ROW (Stage Neck Road).
   a) Per the Wireless Communications Facility Ordinance (WCF Ordinance) the BOS needs to approve a lease agreement that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interest of the property.
   b) Should discuss/establish a reasonable ROW lease fee with applicant and consider that as a model policy for future applications (However, perhaps different ROW’s have different fee’s?). The WCF Application fees vary for application acceptance/review, but it appears an application like this could possibly be $1,000.
   c) The WCF ordinance is need of amendments to address these facilities (definitions, process of review, performance standards, etc.). This should be done fairly quickly to avoid possible problems in the future. Amendments require a Town vote, so May or November of 2020 is recommended to get this done.
Small Wireless Facilities and Wireless Facilities in the ROW

American Planning Association

As wireless telecommunications carriers face growing demands by the public for ever-increasing capacity, speed, and reliability, and new uses of the internet continue to emerge, the wireless
industry is shifting from the older infrastructure model of macrocell monopoles to a new model: "small-cell" wireless systems.

Small-cell wireless technology refers to networks of small wireless telecommunications antennas installed as systems on existing structures, often as stealth or camouflaged installations. It is often conflated with Distributed Antenna Systems (DAS), networks of spatially separated antenna nodes connected to a common source via a transport medium that provides wireless service within a geographic area or structure. DAS networks are physically connected via fiber and can accommodate multiple carriers, while small-cell systems are not connected via fiber and serve a single carrier. However, from a regulatory land-use perspective, both system types are differentiated from larger antenna or monopole systems by their networks of small antennas typically installed on utility poles or existing structures, often in the public right-of-way.

From this page you can search for resources that provide background, policy guidance, and examples of local zoning and other municipal standards for small wireless facilities and wireless facilities in the public right-of-way from across the country. And you can filter these search results by various geographic and demographic characteristics.

Search

APA Resources

DAS and Small-Cell Systems

The small size of DAS and small-cell wireless facilities means they are more easily installed on existing buildings or structures and may be less aesthetically objectionable than larger cell towers. However, the shorter ranges of these antennae mean that more of them are required. Hundreds of thousands of new wireless facilities will be coming online in the coming years, and much of them will likely be installed on structures within the public right-of-way (PROW), such as utility poles.

In several cases, wireless providers or tower companies have argued that they have the right to install wireless facilities in the PROW regardless of local telecommunications regulations. Local governments do have the right to regulate wireless facilities in the PROW, but they must have the right regulations in place to do so. It is important that communities adopt language specific to wireless facility installation in the PROW so that they can appropriately respond to such requests.

Regulating DAS and Small-Cell Systems in the Public Right-of-Way

Many communities have added small-cell or DAS definitions, provisions, and standards to their codes, in some cases expressing preferences for these facilities and allowing the installation of
this equipment by right with administrative approval subject to certain standards to reduce negative visual impacts.

Local governments may control height, appearance, location/placement, and safety issues for wireless facilities in the PROW. Ordinances may allow installations with specific encroachment or ROW permits, tighten application requirements, impose design standards, and require public notification to better protect residents.

Agreements to allow installations in the PROW also can and should address compensation to the municipality for use of the PROW or municipal structures. Some jurisdictions charge an annual per-facility fee incorporating CPI adjustments; others require payments of a percentage of gross revenue.

In September 2018, the Federal Communications Commission (FCC) issued an order that clarifies the intent of the Telecommunications Act of 1996 with respect to local regulations for small wireless facilities (FCC Order 18-133). Notably, this order requires local governments to act on complete applications within specified time periods (i.e., imposes "shot clocks").
Bakersfield, Calif., Rushes to Put Small Cell Rules on the Books

City staff are rushing to write an emergency ordinance to head off what they expect to be a flood of the antennas in the public right of way.

BY SAM MORGEN, THE BAKERSFIELD CALIFORNIAN / NOVEMBER 21, 2018
Small cell antennas, like the ones pictured here, are becoming increasingly popular as telecommunications companies work to expand service in areas without cell tower infrastructure.

(TNS) — A change in cellphone technology could impact the view from your backyard — maybe your front yard.

The city of Bakersfield, Calif., is scrambling to write an emergency ordinance that will regulate small cell facilities placed on public light poles and power lines.

The advent of 5G cellphone technology has forced wireless carriers like AT&T and Verizon to switch from the tall antenna towers placed sporadically throughout cities to smaller boxes the size of backpacks or luggage placed closely together on public poles.
Although only a handful of these new facilities have been installed in the city, the city expects many more to arrive soon, said Deputy City Attorney Andy Heglund.

“The carriers aren’t disclosing their full build-out plan, but it could be hundreds of facilities,” he said.

In the impending rollout of the new technology, the city will have a limited ability to regulate the new cell facilities, prompting concerns that the aesthetics of the city’s streetscapes could be jeopardized.

The city wants to avoid light poles and power lines cluttered with buzzing electronic boxes.

The Federal Communications Commission approved new regulations in September that took away much local control of the 5G facilities.

Under the new regulations, which were made in the name of removing regulatory barriers from government, cities will be limited in their ability to charge market rates for fees associated with the installations, and they will lose some control of how the facilities will look.

“The city is not opposed to [carriers] rolling out this additional equipment, but we want to be able to make sure that the rollout is balanced and protects the aesthetics of the right of way,” Heglund said.

He added that the difference between the market rate and the amount the city would legally be allowed to charge for fees could be as much as $1,000 per unit per year.

Last year, Gov. Jerry Brown vetoed a state bill that had similar restrictions after an opposition from a number of California cities.

Since the FCC passed the new regulations, cities across the country have been voicing...
their opposition to the new rules.

Cell carriers have stood by the FCC.

"The FCC took the next step to further strengthen the United States' lead in the race by adopting a framework for permitting and fees that will foster more widespread robust infrastructure investment," AT&T said in a statement at the time the FCC passed regulations. "We are excited about our continued expansion of our small cell facilities to bring advanced wireless technologies and services to communities across the country.

Over the next two months, the Bakersfield City Council will consider adopting an emergency ordinance so the city can regulate what little will remain under its control when the new rules come into effect in January.

Barring legal action, cell carriers will begin installing the new facilities soon. The city Public Works Department has already received some applications for the facilities, but expects more to come.

"The city wants to encourage the rollout," Heglund said, "but it just needs to be in a managed and balanced way."

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MORE FROM NETWORK (HTTPS://WWW.GOVTECH.COM/NETWORK)
Santa Rosa's 'pause' apparently powerless in curbing disputed Verizon installations

Judy Monroy, right, and her neighbor Maria Solis stand beside a Verizon Wireless cell signal booster and its in-ground utility box installed in front of their homes on Link Lane, in Santa Rosa, California on Friday, January 12, 2018. The company has since removed the utility box, which contained batteries meant to preserve cell service during power outages. (Alvin Jornada / The Press Democrat)

KEVIN MCCALLUM
THE PRESS DEMOCRAT | May 29, 2018

Mary Dahl has lived in the same home in Rincon Valley for 48 years.

She doesn't have a cellphone. She doesn't have a computer. And she doesn't care to own either. So when Verizon proposed installing a wireless antenna on a pole just outside her house, she didn't take too kindly to it.

"It got my Irish dander up," says Dahl, a retired child care provider who's in her early 70s.

She sent a letter to the company's installer, Nexus Solutions, which was returned to sender. The company told her to send it to...
the attention of the "Northern California Small Cell Team," but it came back a second time, she said.

When she called the number listed, she just got the runaround, she said.

So when the Santa Rosa City Council announced in February that is was "pausing" the installation of a network of so-called "small cell" antennas in the city, she was hopeful.

Then a few weeks later, the resident of Monte Verde Drive was notified that the permit for the antenna had been granted by the city, and construction would soon begin.

She was the only one in her little neighborhood who got such a notice, she said. A few days later, the crews arrived and began installing the equipment.

"They said it was going to be high up on the pole," Dahl said, pointing toward the assemblage of brown boxes and cables mounted on a metal bar 7 feet off the ground on the wooden utility pole outside her home. "I don't consider that high. I go out my front door and it's right in my face!"

Dahl is one of dozens of Santa Rosa residents who have come to realize in recent months that, when it comes to telecommunications installations, neither the City Council nor the residents they represent have the power to pause much.

The "small cells" are just one piece of Verizon's network expansion that have riled many residents. The company's efforts to build full-size towers, including in a new 62-foot steeple atop Community Baptist Church on Sonoma Avenue, have also triggered backlashes. Opponents voice concerns about aesthetics and exposure to electromagnetic radiation given off by communications equipment.

Wireless providers say there are no credible studies indicating such radiation presents a threat to public health. The three American agencies charged with assessing cancer risks have said the typical exposure from cell towers is well below levels considered safe for humans.

"I'm not against the radiation, I just don't want a 60-foot tower in my front yard," said Matthew Mendonsa.

His neighbor directly across Sonoma Avenue from the church is so enraged he recently spray-painted a huge "Stop Verizon" sign, complete with crude red stop sign, on a piece of plywood in his front yard.

Heidi Flato, a Verizon spokeswoman, could not be reached for comment Tuesday. The company has said the small-cell network will work with larger towers to dramatically improve high-speed wireless capacity and coverage in the city.

Facing a rash of criticism over the installation of the small-cell equipment all over the city, the City Council in February ordered the project halted while it processed residents' feedback and worked with Verizon to find solutions.
But what may not have been clear to residents or even all of the City Council at the time was that the majority of the 70 small-cell installations Verizon planned in the city, about 40 of them, were being installed on wooden PG&E utility poles in the city, over which the city has scant regulatory authority.

And what limited authority the city did have, for what is known as encroachment permits, involved whether the contractor installing the equipment was doing so according to city regulations for work in city right-of-way.

For example, workers must have proper safety gear and be properly insured and the equipment can't be installed in such a way that blocks pedestrians.

Aesthetics and health-related objections aren't reasons the city can deny an encroachment permit, explained Eric McHenry, the city's director of information technology.

But those objections are exactly the ones raised by Jenna Johnson over the installations across the street from her Hexem Avenue home.

"It's 84 feet from that pole to where two of my children lay their heads on their pillows," Johnson said.

The equipment isn't in yet, but a new pole has been installed in preparation for that work. The workers could install it and hook it up at any time.

"Why can't it be in a park? Why can't it be in a cemetery? Why can't it be in open space? Why can't it be in an industrial area?" Johnson said from her driveway Tuesday afternoon. "There have got to be better places for this than right in the middle of a neighborhood!"

When the City Council approved changes to the city's telecommunications policies in 2015 that allowed the project to go forward, the council and city staff were more focused on how it could impact city-owned property, namely light poles.
In fact, the presentation to the council has been criticized as misleading for focusing almost exclusively on tidy streetlight installations in downtown commercial districts when most equipment installed so far has been in residential neighborhoods on wooden PG&E power poles.

To date, the city has approved all 39 encroachment permits Verizon has requested. Twenty sites are under construction, and three are done and operational, McHenry said.

The part of the project that proposed installing about 30 small cells atop city light poles is the piece the City Council paused in February. No permits have yet been granted for those poles. On June 5, the City Council will revisit that decision.

The city expects to make $350 per year per pole — $10,500 for Verizon's poles and $70,000 altogether for all 200 that might eventually go in. Another company, Mobilitie, has plans for small cells on about 20 street poles.

The installations atop city light poles, with most of the wires running inside the poles, are a cleaner, simpler design that are aesthetically more pleasing to people, McHenry said. He said it is "our strong recommendation and hope" that the council will allow that part of the project to move forward.

"That is exactly where most people want them to go," he said.

You can reach Staff Writer Kevin McCallum at 707-521-5207 or kevin.mccallum@pressdemocrat.com. On Twitter @srcitybeat.

Editor's note: This story has been revised to remove the phrase "low-frequency" to describe the electromagnetic radiation from telecommunications equipment.
An Act To Facilitate the Deployment of Small Wireless Facilities in Maine

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 30-A MRSA §4362 is enacted to read:

§4362. Small wireless facilities

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Small wireless facility" means a wireless facility each antenna of which could fit within an enclosure of no more than 3 cubic feet and of which all associated wireless equipment other than antennas, electric meters and concealment elements has a cumulative volume of no more than 28 cubic feet.

B. "Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including equipment associated with wireless communications; radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies and rectifiers; and comparable equipment, regardless of technological configuration. "Wireless facility" includes a small wireless facility. "Wireless facility" does not include the structure or improvements on, under, within or adjacent to which the equipment is colocated or coaxial or fiber-optic cable that is between wireless support structures or poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

2. Small wireless facilities. Notwithstanding any zoning or land use ordinance to the contrary, a small wireless facility must be a permitted use within the public right-of-way, subject to permitting requirements and duly adopted, nondiscriminatory conditions otherwise applicable to permitted uses within the municipality and consistent with state and federal law, including, without limitation, any permitting requirements in Title 35-A, chapter 25. This section does not affect or alter the rights and responsibilities of a cable television company under the franchise agreement executed pursuant to section 3008, subsection 5.
Wireless Telecommunications Facilities Ordinance

Town of York, Maine

Most Recently Amended: November 8, 2016
Prior Dates of Amendment: November 8, 2011
May 29, 2009
Date of Original Enactment: November 5, 2002

ENACTMENT BY THE LEGISLATIVE BODY

Date of the vote to enact/amend this Ordinance: November 8, 2016
Certified by the Town Clerk: May - Anne Bignam on 11/10/16
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Wireless Communications Facilities Ordinance

1.1 Title and Effective Date
This Ordinance shall be known and cited as the “Wireless Communications Facility Ordinance” of York, Maine (hereinafter “the Ordinance”). This Ordinance becomes effective as of November 5, 2002.

1.2 Authority
This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution, the provisions of Title 30-A M.R.S. A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, Title 30-A M.R.S.A. Section 4312 et seq.

1.3 Purpose
The purpose of this Ordinance is to provide a process and to set standards for the construction, Expansion and Modification of wireless communications facilities (WCF), to protect the historical, scenic and visual character of the Town of York, to comply with federal laws and regulations regarding wireless communications facilities and to provide for Reasonable Access.

1.4 Applicability
This Ordinance applies to all construction, Expansion, Modification, maintenance, and operation of wireless communications facilities except:

A. Emergency WCF - Temporary wireless communications facilities for emergency communications by public officials.

B. Maintenance or repair - Maintenance or repair of a WCF and related equipment provided that there is no change in the height or any other dimension of the facility.

C. Temporary wireless communications facility - Temporary WCF, in operation for a maximum period of seven (7) days.

D. Antenna as Accessory Uses - An antenna, other than parabolic dish antenna greater than five (5) feet in diameter, that receives only and is accessory to a permitted use, that is, related to such use but clearly incidental and subordinate.

E. Utility District Facilities – A Yagi or omni antenna utilized solely by a utility district which provides water or sewer services within the Town, and which complies with the following standards:

1. The antenna dimensions are less than 4’ in every dimension; and

2. The maximum height of the antenna either:
   a. Complies with the structure height limit for the base zoning district in which it is located, regardless of that to which the antenna is mounted; or
   b. Exceeds the structure height limit for the base zoning district in which it is located, provided the antenna is mounted on an un-guyed wooden utility pole of any height. The antenna may be mounted directly on the pole, or on a mast attached to the pole. The antenna mounting height shall be the minimum height necessary to provide the required function, as demonstrated to the CEO by a path study.
F. Municipal WCF – any Town-owned wireless communications facility to be used for conduct of operations by the Town of York, provided such facility is not located in or within 500 feet of an historic district. Collocation by users other than the Town shall be allowed but is subject to the standard permitting process.

1.5 Approval Authority
No person or agency shall construct or expand a WCF without approval of the Code Enforcement Officer (CEO) or the Planning Board as follows:

A. Approval by the CEO is required for:

1. A WCF no greater than 65 feet in height used for licensed amateur ("Ham") radio, which is not additionally licensed or used for any commercial purpose, other than by the licensed amateur radio operator, but only if there is no other WCF on the parcel on which the WCF is to be located.

2. Collocation on an existing Monopole WCF or other existing WCF, and which does not increase the height of the Support Structure.

3. A Disguised WCF no greater than 35 feet in height.

4. A Hidden WCF.

The CEO may, at his discretion, elect to have the Planning Board, rather than the CEO, review any such application for a WCF for approval.

B. Approval by the Planning Board is required for any other WCF permitted under this Ordinance.

1.6 Technical Assistance
The CEO or Planning Board may obtain services of professional engineers and other consultants to review and inspect the applicant’s proposal or any portion thereof. Such services are permitted to include but are not limited to engineering and technical review, planning review, environmental assessment review, soils review, mechanical and structural engineering review, and the investigation of possible alternative WCFs described in the lists of preferences herein. Such costs shall be borne by the applicant.

1.7 Locations for WCFs

A. Prohibited WCFs
New WCFs with either guy wires or latticed towers are prohibited.

B. Monopole WCFs
Ground Mounted WCFs greater than 85 feet in height are deemed to be Monopole WCFs, for the purposes of this ordinance. WCFs with Monopole Support Structures (that is, a single pole set into the ground or concrete pad) are permitted only in the Monopole WCF Overlay Districts, but not in the Shoreland Overlay Zone. The Monopole WCF Overlay Districts are as designated on the Zoning Map of York, and initially they are these two areas: the area between Route 1 and the Maine Turnpike, and the east-west corridor which is 2500 feet wide and bounded on the southwest by Route 91, on the southeast by New Boston Road and Boulter Pond and its outlet, and on the northwest by the York town line.

C. Other WCFs
Disguised WCFs, roof mounted WCFs, structure mounted WCFs, ground mounted WCFs, micro cell WCFs, Mast WCFs, Whip antenna WCFs and other short and small WCFs are permitted in any area of the Town of York, other than Historic Districts or attached to Historic Buildings. Hidden WCFs are permitted in any area of the Town of York.
D. **Priority List for WCFs**

New WCF must be located according to this list of preference or priority, listed from most preferred to least preferred:

1. Hidden WCFs.

2. Collocation on an existing Support Structure.

3. Disguised WCFs.

4. Location on existing structures, including but not limited to buildings, water towers, utility poles and towers, light poles or light stanchions, provided that such installation preserves the character and integrity of those structures.

5. Ground Mounted WCFs.


1.8 **Approval Process**

In accordance with Section 1.5 above, the CEO or Planning Board shall review applications for WCFs. The Planning Board shall follow the procedure for site plan approval in the Zoning Ordinance, and all of the substantive as well as procedural requirements for site plan approval shall apply. The CEO shall follow the procedure for building permits in the Zoning Ordinance, and other pertinent York Ordinances.

A. **Pre-Application Conference**

Applicants seeking approval of either the CEO or the Planning Board under this ordinance shall meet with the Town Planner or his or her designee prior to filing an application according to this ordinance. At this meeting, the Planner or the designee shall explain the ordinance provisions as well as application forms and fees required under this ordinance.

B. **Public Notice**

For WCFs requiring approval of the Planning Board, the applicant shall give public notice as provided for site plan applications, except that for notice purposes the term “abutter” shall mean an owner of property within 2500 feet of the property on which a Monopole WCF is proposed and such notice shall be mailed 14 days prior to the Public Hearing. For WCFs which the CEO is reviewing, the applicant shall give public notice as provided for site plan applications, except that for notice purposes the term “abutter” shall mean an owner of property immediately adjacent to the property on which a WCF is proposed.

When a Monopole WCF is proposed, a sign giving notice of the application shall be posted on a public way at or near the proposed site, and must contain the words “Tower Proposed” in large enough format to be readable from a motor vehicle driving by at 35 mph. The CEO shall review and approve the sign design and location before it is posted, the sign must contain the same information required in the public notice required for site plan applications, and the sign must be in place at least 21 days and before any balloon or crane visual testing, giving the date and time for such testing, and any alternate dates for such testing.

C. **Fees**

Fees associated with permits and reviews required under this Ordinance shall be in accordance with the fee schedule as adopted by the Board of Selectmen. Planning Board applications shall also be subject to any fees as outlined in Town of York Site Plan Regulations. In addition to the application fee, the applicant shall reimburse the Town for costs of professional engineers and other consultants hired by the Town to review and inspect the applicant’s proposal when the Town is unable to do so with its existing staffing resources. Such services include but are not limited to engineering
Town of York, Maine

and technical review, legal review, planning review, environmental review, soils review, and mechanical and structural engineering review. In the event that a project requires professional services beyond that which is included in the base fee, the applicant shall reimburse the Town at the cost rate for those professional services. The Town is permitted to require that the applicant deposit an amount with the Town to cover anticipated costs of retaining services or consultants. The Town shall return to the applicant any unused funds within thirty (30) days of the decision by the CEO or Planning Board on an application.

D. Applications
Persons seeking approval of the CEO or of the Planning Board under this Ordinance shall submit an application which shall include all of the information and materials required for site plan approval, and in addition the following:

1. Qualification as an Applicant and Statement of Compliance with FCC Regulations
A copy of the FCC license for the facility, or license to operate within an assigned geographic area including the Town of York, and a signed statement from the owner or operator of the facility attesting that the facility complies with and will comply with FCC regulations. So long as such a licensee joins the application as a co-applicant, another party may seek the approval described herein.

2. Identification of Existing Facilities - A USGS 7.5 minute topographical map showing the location of all WCFs within a three (3) mile radius of the proposed facility.

3. Visual impacts of the proposed facility:
   a. Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level;
   b. Computer generated photographic simulations of the proposed facility at full capacity, showing the facility from all public rights of way and from representative nearby properties from which the facility will be visible. Each photograph must be labeled with the line of sight, elevation, and the date taken imprinted on the photograph. The photographs must show the color of the facility and the method of screening, if any screening is required.

4. A written description of the need for the particular facility in the particular location. It should also describe reasonably anticipated Expansion of the proposed facilities on the proposed site and related facilities in the region, and on reasonably anticipated changes of technology and their effect on Expansions of the proposed facility. This submission requirement does not require disclosure of confidential business information, but failure to cite reasonably anticipated expansions in this application will be a matter of public record that can be an issue to be considered in later applications for Expansion.

5. Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility, the evidence for which shall comprise one or more of the following:
   a. Evidence that no existing facilities are located within the area targeted to be served by a proposed WCF which meet the applicant's engineering requirements;
   b. Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements;
   c. Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment, specifically:
Town of York, Maine

(1) Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment;

(2) The applicant’s proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant’s proposed antenna; and

(3) Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.

d. For WCFs existing prior to the effective date of this Ordinance, the fees, costs, or contractual provisions required by the owner in order to share or modify an existing facility are considered to be unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a Support Structure built after the passage of the Ordinance.

e. Evidence that the applicant has made diligent good faith efforts to negotiate collocation on an existing facility, building, or structure, and has been denied access.

f. Evidence that the applicant has analyzed the feasibility of using repeaters or micro cells in conjunction with existing or proposed WCFs to provide coverage to the intended service area.

6. A signed, acknowledged statement to be recorded in the York County Registry of Deeds stating that the owner of the WCF and his or her successors and assigns agree to:

a. Respond in a timely and comprehensive manner to a request for information from a potential collocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;

b. Negotiate in good faith for shared use of the WCF by third parties, including those that can reasonably be deemed commercial competitors;

c. Allow shared use of the WCF if an applicant agrees in writing to pay reasonable charges for collocation;

d. Require no more than a reasonable charge for shared use, based on regional rates and generally accepted accounting principles. This charge is permitted to include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the Support Structure or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.

E. Waiver of Submission Requirements

1. The applicant is permitted to apply for a waiver of any of the listed submission requirements for the application in lieu of fulfilling the listed submission requirement. The applicant shall bring the application for permit before the CEO or the Planning Board, as required for the particular application, with an attached application for waiver of every submission requirement not complete. The CEO or the Planning Board, as appropriate to the application, is permitted to waive any of the submission requirements only if the CEO or Planning Board finds in writing, that due to special circumstances of the application, the specific information for which waiver is requested is not required to determine compliance with the standards of this Ordinance. If any request for waiver is rejected, the application shall be
immediately rejected as incomplete and the application for permit shall not be further considered. The applicant shall be permitted to resubmit the application when all submission requirements are fulfilled.

2. It is expected that an application for a WCF serving a Ham Radio may include a number of requests for waiver. While such waiver requests may well be granted, the CEO or Planning Board in such cases shall, at a minimum, require evidence concerning the structural integrity and strength of the WCF in all weather conditions (e.g., heavy winds and ice loading), and the visual impact of the WCF.

F. Permit Conditions and Limitations
Construction of a WCF shall commence within one (1) year from the date of the Town’s approval, with the opportunity for a six-month extension at the discretion of the CEO. If construction is not begun within one year, or within the six-month extension when granted by the CEO, the permit shall become null and void.

After approval by the CEO or Planning Board and prior to receiving a building permit, the applicant shall post a performance guarantee with the Town prior to obtaining a permit, such guarantee to include an Irrevocable Letter of Credit or a bond satisfactory in form to the Town’s counsel or funds delivered to the Town of York to be held in escrow equal to one hundred twenty-five (125) percent of the cost of removing the WCF.

1.9 Standards of Review
To obtain approval from the CEO or the Planning Board, an application must comply with the standards in this section, and the CEO or Planning Board shall make written findings with respect to each of these standards.

A. Qualification of Applicant and Right to Build - The application shall be complete and the notification of abutters as required by this Ordinance and the York Site Plan and Subdivision Regulations shall have occurred before the Planning Board reviews the application. The applicant shall meet the requirements to apply for construction, Expansion or Modification of a WCF in accordance with this Ordinance. The applicant shall demonstrate the right, title, or interest in the property on which the construction is proposed. The applicant shall demonstrate compliance with all relevant FCC regulations.

B. Priority for WCF Location - New WCFs must be located according to the priorities in Section 1.7 above. The applicant shall demonstrate that a facility of a higher priority cannot reasonably accommodate the applicant’s proposed facility.

C. Placement on Municipal Property - If an applicant proposes to locate a new WCF on municipal property or on a public right of way, the applicant must show the following:

1. The proposed location complies with applicable municipal policies and ordinances.

2. The proposed facility will not interfere with the intended purpose of the property or right of way.

3. The applicant has adequate liability insurance.

4. The applicant has a lease agreement with the Town that has been approved by the Board of Selectmen and that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interest of the property.
D. **Design for Collocation** - A new WCF and related equipment must be designed and constructed to accommodate collocation of additional WCFs or providers when technically feasible and when not in conflict with the height limitations set forth in this Ordinance.

E. **Height** - A WCF shall comply with following requirements specific to the type of facility:

1. **Height, Monopole WCF Overlay Districts** - Where the Town establishes Monopole WCF Overlay Districts (as designated in the Town zoning map), a Monopole WCF shall not exceed one hundred twenty (120) feet in height.

2. **Height of Hidden WCF** - The WCF shall not be constrained by height limitations except to the extent that Town zoning ordinances restrict the height of the structure in which the facility is concealed or hidden.

3. **Height, Ground-Mounted Facilities** - In areas other than the Monopole WCF Overlay District, a ground mounted WCF shall not project higher than twenty (20) feet above the average height of buildings within three hundred (300) feet of the proposed facility or, if there are no buildings within three hundred (300) feet, such facilities shall not project higher than twenty (20) feet above the average tree canopy height, measured from ground level. The height of the ground-mounted facility, having neither buildings nor tree canopy within three hundred (300) feet, shall not exceed the height limit of the zoning district within which the facility is located. If there are no buildings or trees within three hundred (300) feet of the proposed site of the facility, all ground mounted WCFs shall be surrounded by a buffer of tree growth, as required by this Ordinance, sufficiently dense to screen views of the base of the facility from abutting properties and all public roads and ways.

4. **Height, Side- and Roof-Mounted Facilities** - Side- and roof-mounted WCFs shall not project more than the lesser of ten (10) feet above the height of an existing building or ten (10) feet above the height limit of the zoning district within which the facility is located and does not result in Unreasonable Adverse Visual Impact.

5. **Height, Existing Utility Structures** - Expansions located on any of the following existing structures shall be exempt from the height restrictions of this ordinance provided that there no more than a ten (10) foot increase in height of the existing structure as a result of the installation of the WCF: electric transmission and distribution towers, telephone poles and similar existing utility structures, and water towers.

6. **Height, Disguised Structures** - The foregoing height limits not withstanding, WCFs that are constructed as disguised structures, such as flagpoles or steeples, shall not exceed the height that is permitted or reasonably attributable to such structures not as disguised WCFs for the zoning district in which the facility is to be located.

F. **Setbacks** - The setback shall be the separation of the corresponding border of the footprint of the base area of the WCF, as defined by the required fencing, from the property lines, buildings, or other feature from which the setback is defined. It shall not refer to the center point of the WCF.

1. A new Monopole WCF must be set back from Route 1 and Route 91 at least one hundred fifty (150) feet.

2. A new or expanded Monopole or Ground Mounted WCF must comply with the setback requirements for the zoning district in which it is located, or be set back one hundred twenty five percent (125%) of its height from all property lines, whichever is greater. The Planning Board is permitted to reduce this 125% set back upon a showing that the support structure is reliably designed to collapse upon itself in an area shorter than its height. The Planning Board is permitted to accept setbacks obtained by including areas outside of the property.
boundaries if secured by an easement from the owners of the affected properties. This easement shall be specifically noted on the plan and permit, and shall be recorded in the York County Registry of Deeds and indexed under the name(s) of the owners of the affected abutting property.

3. All structures accessory to a WCF and all peripheral supports used to support a WCF structure shall be located in accord with the setback requirements for the underlying zone.

4. All WCFs shall be located a minimum of sixty-five (65) feet from any residential structure located on any abutting property at the time the structure is initially constructed, unless the affected abutting property owner waives this requirement, and Monopole WCFs shall be located five hundred (500) feet from any residence located on any abutting property at the time the structure is initially constructed, unless the affected abutting property owner waives this requirement. This requirement shall not be waived with respect to the Fall Zone of any Monopole WCF. Any waiver shall be specifically noted on the plan and permit, and shall be recorded in the York County Registry of Deeds and indexed under the name(s) of the owners of the affected abutting property.

5. WCF is permitted to be located on a property on which another principal or accessory use is located, subject to concurrence of all parties that have an interest in the parcel at the time the structure is initially constructed. There shall be no minimum setback requirements from other structures located on the same property as the WCF.

6. The following exceptions apply:

(a) The Planning Board is permitted to reduce the required setback for a WCF to be constructed on public property or on public right of ways provided that there is a showing by the applicant that the facility is designed to collapse in a manner that will not harm other property.

(b) An antenna attached to a WCF shall be exempt from the setback requirement if it extends no more than three (3) feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.

G. Visual Impact - A WCF that fully meets the definition of Hidden WCF shall not be subject to the requirements of this section except to the extent that the existing structure in which the WCF is concealed is required to meet the zoning requirements of the Town of York.

1. Visual impact by certain larger WCFs - New Monopole WCFs and new Ground Mounted WCFs, including its related equipment and required fence, must be substantially screened from view from abutting properties. The screening must be evergreen trees when such screening is to be newly planted in construction of the WCF. All such WCFs shall maintain a buffer, except for an access road, beginning at a minimum of one hundred (100) feet from the fence at the base of the WCF and extending toward the WCF, on all sides of the parcel on which the WCF is located. The Planning Board is permitted to accept buffer obtained by including areas outside of the property boundaries if secured by an easement recorded for the deed of that property, requiring maintenance of the buffer. The Planning Board is permitted to reduce the buffer adjacent to I-95 to no less than a distance equal to one hundred (100) percent of the total height of the WCF, consistent with the goal that a buffer shall consist of mature trees having a height at least as high as the required fencing and having a density sufficient to substantially screen the base of the WCF from observation when viewed from a distance greater than 100 feet from the fence at the base of the WCF. When the WCF is placed in an area that is wooded prior to construction of the WCF, existing plants and natural landforms on the site shall also be preserved to the maximum extent practicable.
The Planning Board is permitted to require additional plantings in the buffer area, particularly when the construction area is not of the character of a wooded buffer, to enhance the quality and effectiveness of the buffer area as a visual screen, including requiring the planting of trees that will achieve effective screening within three (3) years after construction. Inside the buffer area, existing plants and natural land forms on the site shall be preserved to the maximum extent practicable while achieving the safe construction of the Support Structure, accessory structures, and required fencing.

Monopole WCFs and new WCFs to be placed (e.g., collocated) on existing Monopole or other Support Structures shall be designed to minimize their visual, perceived bulk or mass, including, but not limited to, avoiding the use of any platform, if possible, and minimizing the distance the antenna array extends out from the Support Structure, which distance may not exceed 10 feet without explicit approval of the Planning Board. The Planning Board is permitted to require the applicant to present evidence of compliance with this requirement to minimize bulk.

2. **Visual impact by Certain Smaller WCFs** - A new WCF which is of the types roof-mounted, structure-mounted, mast, whip or micro cell, including its related equipment, must be camouflaged from view from abutting properties, to the maximum extent practicable, including but not limited to: use of compatible building materials and colors, screening, landscaping and placement within trees. When a WCF is mounted on an existing structure, every effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public ways, including but not limited to the stepping back of the WCF from the front facade in order to limit their impact on the structure’s silhouette and the blending with the existing structure’s architecture by painting or by shielding with material which is consistent with the design features and materials of the building.

3. **Disguised WCFs** - A disguised WCF, made to appear as an unrelated object such as a tree, church steeple, or flagpole, shall be sufficiently realistic in size and proportion to adjacent features as to be reasonably perceived as the intended image. The disguise must encompass the entirety of the WCF including its base facilities or, alternatively, such base facilities are permitted to be isolated from the disguised support structure, for example by underground cable connections to a separate building not closely associated with the Support Structure. For the purposes of determining compliance with zoning requirements, the disguised device shall be treated as the object as which it is intended to be recognized. For example, a WCF disguised as a flagpole shall comply with all requirements that would be applicable to a flagpole that is not a disguised WCF if proposed for construction in that location.

4. **Lighting** - A new WCF must be illuminated only as necessary to comply with FAA or other applicable state and federal requirements.

5. **Color and Materials** - A new WCF must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues, or metals having dull, non-reflecting finishes shall be used. For disguised WCF, the colors and materials shall be typical of the object simulated by the disguise.

**H. Fencing** - A WCF must be fenced to discourage trespass on the facility and climbing on the structure by trespassers, except as further provided below for cases of use of disguised construction. A fence of not less than eight (8) feet in height from the finished grade shall be constructed around a WCF. The fence shall include barbed wire around the top. Access through the fence shall be through a locked gate. The fence shall not be located in the required buffer area. In the absence of a buffer, the fence shall be screened from view through use of appropriate landscaping and planting. A disguised
WCF shall provide for security of the supporting structure and its separate base equipment facilities against trespass and damage in a manner appropriate to the object simulated by the disguise, but shall not be required to have fencing if fencing is not typically associated with the disguised object. If a disguised WCF does have fencing, such fencing being compatible with the object simulated by the disguise, the WCF and fencing shall have a buffer as described. Security for a hidden WCF or WCF serving a Ham radio shall be provided in a reasonable manner, but need not be fencing. This fencing requirement may be waived or modified by the Planning Board or CEO in the course of their review and approval of WCFs, except in the case of a Monopole WCF.

I. Structural Standards - A new WCF must comply with all applicable standards of the American National Standards Institute, including ANSI EIA/TIA Standard 222 entitled “Structural Standards for Steel Antenna Towers and Antenna Supporting Structures,” current revisions or versions as of the time of the application for the WCF.

J. Certifications from Applicant - Agreement by the applicant to provide the CEO with a signed statement stating whether the WCF complies with all FCC regulations, including radio frequency emission regulations, at these times: (i) within six (6) months after the construction of a new WCF; (ii) annually after construction is complete, within 30 days after the anniversary date of the commencement of operation, and (iii) after each Expansion of an existing WCF. If upon review of the statement the CEO finds that WCF does not comply with FCC regulations, the CEO, after the applicant has been given a reasonable time based on the nature of the problem to comply with the federal regulations, is permitted to revoke or modify the permit. If the permit is revoked, then the WCF shall be removed in accordance with Section 1.12 Abandonment.

K. Interference with Other Signals - Certification by the applicant that the operation of the proposed facility will not interfere with other adjacent or neighboring transmission or reception functions, including but not limited to other WCFs and reception of television and radio broadcasts. If on review the CEO finds that there is significant interference, the CEO is permitted to revoke or modify the permit. The applicant shall be given a reasonable time, based on the nature of the problem, but at least 2 days and no more than 30 days, to comply with the federal license requirements or other federal standards. Providing devices designed to effectively eliminate the interference, to another party with whose signal there is interference, may be an acceptable resolution. If the permit is revoked, then the facility shall be removed in accordance with Section 1.12 Abandonment.

1.10 Amendment to an Approved Application
All substantive changes (e.g., changes to the appearance, nature, size, shape, color, bulk of a WCF) to a previously approved or pre-approved application must be resubmitted to the Planning Board, or in the case of a WCF which CEO may approve, the CEO.

1.11 Abandonment
A. A WCF that is inactive for a period of twelve (12) consecutive months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing and order removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned.

B. If the owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. All above ground structures, equipment, foundations, utilities and access roads or driveways specifically constructed to service a WCF shall be removed, and the land returned to a condition as near to the original pre-construction condition as possible. If the facility is not removed within this time period, the Town is permitted to remove the facility at the owner’s expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including removal of roads and re-establishment of
vegetation.

C. If a surety has been given to the Town for removal of the WCF, the owner of the WCF is permitted to apply to the Board of Selectmen for release of the surety when the WCF and related equipment are removed to the satisfaction of the Planning Board.

1.12 Appeals
Any person aggrieved by a decision of the CEO or the Planning Board under this Ordinance is permitted to appeal the decision to the Board of Appeals, as provided in Town of York Charter, Zoning Ordinances and Regulations. Written notice of appeal must be filed with the Board of Appeals within thirty (30) days of the decision. The notice of appeal shall clearly state the reasons for the appeal.

1.13 Administration and Enforcement
The procedure and substance for the administration and enforcement of this Ordinance shall be as provided in the Town of York Zoning Ordinance for the administration and enforcement of those Ordinances.

1.14 Penalties
Any person who owns or controls any building or property that violates this Ordinance shall be fined in accordance with Title 30-A M.R. S. A. §4452. Each day such violation continues after notification by the CEO shall constitute a separate offense.

1.15 Conflict and Severability
A. Conflicts with Other Ordinances – Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation, or statute, the more restrictive provision shall apply.
B. Severability – The invalidity of any part of this Ordinance shall not invalidate any other part of this Ordinance.

1.16 Definitions
The terms used in this ordinance shall have the meanings here listed. Definitions for the listed terms from other sources shall not take precedence over the definitions here listed for the interpretation and implementation of this Ordinance. Applications and correspondence relating to applications shall use terminology consistent with these listed definitions.

**Active Operation** - The continuous transmitting or receiving of radio frequency signals.

**Antenna** - Any system of poles, panels, and rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

**Antenna Height** - the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna. Measure of Support Structure height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the facility site. If the Support Structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating antenna height.

**Antenna, Parabolic** - (also known as a satellite dish antenna) - An antenna that is bowl-shaped, designed for the reception and/or transmission of radio frequency communication signals in a specific directional pattern.

**Antenna, Whip** - An antenna characterized by its “whip” shape and size, and its ability (an “omni directional antenna”) to transmit and/or receive signals in a three hundred sixty (360) degree pattern.
Average Tree Canopy Height - The average height of all trees greater than twenty (20) feet in height located within three hundred (300) feet of the footprint of the facility as determined by the required fencing in Section 1.9.B.8, provided that all such trees shall remain in place subsequent to construction and provided that the number of such trees within three hundred (300) feet of the fence shall exceed fifty (50) trees, and provided that the distribution of such trees shall satisfy the requirements for a buffer of tree growth as required in Section 1.9.B.7, Visual Impact.

Collocation - The use of a support structure or an alternative support structure by more than one wireless communication provider.

Disguised WCF - a WCF made and designed to appear to be an object recognized as other than a WCF.

Expansion - The addition of antennas or other devices to an existing structure.

FAA - The Federal Aviation Administration, or its lawful successor.

Fall Zone - The area on the ground within a radius from the base of a WCF equal to the total height of the WCF. The Fall Zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

FCC - The Federal Communications Commission, or its lawful successor.

Functionally Equivalent Services - Functionally Equivalent Services are Cellular, Personal Communication Services (PCS), Enhanced Special Mobile Radio, Specialized Mobile Radio and Paging. The Communications Act of 1996 requires local government treat these five services equally.

Ground Mounted WCF - A WCF which is mounted on the ground, and which is mast or similar structure and not a lattice tower or guy tower, and is less than 85 feet in height.

Height - The vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the building or structure. The highest point shall exclude farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks, bulkheads, or other building accessory features usually erected at a height greater than the main roofs of buildings.

Hidden WCF - A WCF fully hidden from view. A WCF is hidden when it is contained within an existing structure unrelated to a WCF, such as a building, wall or roof.

Historic District – An area designated as an historic district or area by the Town of York or one of its municipal committees or bodies, or any State or Federal Agency.

Historic Building – A building which is designated as historic by Town of York or one of its municipal committees or bodies, or any State or Federal Agency.

Line of Sight - The direct view of the object from a point or location. To avoid confusion, the applicant to describe issues of coverage should not use the phrase “line of sight”.

Micro Cell WCF - A low power radio service WCF used to provide increased capacity in high call demand areas or to improve coverage in areas of weak coverage.

Modification - The changing of any portion of a WCF from its description in a previously approved permit, including but not limited to changes in design.

Monopole WCF - A WCF with a monopole Support Structure.
Reasonable Access - The opportunity for a licensed carrier to provide one or more Functionally Equivalent Services to the extent that all or most of the Town of York may be reasonably served.

Repeater - A small receiver/relay transmitter of not more than twenty (20) watts output designed to provide service to areas that are not able to receive adequate coverage from the primary sending and receiving site in a wireless communications network.

Support Structure - Any built structure, including guy wires and anchors if used, to which antennas and associated hardware are mounted. Support structures include but are not limited to:

1. **Lattice tower** - A support structure that consists of a network of crossed metal braces, forming a tower, which is usually triangular or square in cross section, not normally requiring guy wires and anchors.
2. **Guy tower** - A support structure such as a pole or narrow metal framework that is held erect by use of guy wires and anchors.
3. **Monopole** - A support structure that consists of a single pole sunk into the ground and/or attached to a concrete pad or other foundation.
4. **Mast** - A type of mount that is thinner and shorter than a monopole.
5. **Existing nonresidential structure** - An existing structure, having an original principal use other than a WCF, to which wireless facility components may be attached under certain conditions.

Unreasonable Adverse Visual Impact - End results of a proposed project that: (1) would be excessively out-of-character with existing buildings, structures, and features; or (2) would significantly diminish the scenic value in an Historic District or Historic Building.

Wireless Communications Facility (or Facility) (WCF) - Any facility, building, pole, tower, or structure used to provide wireless telecommunication services, which may consist of antennae, equipment, storage and other accessory structures used to provide wireless telecommunication services. The definition of WCF includes personal wireless service facilities as that term may be defined in Title 47, United States Code, Section 332 (c)(7)(C), as may be amended.
Wireless Communications Facilities Ordinance Overlay Zone.
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 16, 2019

DATE ACTION REQUESTED: October 21, 2019

SUBJECT: Mt. Agamenticus Parking & Restroom project and Lease Amendment updates

□ ACTION
☒ DISCUSSION ONLY

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:

As you will recall, last year the York Water District Trustees & York Board of Selectmen held a joint workshop on Feb. 12, 2018 to discuss mutual interest of use, access and facilities at the summit and base of Mount Agamenticus. At that time a sub-committee was established to include representatives from the Town of York Select Board, York Water District Trustees and staff to review the existing lease agreement and the engineering & design of the new parking areas and restrooms.

The York Water District approved $35,000 to hire their engineer to design new and improved parking areas that would ensure the Chase’s Pond water supply is protected. The Town of York added $10k for the design and engineer work for public restroom facilities at each location in the capital plan and it was approved by the voters for FY2019.

The York Water District hired Jon Edgerton of Wright-Pierce Engineering to conduct the design and engineering work. The sub-committee has been meeting with him throughout the last year and a half, and there have been many accomplishments to report to include surveys, test digs, siting of proposed facilities and conceptual designs.

In March of this year, we presented the Board with an update which included early conceptual designs, a traffic needs flow study, composting toilet specifications and a visitor use survey.

In the past 6 months a lot of progress has been made with regard to the parking & restroom infrastructure project, but also with a proposed amendment to the existing lease between the Town and The York Water District, for the Summit Road access. Before continuing with this work, and in advance of seeking planning board and voter approval, we’d like to provide the Board with an additional update.

As part of the initial Capital Planning process, the Parks and Recreation Department submitted a request for funding for the construction of base and summit parking lots along with restroom facilities at both the base and summit. The need for both of these projects has been well documented and studied. Parking is over capacity during high use periods throughout the year. The number of cars overflowing the existing 12 – 15 space area at the base is a public safety concern and expansion will greatly improve congestion and flow of traffic at the summit. The restrooms were identified in 2013 as a priority topic in a planning workshop with the Mt. A.
Steering Committee, Selectmen, York Water District Trustees and other members of the public, and as a main area of focus in the 2015 Mount Agamenticus Strategic Plan. Collectively, the parking and restroom project will better serve the growing needs and demands of the public and align with efforts to enhance accessibility and parking, and will also help to ensure good water quality in the York’s public drinking water supply.

Attached, you will find the most up to date DRAFTS of the base and summit parking lots. The base lot will require new construction and will allow for approximately 88 spaces, a restroom building to house one composting system (4 toilets), and a future welcome station (this is not part of this project). The summit lot will require less in the way of excavation as existing parking areas will be re-defined and spaces delineated, allowing for improved flow, approximately 53 parking spaces, plus designated bus parking (which can be used for overflow vehicle parking, if needed). The summit design also includes a restroom building to house one composting system (4 toilets).

As part of the contract with Wright Pierce, a budget estimate has been provided for the conceptual parking areas and restroom buildings. Additionally, we have acquired a budget estimate for the composting toilet systems. The breakdown of those estimates is as follows:

Summit Parking Area- $365,000.00
Base Parking Area - $345,000.00
Ring Trail Parking (by the barn, currently overflow parking) - $35,000.00
Buildings at the base and summit to house the toilets - $244,000.00
Toilet systems (base and summit) - $133,000.00

The total amount of the capital request for this project is $1,200,000.00 and includes approximately 10% as contingency.

As you know, York Water District owns the property where the existing parking areas and access road lie. The Town has a 50-year lease agreement with the District, dated May 12, 1980, pertaining to access and power. In the agreement, the Water District and the Town of York had the foresight to reserve a 2.5 acre parcel for proposed parking. At the time, the group that worked on this agreement had the vision of what was to come.

The York Water District is a supporting partner in these projects and has a vested interest in making sure water quality and safety is maintained.

The afore mentioned sub-committee has also worked to develop an amendment to the current lease that would extend the lease through the year 2050, with proposed 2 additional, twenty-year terms (pending MPUC approval). The development of the amendment has not been without challenges including setting terms that are mutually agreeable to the Town and the Water District, but that will also meet any requirement placed on the District by the Public Utilities Commission and/or any requirement on the Town relative to bond funding compliance. We believe that the amendment is reaching near final DRAFT form. This has been accomplished through several meetings, discussions, and legal review by both the Town and The Water District counsel.

Prior to seeking final legal “sign-off”, we would like to share the DRAFT with you for your review. Attached, you will find a copy of the original 1980 lease along with the most up to date DRAFT form of the proposed lease amendment.
In short, the following list outlines the amendment as it differs from the current lease:

- Provides for extension of lease through 2050
- Allows for two, 20-year terms, pending MPUC approval
- Provides the Town with continued access to the summit and trails
- Widens the access road from 49.5 feet to 66 feet
- Allows for the Town's infrastructure improvements to include parking and restroom facilities, on Water District property
- Formalizes the existing parking areas
- Allows for composting toilets
- Authorizes the use of existing trails on Water District land
- Provides for maintaining the Town's existing power and telecommunication rights
- Provides clarification of Town's responsibility and ability to maintain road including signage, enforcement of Town ordinances, paving, widening, etc.
- Provides for the protection of YWD's interests regarding water quality through parking delineation and enforcement of the Town ordinances
- Provides plan in the event the Town defaults, albeit unlikely
- Speaks to Town's bond compliance, in the event of default/surrender, albeit unlikely (currently being negotiated between legal counsel(s))

Regarding next steps, we are planning to continue to move the parking and restroom project(s) through the Board of Selectmen approval, capital planning approval, Budget Committee approval, Planning Board approval, and public hearing/input and permitting processes, with a goal of seeking voter approval in May. Part of this process will include the installation of project boards posted at Mt. A, both at the base and summit, showing the conceptual designs and additional information including, but not limited to, project partners, examples of current parking, explanation of composting toilets, etc. We would also like to host your Board for an on-site visit this fall.

The next step as it pertains to the lease amendment is to seek final legal review, Board of Selectmen Approval, York Water District Board of Trustees' approval and Public Utilities Commission approval. Effective date occurs upon execution by both parties, which will not happen until after (1) Maine PUC approves the lease amendment and (2) the Town receives any necessary votes on funding.

At this time, we welcome any questions that you may have.

**RECOMMENDATION:** None at this time

**PROPOSED MOTION:** None at this time

**FISCAL IMPACT:**
THIS AGREEMENT, made as of the 12 day of May, A.D. 1980, by and between YORK WATER DISTRICT, a quasi-municipal corporation, organized and existing under the provisions of Chapter 8 of the Private and Special Laws of the State of Maine of the year 1928, and located in the Town of York, in the County of York and State of Maine, hereinafter referred to as "the District," as party of the first part, and the INHABITANTS OF THE TOWN OF YORK, MAINE, a municipal corporation organized and existing under the laws of the State of Maine, and located at York, in the County of York and State of Maine, hereinafter referred to as "the Town," as party of the second part.

WITNESSETH:

THAT, WHEREAS the District is the owner of a certain land situated in the Town of York, in the County of York and State of Maine, on the north-easterly side of the highway leading from Cape Neddick, in said Town of York, to Emery's Bridge, so-called, in the Town of South Berwick, in said County, and variously known as the George Wash lot, the Samuel W. Norton lot, the Mary A. D. Weser lot and the David Farrell lot, together with a private way leading from said highway across said premises to a point near the top of Agamenticus Mountain, so-called, in said York;

AND WHEREAS the Town is the owner of sundry lots or parcels of land situated on the top and the northwesterly, northerly and northeasterly sides of said Agamenticus Mountain, adjaicing, in part, the said land of the District;

AND WHEREAS the Town is in the process of building upon its said lands a public park and recreational area for both summer and winter recreational purposes, and desires to acquire certain rights and easements relative to a right of way for ingress and egress by vehicle or otherwise, a right of way for the maintenance of a power line, so-called, and the use of a parking area, on, over and across said lands of the District for the use and benefit of the said Town, its agents and servants, its patrons or customers,
prospective or otherwise, and any and all persons that may desire to use or patronize the facilities of such recreational area.

NOW, THEREFORE, in consideration of the sum of one dollar ($1.00) paid by the Town, the receipt whereof is hereby acknowledged, and the mutual covenants and agreements herein contained, it is hereby mutually agreed by the parties hereto as follows:

The District hereby grant and lease to the Town, for the term and upon the conditions hereinafter set forth, the following described rights and easements, to wit:

1. An easement for the building, repairing and maintenance of a right of way for ingress and egress by vehicle or otherwise, over and across said lands of the District for the use and benefit of the said Town, its agents and servants, its patrons or customers, prospective or otherwise, and any and all persons that may desire to use or patronize the facilities of such recreational area.

The easement hereby granted and leased shall cover the road that was laid out and built by the U. S. Government during World War II, leading from the above described highway to the top of Agamenticus Mountain. The strip of land hereby made subject to the easement shall be three (3) rods (49½ ft.) in width, except that if any unusual problem of drainage or construction is presented, the width may be increased to four-(4)-rods (66 ft.).

2. A right of way for the erection, construction, maintenance, repair and/or replacement of a power line, so-called, consisting of poles, wires and such other appurtenances and equipment as are ordinarily used, or may hereafter be used, in the conduct and transmission of electric power, extending from said highway, in a northeasterly direction, to said lands of the Town at or near the top of said Agamenticus Mountain, said power line to commence at said highway, a short distance westerly of the southeasterly terminus of said right of way for vehicles; thence running approximately parallel to the westerly side of said right of way to a point near the former location.
of the sentry box or cut post used by the U. S. Government during World
War II; thence running easterly, across said right of way, to a point in a
line of telephone wire, attached to trees, originally strung by the U. S.
Government, and presently being used for communication with the forest
service tower on said Agamenticus Mountain; thence following the approximate
line of said telephone, in a northeasterly direction, in a straight line,
to said land of the Town near the top of said Agamenticus Mountain. Said
right of way for said power line to include the right to cut down and remove
all trees within twenty (20) feet of either side of the line of poles so to
be set for said power line, and the right to said Town and its successors in
title, to enter upon said strip of land, twenty (20) feet in width on either
side of said power line, for the purpose of erection, maintenance, repair
and/or replacement of said power line, and the cutting and removing of trees
as hereinbefore provided.

3. Also the right to said Town to use, for the purpose of making a
parking area, a tract of land approximately two and one-half (2½) acres in
area, situated immediately southeasterly of the private way so hereinbefore
constructed by the U. S. Government, and wholly enclosed, except on the side
adjoining said highway, by a stone wall, said premises being bounded south-
westerly by said highway; northwesterly by said former Government right of
way, and northeasterly and southeasterly by other lands of the District,
together with the right to cut and remove such trees as said Town shall deem
proper, and to level the ground of said parking area so far as may be reason-
ably necessary to fit it for use. Free access from the westerly side of said
parking area to said former U. S. Government right of way shall be permitted
at any and all times. All of the foregoing privileges and facilities hereby
granted and leased to the Town shall be improved, maintained and repaired at
the sole expense of the Town, and the said Town shall save the District harm-
less from any and all claims for loss or damage that may arise for any reason
from the use of said right of way or road, power line and/or parking space,
and any or all of them, by the Town, its agents or servants, its patrons, invitees, permittees or any other person or persons whatsoever.

The said Town covenants and agrees that said easements and the road, power line and parking area built, maintained and repaired in accordance herewith, shall not be used or maintained in any way, or by any person, that will contaminate the waters of the great pond known as "Chase's Pond" or "Chase's Lake," from which the District takes its water supply for the Town of York, to the extent that it is dangerous to public health or in any way distasteful or obnoxious to the District or to the takers of the water from said pond.

In the event it is found that any dangerous or obnoxious condition or conditions exist as a result of the maintenance and use of the rights and privileges hereby granted and leased, the Town, upon notice to that effect, shall forthwith correct or remove such condition or conditions, and failing to do so, the District shall have the right to close the said road and parking space and to suspend the use and occupancy of said road and parking space under this easement agreement until such time as said condition is corrected or removed.

By virtue of the rights and privileges herein contained the Town shall have the right to restrict or restrain the use of said road and/or parking space or to limit its use to its agents or servants, its customers or patrons, prospective or otherwise, and for such purpose to bar or obstruct the said road and/or parking space, or to charge a fee for the use of either or both of them, provided, however, that nothing herein contained shall be construed as preventing, restricting, or in any way limiting the District or its agents and servants in the free use and passage on or over said road and parking space at all times for any reason.

In consideration of the rights and privileges hereby granted, the Town further agrees that any portion of the proposed recreational area which lies on the water shed of said "Chase's Pond" shall be so constructed and maintained
so as to prevent any pollution of said pond or of any of the streams tributary thereto.

No commercial enterprise of any kind, other than parking, shall be carried on or conducted in the area hereinbefore provided to be used as a parking area.

4. The rights and privileges hereby granted and leased shall run and exist for a period of fifty (50) years from the date hereof, and shall be subject to renewal, provided that the terms and conditions herein are performed by the Town, provided, however, that if at any time during the term of this agreement, or any renewal thereof, the Town shall cease to own the land to which access is provided by this agreement, this agreement and the easements and rights herein provided shall all become null and void.

5. This agreement shall enure to the benefit of and be binding on the parties hereto, their successors or assigns.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be sealed with their several corporate seals and executed in the name of their respective Corporations by their duly authorized agents.

Signed, sealed and delivered in the presence of

David C. McEneaney, Esq.

YORK WATER DISTRICT
(Party of the first part)

[Seal]

Inhabitants of the Town of York, Maine
(Party of the second part)

[Seal]
STATE OF MAINE  
COUNTY OF YORK  

Then personally appeared Philip D. d'Entremont, President of the  
Board of Trustees of the York Water District, and acknowledged the foregoing  
instrument to be his free act and deed, in his said capacity, and the free  
act and deed of said corporation,  

Before me,  

Justice of the Peace/Attorney  

York, ss.  
Received MAY 13 1980 at 11:16 A.M.  
and recorded from the original
LEASE AMENDMENT

THIS LEASE AMENDMENT is made this ___ day of 20___ (the “Effective Date”), by and between the YORK WATER DISTRICT, a quasi-municipal corporation organized and existing under the laws of the State of Maine with a mailing address of 86 Woodbridge Road, P.O. Box 447, York, Maine 03909 (“District”); and the TOWN OF YORK, a municipal corporation organized and existing under the laws of the State of Maine with a mailing address of 186 York Street, York, Maine 03909 (“Town”).

WHEREAS, the District and the Town are parties to a certain lease agreement dated May 12, 1980, recorded at the York County Registry of Deeds in Book 2651, Page 118 (the “Lease Agreement”), whereby the District grants and leases to the Town certain interests in land of the District on Mount Agamenticus, York County, Maine, including an easement to use a road providing access to land owned by the Town at the summit of Mount Agamenticus and described in the deed to the Town dated April 25, 1980 and recorded at the York County Registry of Deeds in Book 2651, Page 112 (the “Summit Land”); and

WHEREAS, public use has increased with no intentional design or plan for centralized parking or public restrooms, and the parties wish to amend the Lease Agreement in certain respects to improve use, access and infrastructure while protecting water quality;

NOW, THEREFORE, the parties hereby agree as follows:

1. Mt. Agamenticus Road Easement Corridor. The easement area described in Section 1 of the Lease Agreement (the “Easement Corridor”) is redefined to include that portion of Mt. Agamenticus Road shown as “Mount A Road Corridor” on the plan attached hereto as Figure A-2, and is increased in total width, from three (3) rods (49½ feet) to four (4) rods (66 feet), based off of the centerline of Mt. Agamenticus Road as it currently exists.

2. Power Line Easement. With respect to the existing line of poles and wires crossing the District’s land and providing electric power and telecommunications service to the Summit Land, to the extent necessary during the term of this Lease Agreement, the District agrees to confirm existing easement rights to the providers of such service to assure the Town has access to such service over the existing line.

3. Parking Areas, Improvements, and Town Obligations. The first paragraph of Section 3 of the Lease Agreement is deleted in its entirety and replaced with the following:

   a. Parking Areas. The areas leased to the Town are shown and described as “Lower Parking Lot,” “Ring Trail Parking Lot,” and “Upper Parking Lot” on the plans attached hereto as Figures B-1, B-2 & B-3 (collectively, the “Parking Areas”), and may be used by the Town solely for the purposes of constructing and operating

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1 Effective Date occurs upon execution by both parties, which will not happen until after (i) Maine PUC approves this Lease Amendment, and (ii) Town receives any necessary vote on funding.
vehicular parking areas, except as hereinafter set forth. Within three (3) years after
the Effective Date, the Town shall complete construction of all parking area
improvements, located generally as shown on Figures B-1, B-2 & B-3 and more
particularly described in drawings prepared by Wright-Pierce dated
(collectively, the “Parking Facilities”). At all times during the term of this Lease
Agreement, the Town shall maintain clear striping of the vehicular parking spaces
within the Parking Areas, limited to a maximum of 88 spaces at the Lower Parking
Lot, 7 spaces at the Ring Trail Parking Lot, and 53 spaces at the Upper Parking Lot,
all substantially as shown on Figures B-1, B-2 & B-3, unless otherwise agreed in
writing by the District.

b. Restroom Facility. In addition to said Parking Facilities, the Town shall complete
construction at the Lower Parking Lot of a restroom facility, located generally as
shown on Figure B-1 and to be more particularly described in plans to be prepared by
the Town and approved by the District in writing (the “Restroom Facility”), within
three (3) years after the Effective Date.

c. Other Facilities. The Town also shall have the right, but not obligation, to construct
at the Lower Parking Lot, (i) a welcome area, center or facility within the designated
footprint of the Lower Parking Lot plan attached hereto as Figure B-1, provided that
the building design will be agreed upon in writing by the parties and will be
specifically described in plans and specifications pertaining to water quality and/or
storm water (the “Welcome Center”); (ii) standard trailhead facilities such as
trail/map box, kiosk/bulletin board/wayside exhibit(s), donation/fee collection device,
etc.; and (iii) a domestic drilled well. No other buildings or structures may be
constructed within the Easement Corridor or Parking Areas without the prior written
consent of the District.

d. Compliance with Laws. The Town shall, at its sole expense, promptly observe and
comply with all present and future laws, ordinances, requirements, orders, directives,
rules and regulations applicable to the Easement Corridor, the Parking Areas, and all
improvements constructed by the Town pursuant to this Lease Agreement.

e. Enforcement of Town Ordinances. The Town agrees to enforce all public rules on
the Easement Corridor and the Parking Areas, including those pertaining to the
Animal Control Ordinance. The Town shall install signs requiring that all dogs be
leashed. The Town may install other signs within the Easement Corridor and Parking
Areas for safety purposes, in its reasonable discretion.

f. Authorized Trails. The Town shall direct users of the Parking Areas to use only those
trails located on adjacent District lands identified on the attached Figure C, or such
other approved trails that may be agreed upon in writing by the District, and
prohibiting users from entering any other portions of adjacent District lands. The
Town shall install signs displaying such rules, and any other rules pertaining to public
use of the trails that are promulgated by the District, at all trailheads at the Parking
Areas.
g. Parking Restrictions. The Town shall prohibit vehicular parking within and along the Easement Corridor, along Mountain Road from the intersection with the Easement Corridor extending to the entrance of the Center for Wildlife (385 Mountain Road), and within all portions of the Parking Areas other than the designated parking spaces within the Parking Areas; and the Town shall install signs to provide adequate notice of such parking restrictions.

h. Clearing. The Town shall have the right to cut and remove such trees within the Easement Corridor and Parking Areas as the Town shall deem proper, and to level the ground of the Easement Corridor and Parking Areas so far as may be reasonably necessary to fit it for use.

i. Town Obligations. The Easement Corridor and Parking Areas, and the improvements constructed and signs installed by the Town pursuant to this Lease Agreement, all shall be improved, maintained and repaired in good condition at the sole expense of the Town, and the Town shall save the District harmless from any and all claims for loss or damage that may arise for any reason from the use of said Easement Corridor or Parking Areas by the Town, its agents or servants, its patrons, invitees, permittees or any other person or persons whatsoever. Nothing herein shall, nor is intended to, waive any defense, immunity or limitation of liability which may be available to the Town or its respective officers, agents and employees, under the Maine Tort Claims Act or any other privileges and/or immunities provided by additional laws or regulations.

j. Costs and Expenses. No services shall be required to be provided by the District in connection with the Easement Corridor, the Parking Areas, or any improvements constructed by the Town pursuant to this Lease Agreement, and all costs, expenses and obligations relating to the Easement Corridor, the Parking Areas, and such improvements, whether foreseen or unforeseen, including (without limitation) all costs of maintaining and repairing the road within the Easement Corridor, shall be paid by the Town; provided that if the District shall elect to construct any improvements within said areas for the sole benefit of the District, such improvements shall be paid for by the District.

k. No Liens. If, because of any act or omission of the Town, any mechanic's lien or other lien shall be filed against the District or any portion of the District land affected by this Lease Agreement, the Town shall cause the same to be discharged of record or bonded within thirty (30) days after written notice from the District to the Town of the filing thereof; and the Town shall indemnify and save harmless the District against and from all costs and liabilities, including reasonable attorneys' fees, resulting therefrom.

4. Protection of Water Supply. The second paragraph of Section 3 of the Lease Agreement is deleted in its entirety and replaced with the following:
The Town covenants and agrees that the Easement Corridor, the Parking Areas, and the improvements built, maintained and repaired in accordance herewith, shall not be used or maintained by the Town in any way that will contaminate the waters of the great pond known as "Chase's Pond" or "Chase's Lake," from which the District takes its water supply for the Town of York, to the extent that it is dangerous to public health or in any way distasteful or obnoxious to the District or to the takers of the water from said pond.

5. **Dangerous Conditions.** The third paragraph of Section 3 of the Lease Agreement is deleted in its entirety and replaced with the following:

   In the event it is found that any dangerous or obnoxious condition or conditions exist as a result of the maintenance and use of the rights and privileges hereby granted and leased, the Town, upon notice from the District to that effect, shall forthwith correct or remove such condition or conditions, and failing to do so, the District shall have the right to close the Easement Corridor and/or some or all of the Parking Areas and to suspend the use and occupancy of said Easement Corridor and Parking Areas until such time as said condition is corrected or removed, to the reasonable satisfaction of the District.

6. **Restricted Access.** The fourth paragraph of Section 3 of the Lease Agreement is deleted in its entirety and replaced with the following:

   By virtue of the rights and privileges herein contained the Town shall have the right to restrict or restrain the use of the Easement Corridor and/or the Parking Areas or to limit its use to its agents or servants, its customers or patrons, prospective or otherwise, and for such purpose to bar or obstruct the said Easement Corridor and/or Parking Areas, or to charge a fee for the use of any of them, provided, however, that nothing herein contained shall be construed as preventing, restricting, or in any way limiting the District or its agents or invitees in the free use and passage on or over said Easement Corridor and Parking Areas at all times for any reason.

7. **No Pollution.** The fifth paragraph of Section 3 of the Lease Agreement is deleted in its entirety and replaced with the following:

   In consideration of the rights and privileges hereby granted, the Town further agrees that any portion of the improvements constructed by the Town pursuant to this Lease Agreement that lie in the watershed of said "Chase's Pond" shall be so constructed and maintained in compliance with all applicable laws so as to prevent any pollution of said pond or of any of the streams tributary thereto from said improvements.

8. **Commercial Activity.** The sixth paragraph of Section 3 of the Lease Agreement is deleted in its entirety and replaced with the following:

   No commercial enterprise of any kind, other than parking, shall be carried on or conducted in the Parking Areas; provided, however, that in the event the Town constructs and operates a Welcome Center, then commercial activities customarily conducted at welcome centers for similar public recreation areas may be conducted at the Welcome
Center, so long as all profits earned from such commercial activities are dedicated to Mount Agamenticus conservation programs.

9. Term; Renewal.

a. The term of the Lease Agreement is extended for an additional twenty (20) years, to May 12, 2050, provided that the terms and conditions herein are performed by the Town.

b. Provided that the Town is not in default in the performance of its obligations under the Lease Agreement, the term of the Lease Agreement will automatically renew for two (2) additional twenty (20) year term(s), upon the same terms and conditions, unless the Town notifies the District in writing of the Town’s intention not to renew the Lease Agreement at least one (1) year prior to the expiration of the then-existing term.

c. Notwithstanding the foregoing, if at any time during the term the Town shall cease to own the Summit Land, the Lease Agreement, as hereby amended, shall become null and void.

10. Default. If default shall be made by the Town in the performance or compliance with any of the agreements, terms or conditions in this Lease Agreement, and such default shall continue for a period of thirty (30) days after written notice from the District to the Town specifying the items in default, or in case of a default or contingency which cannot with due diligence be cured within said thirty (30) day period, the Town fails to proceed within said thirty (30) day period to commence to cure the same and thereafter to prosecute the curing of such default with due diligence and within a period of time which, under all prevailing circumstances, shall be reasonable, then the Town shall be in default under this Lease Agreement, and the District shall be entitled to seek whatever remedies may be available at law or in equity, including any actions as may be available for damages or for specific performance; and

a. the District may, at its option, without waiving any claim for damages for breach of agreement, at any time thereafter cure such default for the account of the Town, and any reasonable amount paid or any reasonable contractual liability incurred by the District in so doing shall be deemed paid or incurred for the account of the Town and the Town agrees to reimburse the District therefor; provided that the District may cure any such default as aforesaid prior to the expiration of said 30-day waiting period but after notice to the Town, if the curing of such default prior to the expiration of said waiting period is reasonably necessary to protect the District’s water supply, or to prevent injury or damage to persons or property; and

b. if such default by the Town shall occur prior to the Town’s completion of construction of the Parking Facilities and the Restroom Facility in accordance with paragraphs 3.a and 3.b above, then the District may give written notice to the Town stating that the term extension set forth in paragraph 9 above shall be null and void,
such that the term of the Lease Agreement reverts back to the original term expiring on May 12, 2030.

11. **Surrender.** On the last day or sooner termination of the term of this Lease Agreement, the Town shall surrender to the District the Easement Corridor and Parking Areas, with all buildings and permanent improvements.

12. **No Assignment or Sublease.** The Town shall not, without the District’s prior written consent, assign, convey, mortgage, pledge, encumber or otherwise transfer (whether voluntarily or otherwise) the Lease Agreement or any interest under it, or sublet the Parking Areas or any part thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Lease Amendment to be under seal by their duly authorized officers as of the day and year first above written.

WITNESS: TOWN OF YORK

By: 
Print: 
Its:

WITNESS: YORK WATER DISTRICT

By: 
Print: 
Its:

Attachments:

- Figure A-1 – Mount Agamenticus Lease Areas
- Figure A-1 – Mount Agamenticus Overview
- Figure B-1 – Mount Agamenticus Lower Parking Lot (including designated area for possible Welcome Center)
- Figure B-2 – Mount Agamenticus Ring Trail Parking Lot
- Figure B-3 – Mount Agamenticus Upper Parking Lot
- Figure C – Mount Agamenticus Authorized Trails
Mount A Road Corridor (66' Wide)

Ring Trail

Lower Parking Lot Boundary

230' Proposed Lease Area

0093-0025
York Water District

Proposed Welcome Center and Restrooms (22'x56')
88 Parking Spaces

Mount A Rd

Mountain Rd

0093-0025
York Water District

Mount Agamenticus
Lower Parking Lot
York Water District

PROJ NO: 14139
DATE: 9/27/2019

WRIGHT-PIERCE
Engineering a Better Environment
FIGURE: B-1
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 17, 2019  □ ACTION
DATE ACTION REQUESTED: October 21, 2019  ☑ DISCUSSION ONLY
SUBJECT: FY21 operating budget

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: At the September 9th meeting the Board discussion about the FY21 budget focused largely on possible new staff positions. At this point I think the key matter for the Board to discuss is its own intentions for policy initiatives.

I will bring forward a core budget that looks at stable operations and capital, but I need to know what the Board would like to bring forward in terms of new policy initiatives. The following list contains my thoughts about new initiatives, in order of priority. I don’t know which will survive the process and which will fall off, but it’s important now that the Board flag anything missing at this early stage

1. Beach monitoring – required by the Dune Permit for the Long Sands Beach Sea Wall.
2. IT Coordinator Position – ready to provide more information on November 4th.
3. Regional Sustainability/Coastal Resiliency Coordinator – addressed in a separate memo.
4. Climate Action Plan – discussed at a cost of $150K.
5. Fire Department Staffing – a letter from the firefighters union is included in the packet.
7. Town Hall Expansion Project – there are tasks we need to complete to be ready for FY22.
8. Sustainability Planner – associated primarily with the Global Covenant commitment.
9. Part-time Public Information Officer – a position to be shared with the School Department.

RECOMMENDATION: Identify anything missing or alter the relative order of priorities.

PROPOSED MOTION: n.a.

Prepared by Stephen H. Burns, Town Manager:
York Firefighters Association
IAFF Local 3622

Request for Support

The York Firefighters Association IAFF Local 3622 requests the support of our local government officials and the citizens we serve to add additional full-time Career Firefighters for the Town of York. The primary purpose of this additional staffing is to transition from our current 56-hour work to a 42-hour work week. The Town of York went from a four-person, 72-hour work week for full time firefighters to a six person 56-hour work week in the mid 1980’s. As we head into 2020, the 42-hour work week is a more desirable model to promote and can improve our recruitment and retention for future vacancies.

We have recently had a turnover for Career Firefighters in town. We are not alone. In the last year or so, the surrounding departments who have had turnover and/or an increase in their staffing levels include; Scarborough, Portland, South Portland, Biddeford, Sanford, Portsmouth, Dover, Newington and Wells have had advertisements for firefighter. Wells is the only other department in the area that currently works a 56-hour work week. All other departments work a 42-hour work week. A number of factors come into play when it comes to recruitment, transitioning to the 42-hour work week is the first step.

A few additional reasons in to make the transition now;

- Retirement of current Fire Captain in June 2020 will provide an opportunity to hire the additional firefighters from that hiring process. Proper planning and execution of applicable testing and interview processes will allow for a smooth transition to the 42-hour work week.

- In the event of an extended or unforeseen absence of a firefighter, additional positions will provide another resource for filling the vacant shifts.

- Current schedule was a factor for our most recent vacancy- a sign that we are headed towards being a ‘stepping stone’ for Career Firefighters.

- No additional staffing over last thirty-plus years. Modernizing the staffing model.

- Opportunity to improve and enhance our cross training with additional personnel.

As a growing community with the second highest property valuation in the State of Maine, we have always done a good job at meeting the needs of the Town. This includes updating polices and adding positions to various departments when it has identified a need for those positions. The fire service in our community is severely lagging in this aspect. We have had multiple studies throughout the last forty-five years that has identified the need for additional staffing and a full time Fire Chief for our community. There is no better time for planning and action than now.

There has been recent comment at the Selectman’s meetings regarding a full time Fire Chief for our Town. We fully support and encourage the development of a path and foundation in which a full time Fire Chief can be hired within the next two to three years. This will require a cooperative effort with the Fire Departments, Local 3622 and members of the community.
York Firefighters Association
IAFF Local 3622

Our current Fire Chiefs have worked hard over the years in each of their departments to be able to put us in a position where the transition to a full time Fire Chief can be achievable with less political skepticism that's portrayed or assumed. We have developed an outline of what that path could look like in order for a full time Fire Chief to successfully build upon for the best interest of the community, while also respecting the history of our Fire Departments. That outline is available upon request. We need to put the big picture of firefighter's safety, fire protection and the overall safety of our community and visitors first, above all else. Thank you for your time and support.

Respectfully,

York Firefighters Association, Local 3622
## REQUEST FOR ACTION BY BOARD OF SELECTMEN

<table>
<thead>
<tr>
<th>DATE SUBMITTED:</th>
<th>October 15, 2019</th>
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<tbody>
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<td>ACTION</td>
<td></td>
</tr>
<tr>
<td>DISCUSSION ONLY</td>
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<tr>
<td>DATE ACTION REQUESTED:</td>
<td>October 21, 2019</td>
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**SUBJECT:** Traffic Safety Ordinance / Parking Policies – Overall Review and Identify New Priorities

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**DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:** At the request of the Board, a meeting was held in February 2019 involving the Town Manager, officials from Highway, Parks and Rec., Police and Planning to discuss necessary changes to the Traffic Safety Ordinance. The group identified several issues that needed to be addressed and classified them into 4 priorities. Attached is a list of those priorities ranked from 1-4. Prior to the summer of 2019 all of first and second priorities were brought before the Board of Selectmen and adopted in the Traffic Safety Ordinance and Parking Permit Program. It was agreed at that time that this group would re-convene after the summer to discuss the priorities listed in the 3rd and 4th groups. Not included in this list are some of the concerns recently brought up from some business owners, including but not limited to length of the season and the hours of regulation and an employee parking pass program. We would like to ask the Board to review this list to see if there are any additional issues or concerns that should be addressed. We plan to meet again the next few months to begin addressing the next group of priorities.

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**RECOMMENDATION:** Have the Board review our recommendations and add any other areas of concern that they wish the group to focus on.

**PROPOSED MOTION:** N/A

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**FISCAL IMPACT:** 0

**DEPARTMENT LINE ITEM ACCOUNT:**

**BALANCE IN LINE ITEM IF APPROVED:**

PREPARED BY: Lt. Owen Davis       REVIEWED BY:
First Priority:
Wiggly Bridge / Route 103 – Identify new spaces (loading zone/permit/public)
Oceanside Ave. – Designate no parking except for two spaces for emergency vehicles/on duty town personnel/loading zone
Schedule E – Amend the ordinance to reflect spaces controlled by the new kiosks

Second Priority:
River Road – Restrict parking outside permit parking zone
Bog Road – Designate as a no parking zone
Short Sands Road – Designate as a no parking zone
Temporary No Parking signs – Include in the traffic safety ordinance
Mountain Road (from Summit Road northwest towards South Berwick) – Limit parking to one side of the road
York Harbor Post Office – Add one 15-minute parking space in section 3
Harbor Beach – Designate no parking at the access ramp
Amend fine amounts for Section 18 Other Violations – Increase fine amount from $35 to $50

Third Priority:
Parking near Eaton’s – Address town owned parking area on the west side of Long Beach Ave. by Camp Eaton’s
Hawk Street – Identify town owned parking and control by kiosk or permit
Harris Island Road – Designate parking area south of the Harbor Master parking as Harbor Use Permit Only
Mountain Road (from Summit Road southeast direction) – Address parking on both sides of the road as well as Mt. A access points
Robert Stevens Drive – Add under Section 14, 5th paragraph – parking prohibited between 1:00 am and 4:00 am
Scotland Bridge Road – Address parking concerns on both sides of Scotland Bridge

Fourth / Long Term Priority:
Route 1A in the Harbor – Address inconsistencies and possible changes in the current ordinance, i.e., time limits
Route 103 near Harris Island Road – Address parking concerns at the intersection of Harris Island Road and Route 103 in a southerly direction
Barrell Lane Ext. – Address parking issues due to the Fishermen’s Walk
Edwards Harborside for Fishermen’s Walk – Address parking in the roadway to access Fishermen’s Walk
Address inconsistencies and outdated language in the traffic safety ordinance; utilize intersections, street addresses and possibly GPS coordinates
Beach Ballfield parking – Is there a need to address free parking at the ballfield?
Orchard Farm Road – Address on street parking in the vicinity of the intersection of Route 1
Davis Trails – Discuss the potential need to regulate parking in the vicinity of the Davis Trails
Starboard Lane – Address parking concerns due to Cliff Walk
Route 103 – Address parking concerns in the vicinity of the Kittery line.
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 15, 2019

DATE ACTION REQUESTED: October 21, 2019

SUBJECT: Non-Union Personnel Policy Update

☐ ACTION
☐ DISCUSSION ONLY

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:
In a continued effort to bring the non-union personnel policies closer in line with our union contracts the Board has reviewed a number of requested policy changes.

1. Approve the policy changes to the Non-Union Personnel Policy
2. Not approve policy changes to the Non-Union Personnel Policy

RECOMMENDATION: Approve the policy changes to the Non-Union Personnel Policy

PROPOSED MOTION: I move to approve the proposed changes to the Non-Union Personnel Policy.

FISCAL IMPACT:

DEPARTMENT LINE ITEM ACCOUNT:

BALANCE IN LINE ITEM IF APPROVED:

PREPARED BY: Kathryn Lagasse, HR Director       REVIEWED BY:
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 15, 2019

DATE ACTION REQUESTED: October 21, 2019

☑ ACTION

□ DISCUSSION ONLY

SUBJECT: Impact Fee Regulations

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: Conduct a public hearing on the proposed regulation amendment then vote to repeal the amendment so that it goes into effect on February 1, 2020.

The purpose of this amendment is to ensure impact fees that were specifically established to assist bond payments for renovation/construction projects that took place in (roughly) 1999-2002 for the York Middle School and York High School will no longer be collected after final bond payment. Final bond payment was already made for the High School last year, and final bond payment for the Middle School will be completed in February 2020. In order to ensure the Town is not collecting impact fees developed specifically for these projects, and to ensure the Town is not liable for repayment of impact fees collected (with interest), these regulations need to be repealed before final bond payment of the York Middle School in February 2020.

RECOMMENDATION: Repeal “Regulations to Establish an Impact Fee for School Construction” and make it clear that the repeal of these regulations goes into effect on February 1, 2020.

PROPOSED MOTION: I move to repeal “Regulations to Establish an Impact Fee for School Construction” and this amendment shall go into effect February 1, 2020.

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:
Proposed Amendments

to be considered by the

Board of Selectmen

Amendments

1. Regulations to Establish an Impact Fee for School Construction
Amendment

Regulations to Establish an Impact Fee for School Construction

Explanation of Amendment: The purpose of this amendment is to ensure impact fees that were specifically established to assist bond payments for renovation/construction projects that took place in (roughly) 1999-2002 for the York Middle School and York High School will no longer be collected after final bond payment. Final bond payment was already made for the High School last year, and final bond payment for the Middle School will be completed in February 2020. In order to ensure the Town is not collecting impact fees developed specifically for these projects, and to ensure the Town is not liable for repayment of impact fees collected (with interest), these regulations need to be repealed before final bond payment of the York Middle School in February 2020.

Amendment: Repeal the following regulations on February 1, 2020:

REGULATIONS TO ESTABLISH AN IMPACT FEE FOR SCHOOL CONSTRUCTION

1. AUTHORITY These Regulations are enacted under the authority granted to the Board of Selectmen by Article 18, Administration, Section 18.12, Community Facilities Impact Fee Program of the York Zoning Ordinance.

2. DEFINITION Words and phrases shall be considered to have the same meaning as defined in the York Zoning Ordinance. In addition, the following words and phrases shall have the meaning listed below:

   Bedroom—A private room in a dwelling which is larger than 100 square feet in area, meets the bedroom egress requirements of the York Building Code, is separable from other rooms by a door or door frame (frame that can be used for a standard door), does not have facilities or furnishings for cooking, eating, laundering, and is not solely a bathroom, a living room, a den/family room, a kitchen, a dining room, a laundry room or a utility room for central heating/cooling equipment. However, if a dwelling has a subsurface wastewater disposal system, the number of bedrooms shall be considered the number indicated on the application for a wastewater disposal permit (HHE-200 form, Town of York Design Flows).

3. PURPOSE OF SCHOOL IMPACT FEES The fees collected under implementation of these Regulations shall be used to contribute to the Town of York debt burden for the construction or renovation of a middle school and improvements to York High School as authorized by the voters on May 23, 1998. A portion of the costs of these construction
projects are necessary due to the projected increase in enrollment due to anticipated new housing construction in the Town of York.

4. **CALCULATION OF FEE**

   A. The fee schedule has been developed using the February 23, 1998 cost estimates for school improvements prepared for the York School Committee. Prior to the issuance of an Occupancy Permit for a new dwelling unit a fee shall be paid to Town Treasurer based on the following schedule. (See memorandum dated September 21, 1999).

<table>
<thead>
<tr>
<th>SINGLE FAMILY</th>
<th>APARTMENT</th>
<th>MOBILE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Bedroom</td>
<td>0.</td>
<td>0.</td>
</tr>
<tr>
<td>2 Bedroom</td>
<td>0.</td>
<td>0.</td>
</tr>
<tr>
<td>3 Bedroom</td>
<td>$1,700.</td>
<td>$1,900.</td>
</tr>
<tr>
<td>4 or more Bedrooms</td>
<td>$3,400.</td>
<td>$3,400.</td>
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</table>

   Fees were reviewed and revised by the Board of Selectmen on November 2, 1999 and became effective for all building permits issued on or after November 23, 1999.

   Notwithstanding the definition of "bedroom" above, for the purposes of calculating impact fees, each dwelling unit shall have at least one, but not be considered to have more than four bedrooms.

   B. The fee for an addition to an existing dwelling unit which expands the number of bedrooms shall be the difference in the fees for the type of unit after the addition and the type of unit prior to the addition. (For example, the impact fee for adding one bedroom to a three bedroom single family home is $3,400 – $1,700 = $1,700).

   C. The conversion of a seasonal dwelling unit to a year-round unit shall require payment of an impact fee as if it were new construction, in accordance with paragraph a above.

5. **PAYMENT OF FEE** The application for a permit to construct a new dwelling unit, expand an existing dwelling unit, or convert a seasonal dwelling unit shall indicate the number of bedrooms in the new dwelling unit, to be added to the existing dwelling unit, or in the converted seasonal dwelling unit. The Code Enforcement Officer shall review the plans accompanying the application and determine the number of bedrooms in the unit. For any dwelling unit served by a subsurface wastewater disposal system the number of bedrooms shall be considered the number indicated on the application for a wastewater disposal permit (HIF 200 form, Town of York Regulations, Design Flows), as shown in Town records. The number of bedrooms in a mobile home shall be determined by the number of bedrooms identified by the manufacturer's specifications.

   At the time of issuance of a permit, the Code Enforcement Officer shall inform the applicant of the number of bedrooms assigned to the permit and the impact fee for the new unit, addition or converted seasonal unit. A Certificate of Occupancy shall not be issued by the Code Enforcement Officer until the applicant presents a receipt.

DRAFT – October 15, 2019
Page 3
6. **EXEMPTIONS** An impact fee shall be paid prior to issuance of a Certificate of Occupancy for all new dwelling units; all additions to existing dwelling units which construct a new bedroom and all conversions of existing seasonal dwelling units, subject to the following exemptions:

a. dwelling units in elderly housing or congregate care facilities; and

b. new dwelling units and additions to existing dwelling units which construct a new bedroom, which are seasonal structures as stated on the Occupancy Permit and which are not habitable in winter.

7. **EFFECTIVE DATE** The provisions of these Regulations shall apply to all new dwelling units, all additions to dwelling units and all conversions of seasonal dwelling units for which an Occupancy Permit was issued on or after August 10, 1998, except for new dwelling units and additions to dwelling units which obtained a Building Permit on or prior to August 9, 1998 or conversions of seasonal dwelling units which obtained a Seasonal Conversion Permit on or prior to August 9, 1998 and which subsequently obtain an Occupancy Permit within the effective period of the Building Permit.

8. **APPEALS** The appeal of the decision of the Code Enforcement Officer in determining the number of bedrooms in a new dwelling unit or the number of bedrooms in an addition shall be taken to the York Board of Appeals in accordance with Section 18.8.1 of the York Zoning Ordinance.

9. **PERIODIC REVIEW AND REVISION** In accordance with Article 18, Administration, Section 18.12, Community Facilities Impact fee Program of the York Zoning Ordinance, the Board of selectmen shall review, and as necessary, revise the fee schedule in Section 4, at least annually. As part of the review, the Board shall request that the York School Committee inform it of any changes to the construction cost estimates, building plans or projected enrollments for the schools.

**SEPARABILITY** Should any section or part of a section or any provision of these Regulations be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the Regulations as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.
Dylan Smith

From: Mary E. Costigan <mcostigan@bernsteinshur.com>
Sent: Monday, December 17, 2018 2:19 PM
To: Dylan Smith
Cc: Melissa M. Avery
Subject: RE: Impact Fee Regulation Change

Dylan:

I have reviewed the ordinance and regulation and both can continue in place through final payment of the Middle School bond in 2020. There is nothing in the regulation regarding allocation between the two. When the HS bond is paid off in 2019, 100% of the impact fees can go toward the Middle School bond until it is paid in full. Following final payment in 2020, the regulation can be repealed by order of the Board of Selectmen.

Let me know if you have any more questions.

- Mary

Mary E. Costigan
Shareholder
207 228-7147 direct
207 774-1200 main
My Bio | LinkedIn | Twitter

BERNSTEINSHUR
Portland, ME | Augusta, ME | Manchester, NH

Confidentiality notice: This message is intended only for the person to whom addressed in the text above and may contain privileged or confidential information. If you are not that person, any use of this message is prohibited. We request that you notify us by reply to this message, and then delete all copies of this message including any reply. Thank you.

From: Dylan Smith [mailto:dsmith@yorkmaine.org]
Sent: Thursday, September 20, 2018 3:17 PM
To: Mary E. Costigan
Cc: Melissa M. Avery
Subject: Impact Fee Regulation Change

Hi Mary-

I have a quick question for you (hopefully). The town adopted an impact fee ordinance (authorization found in Article 18, specifically section 18.12 of the zoning ordinance) and developed regulations (attached) in the late 90’s/early 2000’s. Theimpact fees were developed to help offset costs of two projects both dealing with school construction. They included construction/renovation of the York Middle School and improvements to York High School. When this was developed the fees were distributed 55% to the high school and 45% to the middle school, although I am not sure that is being followed today. The final payment of York High School’s construction bond is scheduled for March 1, 2019 and the Middle School’s final bond payment is scheduled for March 1, 2020.
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 16, 2019

DATE ACTION REQUESTED: October 21, 2019

☐ ACTION
☐ DISCUSSION ONLY

SUBJECT: Class Action Law Suit – National Prescription Opiate Litigation

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: A national class-action law suit has been initiated to consolidate the many claims against a large group of pharmaceutical-related companies. A class of government entities bringing suit has been defined and York is included in this class.

The key question at the moment is whether the Town wants to remain in this class or wants to exclude itself. Board action is required only if the Board wants to opt out.

I spoke with Mary Costigan about this and she described the basic deal as this - the Town may benefit from remaining in the class and participating in this suit, and there is no risk to the Town to do so. If we participate we might receive a portion of a large national settlement. If we don’t participate, then we won’t receive any settlement unless we bring suit on our own.

I did review the list of class representatives (see page 4) and found a few nearby, including: Cumberland County, ME; Concord NH; Manchester NH; and Lowell MA.

NOTE: You’ll soon be receiving another, completely unrelated class action suit for a similar decision.

RECOMMENDATION: I recommend the Board take no action and therefore participate in this suit.

PROPOSED MOTION: no action required.

Prepared by Stephen H. Burns, Town Manager:
IF YOU WANT TO EXCLUDE YOUR COUNTY OR CITY
YOU MUST ACT BY NOVEMBER 22, 2019

EXCLUSION REQUEST FORM
Read this page carefully then turn to Page 2 if you want to sign and send

Complete this form ONLY if your County or City does NOT want to remain a Class Member and does not want to share in any potential negotiated Class settlement. If your County or City does not complete and submit this form, it will be deemed to be a Class Member so long as it is a County or City in the United States as those terms are described in the Class Notice and is on the list of Class Members found at www.OpioidsNegotiationClass.info.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

In re NATIONAL PRESCRIPTION OPIATE LITIGATION 1:17-md-2804 (DAP)

Class Notice Administrator
NPO Litigation
P.O. Box 6727
Portland, OR 97228-6727

Dear Class Notice Administrator:

My County or City does NOT want to be a member of the Negotiation Class certified in the In re National Prescription Opiate Litigation. I understand that by completing the information requested on page 2, signing, and submitting a copy of this form by email (to the email address on page 2) sent on or before November 22, 2019 OR by first-class U.S. mail (to the mailing address on page 2) post-marked on or before November 22, 2019, I am opting my County or City out of the Negotiation Class and it will NOT be a Class Member. I understand that by timely submitting this form, my County or City is foregoing the right to share in any Class settlement that may be obtained. I understand that my County or City is NOT guaranteed an opportunity to opt back in if there is a Class settlement, so this is our final decision. I also understand that by opting out, my County or City will not be bound by any judgment entered as part of any Class settlement.

I understand that if my jurisdiction is a Class Member and wants to remain a Class Member, it does not need to do anything now. I understand that I should NOT return this Exclusion Request Form if my jurisdiction wants to remain a Class Member.

I understand that, if I have any questions, I may contact Class Counsel at 1-877-221-7468, or visit www.OpioidsNegotiationClass.info BEFORE I mail this form to you and BEFORE November 22, 2019.

TURN TO PAGE 2 IF YOU WANT TO SIGN EXCLUSION/OPT-OUT FORM AND FOR EMAIL AND MAILING ADDRESSES
IF YOU WANT TO EXCLUDE YOUR COUNTY OR CITY
YOU MUST ACT BY NOVEMBER 22, 2019

EXCLUSION REQUEST FORM
Read Information on Page 1 carefully before signing

Having read and understood the information on page 1, the County or City (circle one) entitled

______________________________  in the State of ____________________ hereby excludes itself

from the Negotiation Class certified by the United States District Court in the Northern District of
Ohio in In re National Prescription Opiate Litigation, MDL 2804. Under penalty of perjury and in
accordance with 28 U.S.C. § 1746, I declare that I am an official or employee authorized to take legal
action on behalf of my County or City.

Signature: ____________________________________________________________

Print name: _______________________________________________________________________

Title: _____________________________________________________________________________

City or County Represented: ____________________________________________________________________ (Circle one): City / County

Address: _____________________________________________________________________________

City: _____________________________________________________________________________ State: __________ Zip Code: __________

Phone: _____________________________________________________________________________ Email: _______________________________________________________________________

Date: _____________________________________________________________________________

BY NOVEMBER 22, 2019

EMAIL TO: info@OpioidsNegotiationClass.info OR SEND BY FIRST CLASS MAIL TO:

NPO Litigation
P.O. Box 6727
Portland, OR 97228-6727

PAGE 2
CLASS ACTION NOTICE AND FREQUENTLY ASKED QUESTIONS ("FAQs")

To: All U.S. Counties, Cities, and Local Governments as listed at www.OpioidsNegotiationClass.info

A court authorized this notice. This is not a solicitation from a lawyer.

- Counties and cities across the country have sued manufacturers, distributors, and retailers of prescription opioid drugs seeking, among other things, reimbursement for monies spent addressing the opioid crisis. All federal actions have been centralized into one court in Ohio and are entitled, In re: National Prescription Opiate Litigation, MDL No. 2804 (N.D. Ohio). Additional cases are pending in state courts.

- The Court in In re: National Prescription Opiate Litigation has certified a voluntary “Negotiation Class” (“Class”). The Class is defined as: all counties, parishes, and boroughs (collectively, “counties”); and all incorporated places, including without limitation cities, towns, townships, villages, and municipalities (collectively “cities”). The Class includes all counties and cities, whether they have filed a lawsuit or not. The complete current list of Class Members is available at the Class website: www.OpioidsNegotiationClass.info. This list may be updated as the Court may order.

- NO SETTLEMENT HAS BEEN REACHED. HOWEVER, IF YOUR COUNTY OR CITY STAYS IN THE CLASS, it will be bound if a Class settlement is approved in the future. Your county or city will likely NOT be provided another opportunity to be excluded from this Class action, so you should read this notice carefully and consult with your counsel regarding your county or city’s rights.

- The Court has certified two Racketeer Influenced and Corrupt Organizations Act (“RICO”) claims under Rule 23(b)(3) and two Controlled Substances Act (“CSA”) issues under Rule 23(c)(4). (see FAQ 7). The Class is certified solely to consider and vote on any future settlement offers made to the Class by one or more of 13 defendants (see FAQ 5). The purposes of the Class are (a) to unify cities and counties into a single negotiating entity to maximize their bargaining power and (b) to provide finality to opioids litigation for any settling Defendant.

- This Negotiation Class will not decide any claims or defenses in opioids litigation on the merits. It is certified as a Negotiation Class only, to facilitate Class Members’ approval or rejection of proposed settlements. There are no proposed settlements at this time, and no guarantee that there will be in the future. However, your legal rights are affected and it is recommended that you consult with counsel regarding the choice you have to make now.

Questions? Visit www.OpioidsNegotiationClass.info
### YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

| **STAY IN THE CLASS** | Stay in the Class. Await the negotiation outcome, but retain the right to pursue your own lawsuit in the meantime. Give up certain rights if a Class settlement is reached and approved by the Class and Court, but get a share of any Class settlement. |
| **REQUIRES NO ACTION** | By taking no action in response to this Notice, you remain in the Class. As a Class Member, you will still retain your right to pursue your own case unless and until any possible Class settlement is approved by the Court. As a Class Member, you have the right to vote on any settlement proposed to the Negotiation Class. A settlement will not be accepted unless supported by 75% of the voting Class Members, counted by number, population, and allocation, for both litigating and non-litigating entities, and approved by the Court. Settlement funds will be distributed at the county level and each county’s share – and city’s suggested share – can be viewed now by utilizing the Allocation Map at the Class website, [www.OpioidsNegotiationClass.info](http://www.OpioidsNegotiationClass.info). If the Court approves any settlement, that judgment will prohibit Class Members from suing the settling Defendant(s) about the claims and issues in the litigation. |

| **REMOVE YOURSELF FROM THE CLASS** | Get out of the Class. Get no portion of any settlement. Keep rights. |
| **REQUIRES ACTION BY NOVEMBER 22, 2019** | Those who exclude themselves from the Class cannot vote on, will not have the right to be paid under, and will not be bound by, any Class settlement. You keep any rights to negotiate separately about the same legal claims in this lawsuit, even if the Court approves a settlement for the Class. Class Members may exclude themselves from ("opt out" of) the Class by having an authorized officer or employee complete and sign the Exclusion Request Form enclosed here and submit it on or before **November 22, 2019** by email or mail in accordance with the instructions in FAQ 26 below. |

- Class representatives and Class counsel will represent the Class in negotiations with Defendants who choose to do so. You may enter an appearance through an attorney (at your own expense) if you desire, but it is not required. Class Membership does not eliminate existing agreements with individual counsel. The procedure for payment of Class/common benefit attorneys' fees/costs in connection with any Class settlement must be approved by the Court. Details of the proposed options and procedures for fees and costs are posted on the Class website.

- For complete information on the Class, the settlement allocation formulas, the Class certification motion and Order, the list of included Class Members, the voting process to be used by the Class in accepting or rejecting any Class settlement offer, and an Allocation Map determining your allocation of any proposed settlement, go to [www.OpioidsNegotiationClass.info](http://www.OpioidsNegotiationClass.info). Important information on the Opioids-related litigation, including all pertinent Orders and Schedules, and Frequently Asked Questions, will be available on the Class website on an ongoing and current basis.

Your rights and options are further explained below.

*Any questions? Read on and visit [www.OpioidsNegotiationClass.info](http://www.OpioidsNegotiationClass.info).*

**DO NOT WRITE OR CALL THE COURT OR THE CLERK’S OFFICE FOR INFORMATION**

Questions? Visit [www.OpioidsNegotiationClass.info](http://www.OpioidsNegotiationClass.info)
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Questions? Visit www.OpioidsNegotiationClass.info
1. Why is a Negotiation Class being formed? What is its purpose?

The purpose of the Negotiation Class is to create a cohesive group of cities and counties to negotiate Classwide settlements, on a voluntary basis, with Defendants who make, distribute, or sell opioids nationwide. Class Representatives and Class Counsel will represent the Negotiation Class. Class Members will vote on any Class settlement proposal. If 75% of those Class Members who vote (as described in FAQ 18 and 19 below) support a proposed Settlement, Class Counsel will ask the Court to approve it. The ultimate purpose of the Negotiation Class is to make settlement easier to obtain.

2. Is this the first Negotiation Class Action?

Yes. This is a new use of the Class action mechanism under Federal Rule of Civil Procedure 23, reflecting the unique nature of the national opioids litigation. Unlike any mass litigation before, thousands of cities and counties nationwide are pursuing claims against major defendants. The goal is to recover money to help fight the opioids epidemic, provide prevention and treatment services going forward, and change Defendants’ practices.

3. Why use a Class mechanism?

Joining all cities and counties together as a Negotiation Class gives them maximum negotiating power, makes the negotiation of comprehensive settlements a more practical process, enables Defendants to know the group with which they are negotiating, and enables Class Members to vote on resulting settlement offers.

4. Who are the Class Representatives?

The Court has authorized the following 49 counties and cities to serve as the Negotiation Class’s Class Representatives: (1) County of Albany, New York; (2) City of Atlanta, Georgia; (3) Bergen County, New Jersey; (4) City of Baton Rouge/East Baton Rouge Parish, Louisiana; (5) Broward County, Florida; (6) Camden County, New Jersey; (7) Cass County, North Dakota; (8) City of Chicago, Illinois; (9) Cobb County, Georgia; (10) City of Concord, New Hampshire; (11) Cumberland County, Maine; (12) City of Delray Beach, Florida; (13) Denver, Colorado; (14) Escambia County, Florida; (15) Essex County, New Jersey; (16) County of Fannin, Georgia; (17) Franklin County, Ohio; (18) Galveston County, Texas; (19) County of Gooding, Idaho; (20) City of Grand Forks, North Dakota; (21) County of Hennepin, Minnesota; (22) City of Indianapolis, Indiana; (23) County of Jefferson, Alabama; (24) Jefferson County/City of Louisville, Kentucky; (25) Jersey City, New Jersey; (26) Kanawha County, West Virginia; (27) King County, Washington; (28) City of Lakewood, Ohio; (29) City of Los Angeles, California; (30) City of Lowell, Massachusetts; (31) City of Manchester, New Hampshire; (32) Maricopa County, Arizona; (33) Mecklenburg County, North Carolina; (34) The Metropolitan Government of Nashville and Davidson County, Tennessee; (35) Milwaukee County, Wisconsin; (36) Monterey County, California; (37) City of Norwalk, Connecticut; (38) County of Palm Beach, Florida; (39) Paterson City, New Jersey; (40) City of Phoenix, Arizona; (41) Prince George’s County, Maryland; (42) Riverside County, California; (43) City of Saint Paul, Minnesota; (44) City of Roanoke, Virginia; (45) County of Rockland, New York; (46) City and County of San Francisco, California; (47) County of Smith, Texas; (48) County of Tulsa, Oklahoma; and (49) Wayne County, Michigan.

Questions? Visit www.OpioidsNegotiationClass.info
5. **Who are the Defendants?**

The Court has authorized the Negotiation Class to negotiate with 13 Defendants (including their affiliates): (1) Purdue, (2) Cephalon, (3) Endo, (4) Mallinckrodt, (5) Actavis, (6) Janssen, (7) McKesson, (8) Cardinal, (9) AmerisourceBergen, (10) CVS Rx Services, Inc., (11) Rite-Aid Corporation, (12) Walgreens, and (13) Wal-Mart. The Negotiation Class is authorized to negotiate settlements with any of these 13 Defendants, on any of the claims or issues identified below in FAQ 7, or other claims or issues arising out of the same factual predicate. If Class Counsel seek to negotiate for the Class with any other defendants, they can file a motion asking the Court to amend the Class certification order.

6. **Has a Class settlement been reached with Defendants yet?**

No. No Class settlement has been reached yet with any Defendant. But the existence of a Negotiation Class makes the possibility of Class settlement more feasible because a Defendant will know the group with which it is negotiating. There is no guarantee, however, that there will be a Class settlement and it is possible that there will be settlements that do not encompass the Class, such as settlements between one or more Class Members and one or more Defendants.

**THE Class Claims and Issues**

7. **What claims and issues are certified for the Negotiation Class?**

In this Negotiation Class, the Court certified two federal Racketeer Influenced and Corrupt Organizations Act ("RICO") claims and two federal Controlled Substances Act ("CSA") issues. The RICO claims and the CSA are similar across the country and the Class. The first RICO claim alleges that five Defendants misled physicians and the public about the need for and addictiveness of prescription opioids, all in an effort to increase sales. The second RICO claim alleges that eight Defendants ignored their responsibilities to report and halt suspicious opioid sales, all in an effort to artificially sustain and increase federally-set limits (quotas) on opioid sales. The CSA issues allege that the CSA required Defendants to create systems to identify, suspend, and report unlawful opioid sales, and that Defendants failed to meet those obligations. As noted in FAQ 5, above, the Negotiation Class is authorized to negotiate Class settlements concerning these claims and issues or other claims or issues arising out of the same factual predicate. However, this Negotiation Class does not involve claims by State governments against the Defendants and no Class settlement will release or otherwise interfere with any State government's current or future litigation. This Negotiation Class concerns claims only of counties and cities. You can read more about these claims and issues in the Court's Memorandum Opinion certifying this Class, which is posted at www.OpioidsNegotiationClass.info.

8. **Has the Court decided any claims or issues?**

No. The Court has not decided any Classwide claims or defenses on the merits and the Court will not render any Classwide decisions on the merits of any claims asserted by the Class or individual Members of it. By establishing this Negotiation Class and issuing this notice, the Court is not suggesting the Class would win or lose this case. This Class has been certified for negotiation purposes only.

**Questions? Visit www.OpioidsNegotiationClass.info**
WHO IS IN THE CLASS

9. What entities are included in the Negotiation Class?

The Negotiation Class is defined as:

All counties, parishes, and boroughs (collectively, “counties”); and all incorporated places, including without limitation cities, towns, townships, villages, and municipalities (collectively “cities”).

A complete current list of Class Members is available at www.OpioidsNegotiationClass.info. The list may be updated as the Court may order.

The terms “counties” and “cities” are used only as shorthand. The Class includes political subdivisions with other names, such as parishes, villages, towns, townships, etc. The list of Class Members was devised primarily from the U.S. Census Bureau lists of governmental entities that provide services to their residents. Check the Cities and Counties lists posted on the Class website to confirm whether you are a Negotiation Class Member.

10. Are counties and cities with state court filed actions considered part of the Negotiation Class?

Yes. Counties and cities that sue in state court are Members of this Negotiation Class, with the option to opt out. However, nothing about Membership in the Negotiation Class interferes with the rights of any federal or state court plaintiffs to proceed with their own cases for litigation, trial, or individual settlement. Only if and when a Class settlement has been reached, has been approved by 75% of the voting Class Members as described in FAQ 19, and has been approved by the Court, would Class Members lose their ability to proceed on their own, in exchange for the settlement benefits that they would receive.

11. Will the Negotiation Class end the opioid litigation that my County or City has filed?

Not now and only if a Class settlement is later reached and approved. Your county’s or city’s Membership in the Negotiation Class will not immediately affect any opioid suit it has filed, whether in federal or state court. It also will not stop your county or city from filing or pursuing a lawsuit, and it will not affect any scheduled hearings or trials in any lawsuit. However, if there is a final Class settlement, approved by the required 75% of the voting Class Members and by the Court, the final settlement will likely end all other opioids-related litigation brought by Class Members. In the meantime, you do not need to opt out of the Class to file, continue to prosecute, or settle your own case, and you may keep any settlement or judgment you obtain. If any county or city obtains a judgment or settlement with a Defendant before the Negotiation Class does, however, it will not receive additional compensation through any later Negotiation Class settlement. But by remaining in the Class, your county or city does risk foregoing its own lawsuit (although it would obtain money from a Class settlement) if a Class settlement is reached and approved.

12. How does the Negotiation Class affect other types of opioid plaintiffs that are not counties or cities?

The Negotiation Class does not directly affect the litigation or settlement of the claims of other types of plaintiffs, such as Indian Tribes, third party payors, and others, that are proceeding in federal or state courts. These plaintiffs can organize themselves as groups or propose their own Classes, for trial or settlement purposes.

Questions? Visit www.OpioidsNegotiationClass.info
THE NEGOTIATION CLASS PROCESS

13. Now that the Court has approved this process, what will happen next?

The creation of the Negotiation Class has these next steps:

- On September 11, 2019, Judge Polster, the federal judge overseeing all of the national opioids litigation, certified the Negotiation Class to go forward.

- On or before September 20, 2019, Class Action Notice will be sent via First-Class mail and posted to the Class website www.OpioidsNegotiationClass.info to all Class Members.

- Class Members have until November 22, 2019 to decide whether to participate or to opt out of the Class. This is the “opt-out period.” All Class Members are automatically included in the Class. If a Class Member wants to participate, it does not need to do anything at this point. Only Class Members that wish to exclude themselves (“opt out”) and not participate in the Class must act: they must submit a copy of the enclosed Exclusion Request Form on or before November 22, 2019, using the instructions in FAQ 26.

- After the close of the opt-out period, the Court will enter an order confirming the Membership of the Class, saying who is in and who is out of the Class.

- After that, the Class will operate if, and only if, one or more of the Defendants wishes to negotiate with the Class as a whole through the Negotiation Class mechanism.

- If a proposed Class settlement is reached, the proposal will be submitted to the entire Class Membership for its approval or rejection in accordance with the voting formula (described in FAQ 18 and 19 below). If no proposed settlement is reached, the Class will not vote and will have no other role.

14. If my County or City chooses to participate in the Negotiation Class, how will it know when there is a proposed Class settlement?

All Negotiation Class Members will be given advance notice of any Class settlement offer, including details on its terms and conditions, and they will have an opportunity to vote on each settlement offer. Class Members will be able to cast their vote securely, through the Class website, which will establish a voting identity and portal for each Class Member. Only Class settlements achieving 75% approval votes, by number, by allocation, and by population, of the litigating and non-litigating Class Members that vote (as described in FAQ 19) will be submitted to the Court, which will make the final determination of whether to approve the settlement.

15. If there is a proposed Class settlement, does the Court still have to approve it?

Yes. If there is a proposed settlement that is approved by 75% of the voting Class Members, as described in FAQ 18 and 19, the Court will review and decide whether to approve it, under the Class action settlement approval process set forth in Federal Rule of Civil Procedure 23(e). Generally, the Court will assess whether any settlement is fair, reasonable, and adequate. All applications for fees and costs also require court approval under Rule 23 procedures. (See https://www.law.cornell.edu/rules/frcp/rule_23.)

16. If there is a proposed settlement and my County or City is included in the Negotiation Class, but it disapproves of the settlement terms, can my County or City object to the settlement?

Yes. As a Negotiation Class Member, you will be entitled under Rule 23(e) to object to any settlement, even if it has received approval from the Class. However, as described in FAQ 27, you

Questions? Visit www.OpioidsNegotiationClass.info
will likely not be able to exclude yourself from the Class at that time. An objection explains your concerns to the Court for its consideration but does not remove you from the Class.

17. How long will the Negotiation Class last?

The Negotiation Class will last for 5 years from the date it is certified by the Court. The Court certified the Class on September 11, 2019 and the Negotiation Class will last until September 11, 2024. After that date, the Class will not exist as an entity with which a Defendant can negotiate. However, the Negotiation Class will continue to exist with regard to: (1) any Class settlements presented to the Negotiation Class for a vote before that date, to carry out the voting and approval process; and (2) any Class settlements reached before that date, to complete settlement administration and enforcement.

VOTING

18. If there is a proposed Class settlement, how will the voting be done?

Each Class Member will vote only once on any particular Class settlement proposal. The vote will simply be yes-or-no, in favor of or against the proposed settlement. Class Members that do not vote will not be counted as either yes or no votes; as with an election for government office in the United States, the only votes that are counted are those of the voters who actually cast votes. Class Members’ votes will be tabulated mechanically within each applicable voting pool, to make sure that 75% of each pool is in favor of the proposed settlement before it is presented to the Court. The voting pools are described in FAQ 19. Voting tabulation does not require any effort by the Class Members. The requirement of 75% support of voting Class Members across the different voting pools ensures that no settlement will go forward without a wide cross-section of support from cities and counties of all sizes and interests.

19. If there is a proposed Class settlement, how many votes are needed to approve it?

The agreement to be bound by a supermajority vote means that no settlement can be reached that would bind the Negotiation Class without the approval of 75% of the voting Class Members, defined in several ways. To be binding, 75% of those voting in each of the following six categories must approve a proposed settlement:

- 75% of the total number of voting Class Members that had filed suit as of June 14, 2019 ("litigating entities"). This number is based on all individual Class Members who had suits on file regardless of size, so that each voting entity has one vote;
- 75% of the total number of voting Class Members that had not filed suit as of June 14, 2019 ("non-litigating entities"). This number is based on all individual Class Members who had not filed suit, regardless of size, so that each voting entity has one vote;
- 75% of the total population of all voting Class Members that had filed suit as of June 14, 2019. For this computation, the vote of the county or city is weighted according to its population, with each person in a voting city and each person in a voting county equal to one vote. Thus, by way of example, if a county votes yes and has a population of 20,000, and a city within the county votes yes and has a population of 10,000, the county’s vote is weighted as 20,000 votes in favor, and the city’s vote is recorded as 10,000 votes in favor. The population for each County or City will be based on current census data. The current data is presented on the Class website, www.OpioidsNegotiationClass.info. Individual residents in this category may be counted twice, once as a resident of a municipality, and once as a resident of a county;

Questions? Visit www.OpioidsNegotiationClass.info

Y2326 v.04
- 75% of the total population of all voting Class Members that had not filed suit as of June 14, 2019. For this computation, the vote of the county or city is weighted according to its population, with each person in a voting city and each person in a voting county equal to one vote. Thus, by way of example, if a county votes and has a population of 20,000, and a city within the county votes yes and has a population of 10,000, the county's vote is weighted as 20,000 votes in favor, and the city's vote is recorded as 10,000 votes in favor. Again, the population for each County or City will be based on current census data. The current data is presented on the Class website, www.OpioidsNegotiationClass.info. Individual residents in this category may be counted twice, once as a resident of a municipality, and once as a resident of a county;

- 75% of the litigating Class Members casting votes, weighted by their settlement fund allocations as shown at the Allocation Map posted at opioidnegotiationclass.info; and

- 75% of the non-litigating Class Members casting votes, weighted by their settlement fund allocations as shown at the Allocation Map posted at opioidnegotiationclass.info.

For purposes of counting votes, only votes cast will be considered. In order for a proposed settlement to be binding on the Negotiation Class, 75% of those Class Members who cast votes in each of these six categories must be in favor. No settlement will be submitted to the Court for final approval unless 75% of those voting in each of the six categories are in favor. No county or city that is not a Class Member as of the deadline for a vote on a proposal will be allowed to vote on that proposal.

**ALLOCATIONS OF CLASS SETTLEMENT FUNDS**

20. If there is a Class settlement, how will my County or City's share of the settlement be determined?

Any Class settlement funds will be distributed in three steps:

**Step 1:** Each county's share of the settlement will be distributed in accordance with an "allocation model." The allocation model uses three factors, based on reliable, detailed, and objective national data, to determine the share of a settlement fund that each county will receive. These factors address the most critical causes and effects of the opioids crisis, and are each weighted equally (1/3-1/3-1/3): (1) the amount of opioids distributed within the county, (2) the number of opioid deaths that occurred in the county; and (3) the number of people who suffer opioid use disorder in the county. This model is designed not to favor either small or large counties based solely on population. Ultimately, the model allocates settlement funds in proportion to where the opioid crisis has caused actual harm.

**Step 2:** Counties and their constituent cities, towns, and boroughs may distribute the funds allocated to the county among all of the jurisdictions in any manner they choose. If the county and cities cannot agree on how to allocate the funds, the Class website reflects a default allocation that will apply. The default allocation formula uses historical federal data showing how the specific county and the cities within it have made opioids-related expenditures in the past. Any of the affected jurisdictions may ask a Special Master to apply a different formula.

**Step 3:** If the default allocation is used and a city's share is less than $500, then that amount will instead be distributed to the county in which the city lies to allow practical application of the abatement remedy. Affected cities could seek recovery through intra-county allocation described in Step 2, or from the Class Members' Special Needs Fund (see FAQ 24). In the rare circumstance that a city with a share of less than $500 lies in a county that does not have a county government, the amount would instead go to the Class Members' Special Needs Fund, and Class members could seek recovery from that Fund.

Further information about the allocation formulas and their data sources are available at the Class website.

Questions? Visit www.OpioidsNegotiationClass.info
21. What happens if a county and its constituent cities make different decisions about staying in the Class?

- If a county and all of its constituent cities remain in the Class, each entity’s share will be determined as explained in FAQ 20.

- If a county remains in the Class, but one or more cities within the County are not in the Class, there are a variety of ways that a Class settlement might address that situation, but it is possible that a Class settlement would require that the County’s allocation be reduced.

- If a county is not in the Class, but cities within that county remain in the Class, there are a variety of ways a Class settlement might address that situation. One possibility is that a city would receive no direct monetary allocation because its county has opted out, but that it could seek monetary relief through the Special Needs Fund (see FAQ 24). If a settlement provides a city no possibility of monetary relief because its county has opted out, Class Counsel anticipates the city would not be required to release its claims against the settling Defendant.

22. If there is a settlement between a Defendant and a State or States, what impact will this Negotiation Class have on the division of monies between a State and the cities and counties within the State?

The Negotiation Class process does not interfere with a Defendant’s ability to settle directly with one or more States. If a Defendant reaches a settlement directly with a State, nothing about this Negotiation Class process would affect the distribution of those settlement funds between the State and its own cities or counties. The Court has explicitly ordered that the Class’s lawyers not involve themselves or the Class in the process of allocating monies secured by States between themselves and their counties and cities.

23. Will Negotiation Class Representatives receive anything more than other Class Members?

Negotiation Class Representatives do not receive preferential treatment under any settlement simply for serving as Class Representatives. Their allocation will be calculated in precisely the same manner as every other Class Member’s. However, they can apply to the Court for reimbursement of costs and expenses incurred by reason of serving as Class Representatives. Also, courts often award a modest amount to Class Representatives, called an incentive or service award, so as to encourage Class Representatives to step forward on behalf of others. Any such awards are subject to Class notice and Court approval.

24. What is the Special Needs Fund?

Fifteen percent (15%) of any Class settlement fund will be put into the “Special Needs Fund.” Any Class Member may apply for a distribution from the Special Needs Fund: (1) to recover its costs of litigating its own opioids lawsuit, if that case was filed before June 14, 2019; and/or (2) to obtain additional relief for any local impact of the opioids crisis that is not captured by the Class Member’s allocation. Applications will be made to and approved by a court-appointed Special Master, on a case-by-case basis. Any unawarded amount remaining in this Special Needs Fund would revert to the Class.

YOUR RIGHTS AND OPTIONS

25. Can my county or city exclude itself from the Negotiation Class?

Yes. You have a one-time opportunity to exclude your county or city from the Class and you must do so before November 22, 2019. You must follow the procedure set forth in FAQ 26 below to...
exclude your county or city. As explained in FAQ 27, you will likely not be given a second opportunity to exclude your county or city from the Class if a settlement is later reached and you should not count on such an opportunity being available at that time.

26. How does my county or city exclude itself from the Negotiation Class?

You may exclude your county or city ("opt out") by signing and sending, either by email or by first-class U.S. mail, the enclosed Exclusion Request Form.

- If submitted by email, the form must be sent to info@OpioidsNegotiationClass.info on or before November 22, 2019.
- If submitted by mail, the form must be postmarked on or before November 22, 2019 and sent by first-class U.S. mail to:
  NPO Litigation
  P.O. Box 6727
  Portland, OR 97228-6727

The Exclusion Request Form must be signed by an authorized official or employee of the county or city itself, under penalty of perjury pursuant to 28 U.S.C. § 1746, and is subject to verification by the Court. If you exclude your county or city from the Negotiation Class, your county or city will not be bound by any Orders or Judgments regarding the Class, and it will have no right to share in any settlement reached by the Class.

27. If my county or city stays in the Negotiation Class, can it exclude itself later if it doesn't like a proposed settlement?

Not under the current Court Order. The Court's Order certifying the Negotiation Class provides only one opportunity for a county or city to exclude itself from the Class. The exclusion deadline ends on November 22, 2019. If a settlement is reached and proposed to the Class for its approval, Class Members who do not support the settlement may (1) vote against it and/or, (2) if the settlement is nonetheless approved by the Class votes, file objections with the Court. Rule 23 permits a court to offer a second opportunity for Class Members to opt out when a settlement is proposed, but the Rule does not require the Court to give Class Members a second opportunity to opt out. In this case, it is anticipated that the Court will not give Class Members a second opportunity to opt out. Therefore, Class Members should not rely on that possibility. Class Members should expect that there will be no opportunity to opt out of the Class after November 22, 2019.

THE LAWYERS REPRESENTING THE CLASS

28. Who are the Class Counsel?

The Court has authorized the following six lawyers to jointly represent the Negotiation Class: Jayne Conroy and Christopher A. Seeger are Co-Lead Negotiation Class Counsel and Gerard Stranch, Louise Renne, Mark Flessner, and Zachary Carter are Negotiation Class Counsel. Each of these six lawyers represents only cities or counties in Opioids-related litigation.

29. How do Class Counsel get paid?

Class Counsel will apply to the Court for approval of fees and costs under Rule 23(h). As a Class Member, you will receive notice and have an opportunity to object to any such application. The Court may appoint fee committees to make recommendations of any fee awards, to avoid duplication of payment, and to ensure appropriate compensation of those whose efforts provided a common benefit. The Court will make the final decision about all fees paid out of the Class’s recovery to any lawyer.

Questions? Visit www.OpioidsNegotiationClass.info
30. Under this proposal, what happens to my County or City’s current fee agreement with outside counsel?

The current fee agreement that a county or city has with its outside counsel remains in effect. Membership in the Negotiation Class does not change that. In the event of any settlement that achieves Class and Court approval, there would be a “Private Attorneys Fund” from which outside counsel for Class Members that had signed retainer agreements for opioid epidemic-related litigation before June 14, 2019 could apply for fees and costs in lieu of any current fee agreement. That would be a voluntary decision between the county or city and its outside counsel. A total of up to 10% (maximum) of any approved Class settlement amount will be held in the Private Attorneys Fund. Any unawarded amount remaining in this Fund would revert to the Class. The Court must approve all payments from this Fund.

GETTING MORE INFORMATION

31. How can my County or City keep up with what’s going on in this case?

Pertinent news and information will be posted at the Class website, www.OpioidsNegotiationClass.info on an ongoing basis. As a Class Member, you also will have the opportunity to sign up, through the Class website, for email notices alerting you to the fact that new information has been posted to the Class website.

DO NOT WRITE OR CALL THE COURT OR THE CLERK’S OFFICE FOR INFORMATION

DATE: September 11, 2019.

Questions? Visit www.OpioidsNegotiationClass.info
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 16, 2019

DATE ACTION REQUESTED: October 21, 2019

SUBJECT: Regional Position – Sustainability/Coastal Resilience Coordinator

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: Attached is a request for policy and financial support from the Southern Maine Planning and Development Commission. The Commission is looking to add a professional staff position for two years, to work exclusively for the six towns of Kittery, York, Ogunquit, Wells, Kennebunk and Kennebunkport. The Commission is looking to strengthen our collective approach in two areas in particular – coastal resiliency and energy. The scope of work for each community would be tailored to the needs of each because we’re all going in similar directions but at different speeds and in different ways. His ask is for $7,500 in the current fiscal year, $15,000 in FY21, and $7,500 in FY22.

In York I think our big potential gain here is starting to get into the details of coastal resiliency and the implications to municipal infrastructure, tax base and so forth. We have been struggling through the sea wall issue all on our own, and I think there is a great opportunity to work collectively with our neighbors moving forward. We will all face similar coastal issues, and I think this is a great way to accomplish this work in a cost effective manner, with no long-term funding commitment (it’s a 2-year deal). This opens up a significant possibility of advancing implementation activities for our Sea Level Rise Chapter of our Comp Plan.

I think York will be more down in the weeds than the other communities when it comes to energy and the Global Covenant of Mayors. I think a Sustainability Planner and/or Vista Volunteer will be necessary to keep up with the details of compliance and such. There may be some room for this regional person to help get all the communities learn from each other’s approaches, but I think we’ll get more bang for the buck with an in-house position.

Paul Schumacher, Executive Director of SMPDC, has determined he could leverage local funds as match for grants so this is a way for us to receive the benefit of grant-funded work without any of the risks associated with grant management and compliance. This is quite similar to the approach he took when he guided us through the process of creating our Sea Level Rise Chapter for the Comp Plan. He leveraged our commitment into a much larger scope.

The Board may support this, ask for additional information, or reject this. If supported, then we need to discuss the funding mechanism. In the current year I believe we could fund this request from the
existing budget. Alternatively, it would be funded with contingency. In the subsequent fiscal years, this would need to be treated as a funding request and run through the budget process.

I believe there is more bang for the buck with this proposal than there would be in adding the position of Sustainability Planner. The reason is simply that we make a short-term commitment to gain professional support, we share the costs with other communities, and we hopefully will gain added resources through the grants. I still think the Sustainability Planner position is important and would be focused elsewhere, but I would place this higher on the priority list if a choice must be made.

Kennebunkport Selectmen have supported this request. Kennebunk will consider it on the 22nd. Kittery will consider it on the 28th. I’m not sure about Wells and Ogunquit.

**RECOMMENDATION:** I recommend the Board support this regional initiative and direct me to fund the current year request with existing budget resources, and to include a policy request in FY21 for the $15,000.

**PROPOSED MOTION:** I move to support the request of the Southern Maine Planning and Development Commission, and to direct the Town Manager to fund the FY20 request of $7,500 with existing budget resources and include a policy request in FY21 for $15,000.

Prepared by Stephen H. Burns, Town Manager: [Signature]
October 1, 2019

Dear Steve,

Over the past couple of months, a group of six towns have been meeting to discuss jointly establishing a position at the Southern Maine Planning and Development Commission (SMPDC) to work on issues related to energy planning, sustainability and coastal resiliency due to the impacts from rising sea levels and more frequent storm events.

As a result of these discussions, the six towns (Kittery, York, Ogunquit, Wells, Kennebunk and Kennebunkport) agreed that pursuing such a position, as a two year pilot program, would be the most cost effective and efficient way to address these issues. SMPDC has worked with the communities and plans to establish a dedicated position which can support the efforts of all the communities. The proposal not only establishes a Sustainability/Coastal Resilience position, it provides cash match for ongoing grant efforts. At the end of two years all communities and SMPDC will assess the results. The proposal is as follows:

Outline of Job
- We would advertise for a full time Sustainability/Coastal Resilience Coordinator with an expertise in energy and sustainability.
- The person would work with all six communities and their various committees dealing with energy, sustainability, climate change and sea level rise. The communities currently are in different places with respect to what has been done or is needed. We are ready to take that into account, so the support will be tailored to each community.
- The Coordinator will work with Abbie Sherwin, our Senior/Coastal Planner who has expertise in sea level rise and resiliency. The position will also be supported by other staff at SMPDC as needed.

SMPDC has put together a job description which is available if desired.

Current Efforts
SMPDC is currently working on coastal issues and hopes to be able to leverage additional dollars for this work. It is important to note that dedicated funds from the towns can be used as match for the following projects:
- SMPDC and three of the towns (York, Wells and Kennebunk) recently received a Maine Coastal Program for $75,000 to study seal level rise implications for municipal infrastructure and finances. Additional funds though the communities could leverage more research and data for the entire six town region. A $10,000 match is needed for this project.
- As York County was the only national designated disaster area in Maine for the March 2018 storms, we are eligible and plan to apply for a federal Economic Development Administration
grant. We are readying an application for approximately $100,000 to study business and local
economic impacts and detail what actions the communities might take to lessen those impacts.
(as an aside, the six communities make up 13% of Maine Restaurant sales tax and 24% of Maine
Lodging sales tax). A $20,000 cash match is required for this project.

Summaries of these grant projects are available if desired. We would also note we hope to
leverage additional grants funds as we identify projects and implementation ideas.

**Funding**
This would be a full time position requiring about $90,000 for salary, benefits and overhead.
- Funding would be 15,000 per year/per town, of which $30,000 will go towards matching grant
  funds as described above.
- As we will be basically half way through a budget year soon, we are asking each town for $7,500
  for this year (FY20) and $15,000 for a full year (FY21) beginning in July.
- We are looking at this as essentially a pilot program but the understanding through our
discussions, is that we would need two years to assess results.

With the increased emphasis on energy, sustainability and resiliency at the state level, this seems
to be an opportune time to begin this important regional effort.

Please let me know if you have any questions or if you would like me to attend a meeting.

Sincerely,

Paul Schumacher
Executive Director
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 16, 2019

DATE ACTION REQUESTED: October 21, 2019

SUBJECT: Pole Location Permit

☐ ACTION
□ DISCUSSION ONLY

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: The permit requests have been reviewed by Director of Public Works Dean Lessard and onsite inspections have been completed; Mr. Lessard recommend approval of the permits requested by Central Maine Power.

RECOMMENDATION: Approve the Pole Location Permits

PROPOSED MOTION: I move to approve the Pole Location Permit for 1 pole on Long Sands Road as described in the application from Central Maine Power.
I move to approve the Pole Location Permit for 2 poles on Clay Hill Rd/Ogunquit Rd as described in the application from Central Maine Power.

FISCAL IMPACT: N/A

DEPARTMENT LINE ITEM ACCOUNT: N/A

BALANCE IN LINE ITEM IF APPROVED: N/A

PREPARED BY: ___________________________ REVIEWED BY: ___________________________

Kathryn Lagasse
CENTRAL MAINE POWER COMPANY

APPLICATION FOR POLE LOCATION OR UNDERGROUND LOCATION

In the City/Town of: York, Maine

To the: □ City
☒ Town

☒ County of: York, Maine

Central Maine Power hereby applies for permission to:

☒ Construct and maintain poles together with attached facilities and appurtenances upon, along or across certain streets and highways in said City/Town as described below.

☐ Construct and maintain buried cables, conduits, manholes and handholes, together with wire and cables, transformers, cutouts, and other equipment therein, under, along, and across certain streets and highways in said City/Town as described below.

☒ Central Maine Power Company and Northern New England Telephone Operations L.L.C.

Jointly apply for permission to construct and maintain poles together with attached facilities and appurtenances upon, along or across certain streets and highways in said City/Town as described below.

1. Starting Point: 129
2. Road (State & CMP): Clay Hill Rd/Ogunquit Road
3. Direction: Westerly
4. Distance: 210' feet
5. Number of Poles: 2

Overhead wires shall have a minimum clearance of 18 feet over the public highway and be constructed to conform with the requirements of the National Electric Safety Code.

Buried cable facilities shall be placed at a minimum depth of 36 inches under pavement and 30 inches elsewhere and be constructed to conform with the requirements of the National Electric Safety Code.

Any person, firm, or corporation to be adversely affected by this proposed location shall file a written objection with the State Department of Transportation, City, Town or County stating the cause of said objection within fourteen (14) days after the publication of this notice or ninety (90) days after installation of facilities without publication.

☐ Public Notice of this application has been given by publishing the text of the same
☒ Not Published

In: ________________________________
On: ________________________________

CENTRAL MAINE POWER COMPANY

By: Elaine Titherington Date: 08/21/2019

By: ________________________________ Date: ________________________________
Facilities to consist of wood poles and appurtenances with a minimum clearance of wire and cables not less than 21 feet over the public highway, and/or underground facilities to consist of buried cables, conduits, transformers and manholes for operation at 7200 volts to ground single phase. Construction to be suitable for future operation at a voltage not to exceed 22KV to ground single phase. Right-of-way limits indicated are based on the best field information available. Poles/ Pads are staked. For further information call: Elaine Tilherting at Central Maine Power Company tel: 207-629-2542. Pole/Pad spans shown are approximate.
LOCATION PERMIT

Upon the Application of Center Maine Power Company and Northern New England Telephone Operations LLC, dated 08/21/2019, asking for permission, in accordance with law, to construct and maintain poles, buried cables, conduits, and transformers, together with attached facilities and appurtenances over, under, along or across certain highways and public roads in the location described in said application, permission is hereby given to construct, reconstruct, maintain and relocate in substantially the same location, said facilities and appurtenances in the City/Town of York, approximately located as follows:

1. Starting Point: 129

2. Road (State & CMP): Clay Hill Rd/Ogunquit Rd

3. Direction: Westerly

4. Distance: 210' feet

5. Number of Poles: 2

Facilities shall consist of wood poles and appurtenances with a minimum of wire and cable not less than 18 feet over the public highway and/or buried cables or conduit and appurtenances placed a minimum depth of 36 inches under pavement and 30 inches elsewhere, all in a manner conforming to the National Electric Safety Code.

By: ____________________________

By: ____________________________

By: ____________________________

By: ____________________________

By: ____________________________
Municipal Officers

Office of the ____________________________
Received and Recorded in Book _________ Page _________

Attest: ____________________________
Clerk
Hi Missy & Kathryn,

I have reviewed the CMP pole permit for Clay hill Road/Ogunquit Road. DPW doesn’t anticipate any issues with the proposed location. DPW recommends approval.

Thanks
Dean

Dean A. Lessard, P.E. | Director of Public Works
Town of York, Maine
186 York Street | York, Maine 03909
Phone: (207) 363-1010, Ext. 6201
Fax: (207) 363-1012
E-Mail: dlessard@yorkmaine.org
Online: www.yorkpublicworks.org

Follow us!
Facebook: www.facebook.com/YorkMainePublicWorks

From: Melissa M. Avery <mmavery@yorkpolice.org>
Sent: Wednesday, October 09, 2019 11:14 AM
To: Dean Lessard <dlessard@yorkmaine.org>
Cc: Kathryn Lagasse <klagasse@yorkmaine.org>
Subject: FW: pole permit York 2nd request

Melissa M. Avery
Administrative Assistant
York Police Department
9 Hannaford Drive, York, ME 03909
Phone: (207) 363-1031 | Fax: (207) 361-6818

Please consider the environment before printing this email.

From: Libby, Anita <Anita.Libby@cmpco.com>
Sent: Wednesday, October 9, 2019 11:01 AM
To: Melissa M. Avery <mmavery@yorkpolice.org>
Subject: pole permit York 2nd request

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 15, 2019

☑ ACTION
☐ DISCUSSION ONLY

DATE ACTION REQUESTED: October 21, 2019

SUBJECT: Free Little Libraries

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:

My name is Ella Hanson. I am a senior at York High School and a Girl Scout. I am working towards earning my Girl Scout Gold Award, which is the highest honor in Girl Scouting; similar to the Boy Scout Eagle Award.

I am addressing reading rates among people in York. Although there have not been any studies specific to York, many national studies show that reading rates have significantly decreased in the last 10 years. Some studies show that increasing the visibility and accessibility to books can help increase reading rates, particularly in kids.

The Free Little Library movement began in 2009. It is a nonprofit organization that “inspires a love of reading, builds communities and sparks creativity by fostering neighborhood book exchanges around the world.”

I began working with Robin Cogger of York Parks and Recreation Department. We determined that 6 locations in York would benefit from a Free Little Library. The location we are targeting are:

(1) Bog Field
(2) Harbor Beach
(3) Mt. Agamenticus
(4) Village Elementary School fields
(5) York Community Service Association (YCSA)
(6) York Public Library

I contacted organizations who maintains these locations. The first 4 locations are maintained by York Parks and Recreation and I was already working with Robin Cogger. I contacted Michelle Surdoval and she was supportive of having a Free Little Library at the YCSA thrift store location, even offering to use some of their donated books to help fill all 6 Free Little Libraries. I contacted Michelle Sampson, Director, York Public Library, who is also very supportive of having a Free Little Library on the premises. She has provided us with positive feedback from some of her counterparts in other communities who
I have Free Little Libraries in their communities and on the property of their public libraries. After getting tentative approval for the locations, I began looking for funding.

I made a presentation for York Rotary on June 21st, 2019. They graciously agreed to fund this project with a $2,000 grant. I use these funds for six (6) Free Little Library structures, posts, initial books and plaques which register the Free Little Libraries with the national organization.

On September 20th, Robin Cogger and I meet with Amber Harrison, Director of York Code Enforcement, at Town Hall. She reviewed our sites and did not find any code issues with any of our locations. We are providing her with photos of the locations, and she will be marking their locations on a map.

I will work with the Parks and Recreation Department to manage any ongoing maintenance and upkeep of the structures, as needed.

I am hopeful that these structures can be installed before the ground freezes.

I think that Free Little Libraries will make a great addition to our town by increasing reading awareness and fostering community.

Thank you for your support.

RECOMMENDATION: I recommend that the Board approve the installation of the Free Little Libraries at the Town owned properties that have been identified and approved by Parks and Recreation and Code Enforcement.

PROPOSED MOTION: I move that the Board approve the installation of the Free Little Libraries at the Town owned properties that have been identified and approved by the Parks and Recreation Department and Code Enforcement.

FISCAL IMPACT: None at this time.

DEPARTMENT LINE ITEM ACCOUNT: N/A

BALANCE IN LINE ITEM IF APPROVED: N/A

PREPARED BY: Ella Hanson

REVIEWED BY: [Signature]