1. Board Of Selectmen's Meeting Materials

   Documents:

   2019-11-04 BOS AGENDA.PDF
   2019-11-04 BOS PACKET.PDF
BOARD OF SELECTMEN’S
MEETING AGENDA
6:30 PM / 7:00 PM  MONDAY, NOVEMBER 4, 2019
YORK PUBLIC LIBRARY

6:30 PM- Executive Session – Personnel (Title 12 MRS §405.6.A)

Call to Order

Pledge of Allegiance

A. Consent Agenda
   1. October 21, 2019 Meeting Minutes
   2. Games of Chance

B. Minutes

C. Chairman’s Report

D. Manager’s Report

E. Awards
   1. Bid Award – Chevy Tahoe, Police Department
   2. Bid Award – Ford Interceptor Hybrid, Police Department

F. Reports
   1. Town Council Form of Government, Maura Herlihy – City of Sanford
   2. Treasurer’s Report

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

H. Public Hearings

5/21/2019 3:56 PM
Page 1 of 2
I. **Endorsements**

J. **Old Business**
   1. Action: Non-Union Personnel Policy
   2. Action: Administrative Consent Agreement with State of Maine
   3. Action: LED Street Light Product Approval
   4. Action: Approve York Village Parking Layout

K. **New Business**
   1. Action: Carryforwards from FY19 to FY20
   2. Action: Recycling Reform Resolution
   3. Discussion: Property Transfer to York Water District
   4. Discussion: Financial Operating Data and Fund Balance History
   5. Action: Pole Permit Approval

L. **Future Agendas**

M. **Other Business**

N. **Citizens' Forum**

**Adjourn**
BOARD OF SELECTMEN'S
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M. Other Business
N. Citizens' forum

Adjourn
Board of Selectmen’s Consent Agenda

November 4, 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 21st, 2019 Meeting Minutes
2. Games of Chance

*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
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)

Present: Vice Chairman Robert E. Palmer, Jr., Michael L. Estes, Marilyn A. McLaughlin, Elizabeth D. Blanchard, Town Manager Stephen H. Burns, Director of Human Resources and Assistant Town Manager Kathryn Danylik-Lagasse.

Absent: Chairman Todd A. Frederick, Marilyn A. McLaughlin

Moved by Mr. Estes, seconded by Ms. Blanchard to enter into executive session. Vote 5-3, motion passes.

Moved by Ms. Blanchard, seconded by Mr. Estes to exit out of executive session, Vote 5-3, motion passes.

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


Absent: Marilyn A. McLaughlin

7:00 PM - Regular Meeting

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

Absent: Marilyn A. McLaughlin

Call to Order

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

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

Ms. Blanchard read the following Proclamation: “We, the Select board of the town of York, hereby proclaim November 10, 2019 to be a day of observance and celebration of the 100th anniversary of the ratification of the 19th amendment giving women the right to vote.

The 19th amendment reads: ‘The right of citizens of the United States to vote shall not be denied or abridged by the United States on account of sex. Congress shall have the power to enforce this article by appropriate legislation’.”

A. Consent Agenda
   1. October 7, 2019 Meeting Minutes
   2. October 15, 2019 Meeting Minutes

Moved by Ms. Blanchard, seconded by Mr. Estes to accept the Consent Agenda. Vote 4-0, motion passes.

B. Minutes

C. Chairman’s Report

D. Manager’s Report

E. Awards

F. Reports
   1. Little Free Libraries – Ella Hanson

Moved by Mr. Palmer, seconded by Ms. Blanchard to move item “K.6 – Action: Approval of Little Free Libraries” up in the agenda. Vote 4-0, motion passes.

Moved by Mr. Palmer, seconded by Ms. Blanchard to approve the installation of the Free Little Library at the Town-owned properties that have been identified by the Parks and Recreation Department and Code Enforcement, exchanging Village Elementary School for Coastal Ridge Elementary School. Vote 4-0, motion passes.

   2. Fuller Forest Management Plan – Doreen MacGillis
   3. LED Streetlight Project – Dean Lessard
   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 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 | Carol Allen  
|                | Barry Waddell  
|                | Estelle Margarones  
|                | Janet Drew  
|                | Jeffrey McConnell  
|                | Jan Jonas  
|                | Jerri LeConte |

H. **Public Hearings**

1. Impact Fee Regulations Amendment

Moved by Mr. Palmer, seconded by Ms. Blanchard to open the public hearing. Without objection, so ordered.

| Public Comment | None |

Moved by Mr. Palmer, seconded by Ms. Blanchard to close the public hearing. Without objection, so ordered.

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

Moved by Mr. Palmer, seconded by Mr. Estes to approve the proposed changes to the Non-Union Personnel Policy, excluding the health adjustment and leaving bereavement leave at the current 4 days. Vote 4-0, motion passes.
2. Action: Sunsetting School Impact Fees

Moved by Mr. Palmer, seconded by Ms. Blanchard to repeal “regulations to Establish an Impact Fee for School Construction” and this amendment shall go into effect February 1, 2020. Vote 4-0, motion passes.

3. Action: Class Action Law Suit

No Action was taken on this item.

4. Action: SMPDC Request

Moved by Ms. Blanchard, seconded by Mr. Palmer to support the request for 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. Vote 4-0, motion passes.

5. Action: Pole Permit

Moved by Mr. Palmer, seconded by Ms. Blanchard to approve the Pole Location Permit for 1 pole on Long Sands Road as described in the application from Central Maine Power, and also to approve the Pole Location Permit for 2 poles on Clay Hill Road/Ogunquit Road as described in the application from Central Maine Power. Vote 4-0, motion passes.

6. Action: Approval of Little Free Libraries

Addressed earlier in the agenda.

L. Future Agendas

M. Other Business

N. Citizens’ Forum

   Public Comment: David Brinkman

Adjourn

Chairman Todd A. Frederick adjourned the meeting at 9:35 PM. Without objection, so ordered.

Respectfully Submitted,

Melissa M. Avery
November 4, 2019
Department of Public Safety
Gambling Control Unit
Central Maine Commerce Center
87 State House Station
45 Commerce Drive, Suite 3
Augusta, ME 04333

RE: Blanket Letter of Approval to Operate Games of Chance

To Whom It May Concern:
The Town of York Board of Selectmen voted at their November 4th meeting to approve a Blanket Letter of Approval to Operate Games of Chance and/or Bingo/Beano Games for the following organizations for calendar year 2020:

- American Legion Post #56
- American Legion Auxiliary
- Elks Lodge #2788
- Knights of Columbus Council #11940
- Parents for York Wrestling
- Saint Christopher’s Church
- VFW Post # 6977
- York Beach Fire Department
- York Village Fire Department
- York Chamber of Commerce
- York Jr. Wildcats
- York Kiwanis
- York Little League
- York Music Boosters
- York Rotary Club
- York Athletic Boosters
- York High School Activities

Please feel free to contact me should you need anything further.

Sincerely,

Kathryn Lagasse
klagasse@yorkmaine.org
Town of York, Maine
186 York Street
York, ME 03909
(207) 363-1000
ESTABLISHMENTS REQUESTING LETTER OF APPROVAL
FOR GAMES OF CHANCE

American Legion Post #56
647 US Route One
York, ME 03909

York Chamber of Commerce
1 Stonewall Lane
York, ME 03909

York High School Activities
1 Robert Stevens Drive
York, ME 03909

York Middle School Activities
30 Organug Road
York, ME 03909

York Jr. Wildcats
c/o York Middle School
30 Organug Road
York, Maine 03909

York Athletic Boosters
c/o York High School
1 Roberts Stevens Drive
York, Maine 03909

Elks Lodge #2788
1704 U.S. Route One
P.O. Box 711
York, ME 03909

York Kiwanis
P.O Box 454
York, Maine 03909

Knights of Columbus Council #11940
P.O. Box 172
York Harbor, ME 03911

York Little League
P.O. Box 696
Cape Neddick, ME 03902

Parents for York Wrestling
c/o York High School
1 Robert Stevens Dr.
York, ME 03909

York Music Boosters
c/o York High School
1 Stevens Drive
York, Maine 03909

Saint Christopher’s Church
4 Barrell Lane
York, ME 03909

York Rotary Club
P.O. Box 806
York, ME 03909

VFW Post #6977
P.O. Box 201
York Beach, ME 03910

York Village Fire Department
1 Firehouse Drive
York, ME 03909

York Beach Fire Department
P.O. Box 70
York Beach, ME 03910
12. Fair Association Only: Attach a list of the names and home addresses of the persons operating or assisting in the licensed activity. Please write your organization name and number on the list.

13. Tournament Game Only: Specify the name(s) of the charitable organization(s) that the proceeds of the tournament will benefit.

14. The following consent must be completed by the municipal officers of the city or town where the Game(s) of Chance will take place unless a separate "Letter of Approval" is attached to this application.

☐ Check here if you have attached a "Letter of Approval". Letters that have an expiration date of greater than five years from the issue date will not be accepted by this office.

Municipal Consent to License

The undersigned being municipal officers of the City/Town of ____________ hereby certify that we consent to the application for licensure by ____________ to operate Games of Chance in accordance with the provisions of 17 M.R.S.A. Chapter 62 and in accordance with the Rules promulgated by the State of Maine, Department of Public Safety, Gambling Control Unit governing the conduct of Games of Chance.

Name: ____________________________ Title: ____________________________
Date: ____________________________
Name: ____________________________ Title: ____________________________
Date: ____________________________
Name: ____________________________ Title: ____________________________
Date: ____________________________
Name: ____________________________ Title: ____________________________
Date: ____________________________

15. The applicant agrees to obey Federal, State of Maine laws, and rules governing Games of Chance promulgated by the Department of Public Safety, Gambling Control Unit. The applicant warrants the truth of the foregoing statements on penalty of perjury.

Signed: ____________________________

Print Name: ____________________________ Title: ____________________________

Date: ____________________________ Age 18 or older: Yes ☑ No ☐

MGCU – 5300
Revised 08/01/2019
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 31, 2019
DATE ACTION REQUESTED: November 4, 2019

SUBJECT: Acceptance of Bid for a 2020 Ford Utility Police Interceptor Hybrid

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: The Board of Selectmen may accept or reject the proposed Bid for a 2020 Ford Utility Police Interceptor Hybrid.

RECOMMENDATION: For the Board of Selectmen to approve the bid for a 2020 Ford Utility Police Interceptor Hybrid from Key Ford of York Maine.

PROPOSED MOTION: I move to award the bid for the purchase of a 2020 Ford Utility Police Interceptor Hybrid to Key Ford of York Maine in the amount of $30,295.00 from the Police Vehicle Account.

FISCAL IMPACT: $30,295.00

DEPARTMENT LINE ITEM ACCOUNT: Police Vehicle Account

BALANCE IN LINE ITEM IF APPROVED: $69,000

PREPARED BY: [Signature]
REVIEWED BY: [Signature]
October 28, 2019
Town Manager:
186 York Street
York, Me 03909.

Dear Sir;

Key Ford of York submits the following bid for one (1) 2020
Ford Utility Police Interceptor.

As quoted for the Town of York Police Department:

Price of one (1) 2020 Ford Utility Police Interceptor: $36,547.88
Less trade of 2016 Ford Utility Police Interceptor 6,252.88

Net Bid: $30,295.00

Sincerely yours,

[Signature]
Rob Berry Jr.
Sales & Leasing Consultant

Enc: 3

Delivery time as dictated by manufacturer
Vehicle: [Fleet] 2020 Ford Police Interceptor Utility (K8A) AWD

<table>
<thead>
<tr>
<th>Option</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engine: 3.3L V6 Direct-Injection Hybrid System</td>
<td>$0.00</td>
</tr>
<tr>
<td>Sterling Grey Metallic</td>
<td>$0.00</td>
</tr>
<tr>
<td>3.73 Axle Ratio</td>
<td>$0.00</td>
</tr>
<tr>
<td><strong>SUBTOTAL</strong></td>
<td><strong>$42,319.06</strong></td>
</tr>
<tr>
<td>Adjustments Total</td>
<td>$0.00</td>
</tr>
<tr>
<td>Destination Charge</td>
<td>$1,195.00</td>
</tr>
<tr>
<td><strong>TOTAL PRICE</strong></td>
<td><strong>$43,514.00</strong></td>
</tr>
</tbody>
</table>

**FUEL ECONOMY**
- Est City: N/A
- Est Highway: N/A
- Est Highway Cruising Range: N/A

*This document contains information considered Confidential between GM and end Client(s) only. The information provided is not intended for public disclosure. Prices, specifications, and availability are subject to change without notice, and do not include certain fees, taxes and charges that may be required by law or vary by manufacturer or region. Performance figures are guidelines only, and actual performance may vary. Photos may not represent actual vehicles or exact month/trim/price. Content based on report prepared's Data Version: 8.036, Date Updated: Oct 22, 2019 11:49:00 PM PST.*

Bid with Joe's specs only.

Price: $36,186.00
- $4,417.00
- $32,369.00

Fred, 12-11-18
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 31, 2019

DATE ACTION REQUESTED: November 4, 2019

SUBJECT: Reject the bid for a 2019 Chevrolet Tahoe

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: The Board of selectmen to accept or reject the singular bid for a 2019 Chevrolet Tahoe from Quirk Auto Group.

RECOMMENDATION: For the Board of Selectmen to reject the singular Bid for a Chevy Tahoe from Quirk Auto Group of Augusta.

PROPOSED MOTION: I move to reject the singular bid for the purchase of a 2019 Chevrolet Tahoe from Quirk Auto Group of Augusta.

FISCAL IMPACT: $0

DEPARTMENT LINE ITEM ACCOUNT: $0

BALANCE IN LINE ITEM IF APPROVED:

PREPARED BY: Chief Charles Szeniawski REVIEWED BY:
Memorandum

Date: October 31, 2019  
To: Board of Selectmen  
Cc: Town Manager Stephen H. Burns  
From: Chief Charles J. Szenawski  
RE: Cruiser Bids Hybrid Interceptor and Chevrolet Tahoe

The bids for a 2020 Ford Utility Police Interceptors Hybrid we sought from seven (7) different vendors have been received from two and opened in the Town Manager's Office as of October 30, 2019 at 1000 hours.

The lowest bid for the unit was provided by Key Ford of York for $30,295.00. The price reflects the trade of a 2016 Ford Utility Police Interceptor for $6,252.88.

The second lowest bidder was Quirk Ford of Augusta in the amount of $32,369.00 with a trade of $4,417.00 for the 2016 Ford Utility Interceptor.

I am recommending the rejection of the second set of bids I requested for a 2019 Chevrolet Tahoe. The bids were forwarded to (4) four dealers and one submitted a Bid for a 2019 Chevrolet Tahoe that would not meet our exact specifications due to it be a pre ordered dealership vehicle with installed equipment we do not use. Chevrolet will not take requests for bids until late spring of 2020. We will go to bid then and keep using the present 2015 Tahoe until a purchase of a new one. This will reduce the trade value, but it is the best Financial and organizational decision.
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 31, 2019  ☒ ACTION
DATE ACTION REQUESTED: November 4, 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 requested policy change.

1. Approve the policy changes to the Non-Union Personnel Policy to include the $25 health adjustment benefit

2. Not approve policy changes to the Non-Union Personnel Policy to include the $25 health adjustment benefit

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 to include the $25 health benefit adjustment for non-union employees.

FISCAL IMPACT:

DEPARTMENT LINE ITEM ACCOUNT:

BALANCE IN LINE ITEM IF APPROVED:

PREPARED BY: Kathryn Lagasse, HR Director  REVIEWED BY: [Signature]
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 31, 2019  ☒ ACTION
DATE ACTION REQUESTED: November 4, 2019  ☐ DISCUSSION ONLY

SUBJECT: Administrative Consent Agreement with the State of Maine

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: When DEP told the Town that our work on the sea wall along Long Sands Beach required a permit, they expected us to stop work. The conclusion we should have had a permit from the very beginning, whereas we believed that direction received from Department staff indicated otherwise. We informed DEP that the Town would submit an after-the-fact application and continue work. As the process played out in obtaining the permit (copy attached), their staff informed us the Town would be fined for the work without a permit.

The Town applied for the permit in August 2018 and received the permit in September 2019.

Separate from the permit is the proposed Administrative Consent Agreement. This is an alternative to the State taking the Town to court. The settlement includes the requirement to pay a $75,000 fine and construct an educational kiosk at or near the new bathhouse to educate the public about the role of dunes and natural beach vegetation.

To put this dollar amount in context, the overall cost of the project is expected to be about $3M.

I proposed to DEP a Supplemental Environmental Pollution Prevention Project – the conservation of 113 acres of Town-owned lands – in hopes of reducing the monetary fine. This was rejected. The fine will need to be paid from the DPW operating budget.

I am currently awaiting a final version of the Agreement from DEP. We have agreed to the major issues of substance, but there are a couple typos to be fixed.

The Board has two choices – accept the proposed Agreement or not (with an expectation the State will litigate instead).
<table>
<thead>
<tr>
<th>RECOMMENDATION:</th>
<th>I recommend the Board endorse this Agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>PROPOSED MOTION:</td>
<td>I move to endorse the proposed Administrative Consent Agreement with the State of Maine regarding the Long Beach Sea Wall matter, and to direct the Town Manager to execute the Agreement on behalf of the Town and to ensure compliance with the terms of the Agreement.</td>
</tr>
<tr>
<td>FISCAL IMPACT:</td>
<td>$75,000</td>
</tr>
<tr>
<td>DEPARTMENT LINE ITEM ACCOUNT:</td>
<td>Public Works Department operating budget</td>
</tr>
</tbody>
</table>

Prepared by Stephen H. Burns, Town Manager:
IN THE MATTER OF:

TOWN OF YORK
YORK, YORK COUNTY, MAINE
NRPA
EIS DOCKET #2018-061-L

) ADMINISTRATIVE CONSENT
) AGREEMENT
) (38 M.R.S. § 347-A)

This Agreement, by and among Town of York, the Maine Board of Environmental Protection (the "Board"), and the Maine Office of the Attorney General, is entered into pursuant to the laws concerning the Department's Organization and Powers, 38 M.R.S. § 347-A(1).

THE PARTIES AGREE AS FOLLOWS:


2. The Town of York (the "Town") is a municipal corporation that is organized and exists under the laws of the State of Maine.

3. The property described in Paragraph 1 of this Agreement is within a coastal sand dune system as defined in the Natural Resources Protection Act, 38 M.R.S. § 480-B(8), and contains frontal dunes as defined in the Coastal Sand Dune Rules, 06-096 C.M.R. ch. 355, § 3(U).

4. Major storm events in Oct-Nov of 2017 and March of 2018 undermined the seawall with loss of some large granite blocks from the seawall, loss of portions of sidewalk, and undermining of the road. These events were recorded in the following FEMA declarations of damage: FEMA – 4354 – DR – ME (October 29 – November 1, 2017) and FEMA – 4367 – DR – ME (March 2-8, 2018).

5. On April 3, 2018, Department staff visited the site with the Town’s representatives. At that time, Department staff documented that the Town’s contractor was excavating part of the beach in front of the sloped seawall to replace the seawall footer, which had been washed out in a recent storm. The Town’s representatives described a longer-term plan to change the surface of the seawall to step or roughen the surface, which was intended to reduce wave run-up. Department staff requested that the Town submit the plans for the seawall changes in order to make a determination whether the activity would be exempt from Department review Under the Natural Resources Protection Act.
"NRPA"). No plans were submitted to the Department for review during the month of April 2018.

On May 1, 2018, Department staff inspected the seawall and documented that work had begun to change the surface of the seawall by adding a stepped surface over the existing sloped structure. Plans were submitted to the Department for review later that day. After reviewing the plans, Department staff informed the Town that the stepped design was a change in configuration of the existing structure and would require a NRPA permit. The applicant continued to build the steps on top of the existing seawall in the weeks after being notified that these changes to the seawall required prior approval from the Department.

On May 16, 2018, Department staff re-inspected the Long Sands Beach seawall bordering Long Beach Avenue in York. Staff observed that construction activities had continued and several hundred feet of the existing sloped riprap and concrete seawall had been expanded vertically and replaced with large granite steps. The Town had not obtained any permits from the Department for this activity.

6. The violations described in Paragraph 5 of this Agreement affected a coastal sand dune system, which is a protected natural resource as defined by the Natural Resources Protection Act, 38 M.R.S. § 480-B(8).

7. By constructing, repairing, and altering a permanent structure in a coastal sand dune system without first obtaining a permit from the Department, the Town violated the Natural Resources Protection Act, 38 M.R.S. § 480-C.

8. On June 27, 2018, the Department issued a Notice of Violation to the Town for the activities described in Paragraphs 5, 6 and 7 of this Agreement, in accordance with 38 M.R.S. § 347-A(1)(B). The Town responded to the NOV by letter dated July 30, 2018.

9. Pursuant to the June 27, 2018, Notice of Violation issued by the Department, the Department requested that the Town perform the following corrective actions:

A. Submit an After-The-Fact Individual NRPA permit application acceptable for processing to the Department; or

B. In combination with the action referenced in Paragraph 9(A) of this Agreement, or as a separate action, submit a restoration plan to the Department to reduce the altered structure or portions of the altered structure back to the original dimensions before the activity began.

10. On August 20, 2018, the Town of York submitted an after-the-fact NRPA permit application, which was accepted for processing by the Department on August 24, 2018.
11. Subsequent to the Department’s issuance of the June 27, 2018 Notice of Violation, the Department sent an additional letter on February 11, 2019 informing the Town that permits are required and that no further work on the seawall should continue until such permits are acquired. The Town continued work on the construction of the unlicensed seawall. Approximately 1,823 linear feet of the previously existing seawall has been altered.

12. On March 5, 2019, the Assistant Attorney General representing the Department issued a letter informing counsel for the Town that permits are required and that no further work on the seawall should continue until such permits are acquired. That same day counsel for the Town notified the Department that the Town had stopped construction activities on the seawall.

13. The parties agree this Agreement constitutes a Notice of Violation pursuant to 38 M.R.S. § 347-A(1)(B) for any violations specifically cited in this Agreement but not previously described in a Notice of Violation.

14. This Agreement shall become effective only if it is accepted by the Board and approved by the Attorney General.

15. To resolve the violations referred to in Paragraphs 5, 6, 7, and 11 of this Agreement, the Town agrees:

A. To pay to the Treasurer, State of Maine, immediately upon signing this Agreement, a civil monetary penalty in the amount of $75,000.00; and

B. To install and maintain a permanent sign board or other type of educational kiosk that includes information, reviewed and approved by the Department, about the important role of coastal sand-dune systems in mitigating sea level rise and storm surges, and the ecological benefits of maintaining native beach vegetation. This educational structure must be installed by June 1, 2020, in accordance with the Town’s zoning requirements, in a location on or near the bath house such that it is clearly viewable by beach-going visitors and members of the general public; and

C. To cease all work on the seawall until permits are issued by the Department; and

D. That any variation from the approved plans, proposals and supporting documents requires further Department review and approval prior to implementation; and
E. That any variations from the approved plans, proposals and/or supporting documents without Department approval is subject to further enforcement action; and

F. To pay to the Treasurer, State of Maine, upon demand by the Department, a civil monetary penalty in the amount of One Hundred Dollars ($100.00) per day per violation, of any of the terms of this Agreement, as determined by and at the sole discretion of the Department.

16. The Board and Office of the Attorney General grant a release of their causes of action against the Town for the specific violations listed in Paragraphs 5, 6, 7 and 11 of this Agreement on the express condition that the actions listed in Paragraph 15 of this Agreement are completed in accordance with the express terms and conditions of this Agreement. The release shall not become effective until all requirements of this Agreement are satisfied.

17. Non-compliance with this Agreement voids the release set forth in Paragraph 16 of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S. §§ 347-A(1)(A), 347-A(5), 348 or 349(2), as well as pursuit of other remedies.

18. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all applicable local, state, and federal laws, rules, and orders including but not limited to licensing requirements.

19. The provisions of this Agreement shall apply to, and be binding on, the parties and their officers, agents, servants, employees, successors, and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Agreement.

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IN THE MATTER OF:

TOWN OF YORK  
YORK, MAINE  
NRPA  
EIS #2018-061-L

)  )  )  )
ADMINISTRATIVE CONSENT  AGREEMENT  (38 M.R.S. § 347-A)

IN WITNESS WHEREOF the parties hereto have executed this Agreement consisting of five (5) pages:

TOWN OF YORK

BY: ___________________ DATE: __________
STEVE BURNS, TOWN MANAGER

BOARD OF ENVIRONMENTAL PROTECTION

BY: ___________________ DATE: __________
MARK C. DRAPER, CHAIRPERSON

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: ___________________ DATE: __________
KATE TIERNEY, ASSISTANT ATTORNEY GENERAL

NOTE: this version is a printed copy of the most recent version received from MDEP, with track changes all accepted. There are still two minor typos which I have highlighted in the text – the dollar amount in numbers and text don’t jive, and my name on a formal document should be Stephen. The final version to be signed will be slightly different.
Administrative Consent Agreement Fact Sheet

SUMMARY
Violations of Maine’s environmental laws may warrant resolution in a written binding document that requires corrective actions by a violator and payment of monetary penalties. These written resolutions are either accomplished by voluntary agreements entered into between a violator and the Maine Department of Environmental Protection (Maine DEP) or after going before one of Maine’s judicial courts. This fact sheet reviews the process associated with resolving violations by agreement with Maine DEP, using a so-called Administrative Consent Agreement.

WHAT ARE ADMINISTRATIVE CONSENT AGREEMENTS?
Maine’s legislature has provided Maine DEP with two primary enforcement tools for resolving significant environmental violations in writing — Administrative Consent Agreements and court actions. Maine DEP’s Administrative Consent Agreement authority allows violations to be resolved in a negotiated settlement without the need for going to court. Administrative Consent Agreements are voluntary and the terms and conditions of such agreements are the product of a negotiation process between the violator and Maine DEP. If the Administrative Consent Agreement process is initiated, but ultimately fails to result in an agreement, Maine DEP may initiate judicial proceedings to achieve a resolution.

WHY ARE ADMINISTRATIVE CONSENT AGREEMENTS PROPOSED?
Maine DEP staff is responsible for inspecting records and sites throughout the State to ensure that people and businesses comply with Maine’s environmental laws. When violations are discovered, Maine DEP staff document what they observed. An Administrative Consent Agreement may be proposed to resolve documented violations when they are environmentally or legally significant, including: where significant harm to human health or the environment is threatened or has occurred; when an alleged violator has not cooperated in resolving environmental threats or harm; when a violator has financially benefited from the violations; when a violator knew of or should have known of the requirement; or where there is a pattern of violations. Maine DEP staff and management look at the individual facts in a case and determine whether an Administrative Consent Agreement is appropriate.

WHO writes and approves a proposed administrative consent agreement?
If Maine DEP determines that an Administrative Consent Agreement is appropriate, Maine DEP staff trained in case evaluation and resolution draft a proposed agreement. Often the person drafting the Administrative Consent Agreement is the same person that investigated and documented the violations. Once a draft of the proposed Administrative Consent Agreement is created, supervisors, the Maine DEP enforcement director, and an Assistant Attorney General review and comment on the draft. Any comments received by the drafter will be resolved prior to the proposed agreement being sent to the violator.

WHAT HAPPENS ONCE A PROPOSED ADMINISTRATIVE CONSENT AGREEMENT IS SENT TO THE VIOLATOR?
Proposed Administrative Consent Agreements are based on the information known to Maine DEP as a result of our investigation. The settlement terms contained in a proposed Administrative Consent Agreement are what Maine DEP believes will constitute a full and fair settlement of the matter as it is
understood by Maine DEP. The recipient should carefully read the proposed Administrative Consent Agreement and any correspondence accompanying the proposal. If the recipient disagrees with the facts, required corrective actions, or proposed penalty the recipient has the opportunity to respond to the proposal in writing or request a meeting to discuss the proposal with Maine DEP staff. Maine DEP is required by law to provide a reasonable period of time for the violator to respond to a proposed Administrative Consent Agreement and must offer the violator an opportunity to meet with Maine DEP staff to discuss the terms of the agreement. Any deadline for responding to a proposed Administrative Consent Agreement, or for acknowledging receipt of the proposal, should be respected in order to show negotiation in good-faith.

WHAT ARE SUPPLEMENTAL ENVIRONMENTAL PROJECTS?
Maine law authorizes Maine DEP to include environmentally beneficial projects, known as Supplemental Environmental Projects ("SEPs"), as part of an Administrative Consent Agreement. Generally, penalties associated with consent agreements are paid to the State’s general fund or one of several funds dedicated to Maine DEP activities. The SEP law allows up to 80% of a penalty, other than that portion of the penalty addressing economic benefit, to be directed to an SEP. SEPs are not a tool for bringing persons charged with a violation into compliance with environmental requirements. Rather, SEPs are environmentally beneficial activities that a person charged with a violation voluntarily agrees to perform as part of an enforcement resolution, but that the violator is not otherwise obligated or likely to perform.

WHAT HAPPENS AFTER THE VIOLATOR SIGNS THE ADMINISTRATIVE CONSENT AGREEMENT?
Pursuant to Maine law, all Administrative Consent Agreements must be approved by the Commissioner of the Maine Department of Environmental Protection and the Attorney General. After the Maine DEP receives a signed Administrative Consent Agreement from the violator, Maine DEP staff forwards the agreement to the Commissioner for signature. All administrative Consent Agreements are subject to public comment while pending signature by the Commissioner. If the agreement is accepted by the Commissioner, it is sent to the Attorney General’s office for signature. If the agreement is rejected, it is sent back to Maine DEP staff to be either renegotiated or resolved in another manner.

Last revised: 06/2011
IN THE MATTER OF

TOWN OF YORK) NATURAL RESOURCES PROTECTION ACT
York, York County) SAND DUNE ALTERATION
SEAWALL RECONFIGURATION) FINDINGS OF FACT AND ORDER
L-27976-4H-A-N (approval, partial after-the-fact)

Pursuant to the provisions of 38 M.R.S. §§ 480-A-480-JJ, the Natural Resources Protection Act (NRPA) and Chapter 355, the Coastal Sand Dune Rules, the Department of Environmental Protection (Department) has considered the application of the TOWN OF YORK with the supportive data, agency review comments, and other related materials on file and FINDS THE FOLLOWING FACTS:

1. PROJECT DESCRIPTION:

A. History of Project: Long Beach Avenue (U.S. Route 1A) in York was reconstructed in the 1940's and runs parallel to Long Sands Beach. The Long Sands Beach seawall was first constructed around the same time. The seawall was originally dry-laid with granite blocks and angular boulders with a loose concrete footing below it. After the seawall experienced storm surges and wave run-up, the granite block joints were mortared to prevent loss of the sidewalk and road. The seawall, which is currently angled (or sloped) from the sand dune up to Long Beach Avenue, extends south from Cape Neddick to an area adjacent to the existing bath house, and then to just north of the Sun & Surf Restaurant at 264 Long Beach Avenue. Another section of the seawall continues to the south on the other side of the restaurant to where the Little River outlets to the ocean. The entire seawall, cumulatively, is approximately 6,600 linear feet. The seawall, or revetment, requires annual repairs due to the loss of mortar from wave action. The applicant states that, periodically, more substantial repairs are necessary to replace the loss of the granite blocks and boulders dislodged from the impact of waves and the undermining of the seawall from tidal action. Major storm events in October/November of 2017 and March 2018 undermined the seawall, with loss of some large granite blocks from the seawall, loss of portions of sidewalk, and undermining of the road. These events were recorded in the following Federal Emergency Management Agency (FEMA) declarations of damage: FEMA – 4354 – DR – ME (October 29 – November 1, 2017) and FEMA – 4367 – DR – ME (March 2 – 8, 2018).

On March 29, 2018, the Department received a complaint that the applicant was excavating on Long Sands Beach. Department staff visited the site on April 3, 2018 with the applicant’s representatives. At that time, Department staff documented the
applicant's contractor was excavating part of the beach in front of the sloped seawall to replace the seawall footer, which had been washed out in a recent storm. Department staff informed the applicant's representatives that this activity would be exempt from the need to obtain approval under NRPA, provided the dimensions of the footer were not expanded over the existing condition. The applicant's representatives described a longer-term plan to change the surface of the seawall to "step or roughen the surface," which was intended to reduce wave run-up. Department staff requested that the applicant submit the plans for the seawall changes in order to determine whether the activity would be exempt from Department review. No plans were submitted to the Department for review during the month of April 2018.

On May 1, 2018, the Department received a second complaint inquiring about the applicant's ongoing efforts to construct steps on the beach. Department staff inspected the seawall that day and documented that work had begun to change the surface of the seawall by adding a stepped surface over the existing sloped structure. Plans were submitted to the Department for review later that day. After reviewing the plans, Department staff informed the applicant that the stepped design was a change in configuration of the existing structure and would require a NRPA permit. The applicant continued to build the steps on top of the existing seawall in the weeks after being notified that these changes to the seawall required prior approval from the Department.

On May 16, 2018, a site visit was conducted with Department staff, marine geologists from the Maine Geological Survey (MGS), and the applicant's representatives. At that meeting, the applicant was informed that the Department intended to issue a Notice of Violation (NOV) alleging that the applicant violated NRPA, 38 M.R.S. §480-C, by building large granite and concrete steps over the existing sloped revetment in front of the public bath house without first obtaining a permit. Corrective actions described in the NOV included either obtaining an after-the-fact permit from the Department for the alterations made to the seawall and any additional alterations that may be proposed, or submit a restoration plan to the Department to reduce the altered structure or portions of the altered structure back to the original dimensions before the activity began. The NOV was issued on June 27, 2018.

On July 31, 2018, the applicant filed a partially after-the-fact permit application for the modifications to the seawall, but continued working on the seawall by adding the same step design and widening portions of the sidewalk between the seawall and Long Beach Avenue in the vicinity of the bath house. The applicant continued working on sections of the seawall intermittently between that time and March 2019, after which time the applicant committed to stopping all work related to the construction of steps over the existing sloped revetment while the Department's review was pending.

In a filing with the Department dated April 16, 2019, the applicant's Public Works Director affirmed that the area where the seawall modifications had been done, and the area of the proposed work, is wholly located within the right-of-way of Long Beach Avenue.
B. Summary: The applicant requests approval to change the configuration of the seawall to the new stepped design, and is seeking after-the-fact approval for the modifications already made to the existing seawall on Long Beach Avenue in the Town of York. Department staff estimates that approximately 1,283 linear feet of the seawall have already been modified with the new stepped configuration. In coordination with the seawall reconfiguration, the applicant has indicated that it intends to repair, where necessary, the 13 existing public stairways located along the seawall as part of the project.

The application states that the project involves modifying the seaward face of the existing structure to enhance hydraulic roughness and wave energy dissipation and, therefore, reduce potential damage to the coastal sand dune system, wildlife habitat, and adjacent properties. The application describes the existing seawall as "a sloped stone revetment constructed of angular boulders that have been grouted in place to create a relatively smooth impermeable surface with an approximate slope of 1:5:1 (horizontal to vertical). In its present state, during storm events, the smooth impermeable slope of the seawall exacerbates wave run-up and overtopping hazards, endangering properties on the landward side of Long Beach Avenue with high velocity overtopping flows and debris."

The project involves constructing a series of granite-faced, cast-in-place concrete steps on top of the existing revetment. According to the application and statements made by the applicant, the footer of the existing seawall will be replaced, but it will not extend any farther seaward at the base.

The seawall modifications are shown on an undated cross section sketch labelled "Section B-B," ar undated sketch labelled "Sidewalk Detail," and an undated sketch labelled "Concrete Pedestal Detail," all submitted with the application. The applicant is requesting a permit to modify the entire length of the existing seawall (approximately 6,600 linear feet) with the new stepped configuration.

C. Current Use of the Site: The site contains a sand and cobble beach and a sloped seawall with granite blocks mortared in place, a portion of which has been modified by adding a stepped face as described above. The entire length of the seawall is located in the frontal dune. A sidewalk and a public road are directly landward of the seawall. The site also contains a public bath house. Department staff has visited the site numerous times under various wave and tidal conditions.

2. STANDARDS FOR ALL PROJECTS:

In its analysis of whether a project meets the NRPA criteria, the Department considers whether an applicant has demonstrated that the project meets the standards set forth in Chapter 355, which interpret and elaborate on the statutory criteria. The following standards apply to proposed projects located in any portion of the coastal sand dune system.
A. TIMEFRAME FOR BUILDING RECONSTRUCTION: The timeframe for building reconstruction contained in Chapter 355, § 5(A) does not apply because the project does not constitute a building reconstruction.

B. DEVELOPMENT ON INDIVIDUAL LOTS: The project site is Long Sands Beach and the adjacent seawall, and is not considered to be an individual lot.

C. SHORELINE CHANGES: A project may not be permitted if, within 100 years, the property may reasonably be expected to be eroded as a result of changes in the shoreline such that the project is likely to be severely damaged after allowing for a two-foot rise in sea level over 100 years. The project site is located in a front dune area of a coastal sand dune system. The project consists of modifications to an existing seawall that has been present on the project site for many years and is not expected to significantly affect the seawall structure’s likelihood of becoming severely damaged. The Department finds that it is reasonable to expect that within 100 years, the project will not be damaged as a result of shoreline changes.

D. BUILDING SIZE RESTRICTIONS: The building size restrictions contained in Chapter 355, § 5(g) do not apply to the project since it does not involve a building reconstruction.

E. SEAWALLS OR SIMILAR STRUCTURES: Pursuant to, Chapter 355, § 1:
“Seawalls reflect waves onto the beach causing sand to be scourred away and they cut off the natural supply of sand to the beach from the sand dune behind the wall.” Regarding existing seawalls, Chapter 355, § 5(e) states: “No existing seawall or similar structure may be altered or replaced except . . . with a permit from the Department, a seawall or similar structure may be replaced with a structure of different dimensions in or a different location that is further landward if the Department determines that the replacement structure would be less damaging to the coastal sand dune system, existing wildlife habitat and adjacent properties than replacing the existing structure with a structure of the same dimensions in the same location.” Department review of the new stepped design is required because the dimensions of the existing seawall will be different from the existing sloped seawall. The Department’s review and analysis of the applicant’s proposed seawall modifications are described in Findings 3 and 4.

F. DESIGNATED ESSENTIAL HABITAT AND SIGNIFICANT WILDLIFE HABITAT: According to the Department’s Geographic Information System (GIS) database there are no mapped Essential or Significant Wildlife Habitats located on the site. The lower beach area and intertidal area are mapped as Significant Wildlife Habitat, specifically Tidal Waterfowl and Wading Bird Habitat. No impacts to this habitat are anticipated from the project. Based on this information, the nature of the project, and the project’s location, the Department finds that the proposed activity will not unreasonably harm any designated essential habitat or significant wildlife habitat.

G. LEGAL ACCESS: The Department finds that the project will not interfere with legal access to or use of the public resources.
H. MITIGATION AND ENHANCEMENT: Chapter 355, § 5(I) states: "To mitigate for on-site project impacts that interfere with the natural supply or movement of sand or gravel or may increase the erosion hazard to the sand dune system, the Department may require sand dune mitigation and enhancement measures, including: restoring the dune topography and elevating the crest of the sand dune to at least one foot above the 100 year flood/wave run up level; and provisions to enhance with native vegetation the portions of the lot not covered by buildings or parking areas."

The potential need for mitigation in the form of beach nourishment is discussed in Finding 3.

3. STANDARDS FOR FRONTAL DUNE PROJECTS – SEAWALL RECONSTRUCTION WITH ALTERNATIVE DIMENSIONS:

The applicant’s initial application included a comparative analysis of wave run-up conditions on smooth impermeable slopes versus stepped slopes, based on the 1984 U.S. Army Corps of Engineers (Corps) Shore Protection Manual. Calculations were provided by the applicant’s consultant, Ransom Consulting, Inc. (Ransom), and they concluded that seawalls with stepped surfaces result in a reduction of wave run-up and, thus, the design proposed by the applicant would be less damaging to the coastal sand dune system.

Wave Reflection Analysis: During its processing of the application, the Department requested that MGS review the town’s proposal to aid in the determination of whether the change in configuration of the seawall would be less damaging to the coastal sand dune system. In a review memorandum dated October 23, 2018, MGS made the following comments: "Information provided in the application supported that a stepped wall likely results in less wave runup and subsequent overtopping than traditional slope rock revetments; however, the applicant included little discussion of wave reflection associated with stepped seawalls aside from pointing out that the proposed stepped wall could be more reflective under lower wave conditions." MGS went on to state that "we are unable to conclude that the proposed stepped seawall is less damaging to the coastal sand dune system than the existing wall." In support of this statement, MGS presented modeling data related to wave reflection. Wave reflection caused by hard coastal structures is often used as a proxy for damage to the coastal sand dune system.

To address the wave reflection issue, Ransom stated, in a December 21, 2018 letter: "The MGS has focused on wave reflection from the structure as a proxy for damage in order to assess whether the modified seawall would be less damaging to the sand dune system... MGS has suggested an evaluation of wave reflection for a range of representative water level and wave conditions would be appropriate to quantify the impact of the structure modification on the sand dune system." Ransom further stated that "it is important to understand that the general problem of wave reflection from coastal structures is complex and poorly understood. Available methods for quantifying reflected wave energy are limited by numerous simplifying assumptions and are approximate at best." The letter
included hourly tide data produced by the National Oceanic and Atmospheric Administration and numerical wave modeling using the Simulating Waves Nearshore Model. Wave energy reflection estimates for smooth sloped revetments using wave reflection and energy dissipation coefficients developed by Seeliger and Ahrens (1981), and wave energy reflection estimates for a stepped seawall based on the work of Kerpen (2017) were compared. Based on a comparison of the models, Ransom concluded that the results are similar for the sloped and stepped structure, with the stepped structure showing about five percent less reflected wave energy after a 6.5-year period.

Ransom submitted a letter, dated February 14, 2019, that included additional discussion of its wave reflection analysis, which was based on a combination of numerical wave modeling and standard engineering equations derived from empirical analysis of physical model studies. According to Ransom, the results showed that over a relatively long period of time (multiple years), less wave energy would be reflected from the stepped structure than the existing sloped structure. While acknowledging that there is some level of uncertainty in numerical modeling, Ransom stated that this uncertainty is irrelevant because the numerical modeling performed for the analysis was not used to simulate wave reflection. Instead, wave reflection coefficients and corresponding reflected wave energy for comparison of the different structure types were calculated using empirical equations derived from physical model observations. Despite some reservations about the certainty of the results, Ransom employed the coefficients following Kerpen (2017), assuming that the results would tend to over-predict the amount of wave energy reflected from the stepped structure.

Regarding Ransom’s updated methodology presented in its February 14 letter, MOS stated in its February 25, 2019, comments that the analysis “showed a potential 36 percent reduction in cumulative wave energy over the same 6.5-year period.” MOS referred to the significant difference in the estimates of wave energy presented by Ransom and recommended that the Department obtain an independent engineering peer review of the methodology and calculations provided by Ransom. (See discussion of engineering review below.) MOS further stated “there are limitations and assumptions of the equations and Kerpen (2017) has not been published in the engineering literature. If this approach and results are valid from a calculation standpoint, we would consider this cumulative wave energy reduction to be significant.”

Engineering Review: In the Department’s analysis of whether the stepped structure would be more damaging to the coastal sand dune system, the application was reviewed by a staff engineer from the Bureau of Land Resources (BLR). The Department’s staff engineer reviewed Ransom’s data and conclusions, and subsequently reached out to Dr. Kerpen with a request for his comment on the applicability of his work to the seawall changes made at and proposed for Long Sands Beach. Dr. Kerpen reviewed Ransom’s application of his methodology to the conditions at Long Sands Beach and stated that “I agree with your conclusion that the modified structure is less damaging to the coastal sand dune system... than the existing structure under your given constraint that there is no quantification of the efficiency (‘less damaging’ is precisely not ‘equally damaging’ nor is it ‘more damaging’ even if the difference is infinitesimally small.”
BLR also requested a review of Ransom’s analysis by an engineer from the Coastal and Hydraulics Laboratory at the Corps. The Corps engineer commented that Ransom used a 2-dimensional SWAN (Simulating Waves Nearshore) model to transform wind-waves from offshore to nearshore seaward of the seawall. The 2-D wave modeling estimates were then used as inputs to a one-dimensional SWAN model grid to simulate waves in front of the seawall. The Corps engineer expressed some concern with this approach because the use of 1-D models requires fairly planar beaches and straight coastlines without structure, channels, and berms, which is not strictly the case at Long Sands Beach. The conditions are more complex than the 1-D model can predict. The Corps engineer continued: “Modeling of nonlinear waves in shallow water generally requires the use of phase-resolving models... in present coastal engineering practice, a reliable estimate of waves at/near submerged or partially emerging structures would generally require using a combination of spectral and Boussinesq-type models. If the site is dynamic, then estimates of short- and long-term sediment erosion/accretion at the toe of structures should also be considered.”

In follow-up discussions with Department staff, the Corps engineer stated, “Uncertainties and lack of trusted data make validation of models difficult, and using different types of models is necessary to check/confirm estimates obtained using simpler methods/models/empirical formulas.”

Monitoring and Nourishment: In its October 23, 2018, review memorandum, MGS recommended that the applicant conduct monitoring to compare how the existing, original seawall configuration and the new, stepped seawall configuration (already partially constructed without a permit) respond to wave reflection to demonstrate that the new configuration is less damaging. Both configurations could be simultaneously evaluated under the same conditions.

In a letter dated December 21, 2018, on behalf of the applicant, Ransom stated that it did not believe that a monitoring program was necessary for several reasons, one of which is that monitoring is not likely to provide conclusive evidence that the stepped structure is or is not less damaging to the coastal sand dune system because the difference in reflected wave energy between the two structures is virtually negligible when compared to the total magnitude of reflected energy for either structure. Ransom also cited the costs of video monitoring equipment and privacy issues for the beach-going public among the reasons why a monitoring program would not be feasible.

In a review memorandum dated January 15, 2019, MGS stated: “Given the potential limitations, assumptions, and unclear statistical results from numerical modeling, it is unclear to us that the stepped wall is less damaging to the coastal sand dune system. Monitoring could provide a comparison of beach elevation changes seaward of each type of structure, and could provide qualitative images or video of the difference in reflected waves at the stepped vs. sloped seawalls under a range of water level conditions (and thus, under conditions under which walls would be reflective). However, we agree with Ransom that without a specific set of quantitative criteria as a standard for ‘less
damaging’ agreed upon by all parties, monitoring results will be subject to differing interpretations and conclusions.” (Emphasis in original.)

On May 16, 2019, Ransom submitted details of a proposed beach monitoring program to the Department. The program included a survey to determine the physical characteristics of the sediment that comprises the beach/dune system and an ongoing periodic survey of the beach topography at 12 established transects to assess seasonal trends, as well as impacts during astronomically high tides and storm events when the seawall will have the greatest influence on sediment transport.

On May 22, 2019, MGS submitted its recommendations for a beach monitoring plan. MGS recommended that the applicant:

a) Collect and provide the Department beach profile data;
b) Compare the beach profiles to historic profiles;
c) Collect more detailed beach elevation data if the comparison of profiles revealed erosion beyond what the historical data reflected; and
d) Nourish the beach (i.e., add sand to the beach system) if the more detailed data show the sand volumes below historically observed volumes.

Over the next several months, Ransom (on behalf of the applicant) and MGS provided a series of comments on beach monitoring, each responding to the comments filed by the other. Ransom filed comments with the Department dated June 10, 2019 (in response to MGS’s May 22, 2019 monitoring proposal), followed by: July 11, 2019 MGS comments; July 26, 2019 Ransom comments; July 30, 2019 MGS comments, and August 14, 2019 Ransom comments.

Based on the considerable comments from Ransom and MGS, the Department developed the Long Sands Beach Monitoring Plan (the Beach Monitoring Plan). The Department provided a draft of the Beach Monitoring Plan, dated August 19, 2019, to the applicant and MGS for review. The applicant (including representatives from Ransom), MGS staff, and Department staff met on September 18, 2019, to discuss the draft. The Department subsequently finalized the Beach Monitoring Plan. The plan, incorporated as part of this Order as Attachment A, includes the following components:

a) Seasonal surveys conducted in the spring and fall each year to develop beach elevation profiles along twelve transects that run from the base of the seawall, across the Beach, to the ocean;
b) A baseline digital elevation model, created using available historical data, that enable comparison of the future seasonal survey results with historical beach elevations in order to evaluate the extent of erosion, if any, following construction of the stepped seawall;
c) A level of erosion, relative to the baseline, that if observed triggers the need for the applicant to collect additional data, sufficient to allow creation of a new digital elevation model of the beach. The new model allows comparison of the total volume of sand on the Beach with the volume associated with the baseline; and
d) A requirement that the applicant nourish the Beach if the comparison of sand volumes shows there is a net loss of sand, exceeding 100 cubic yards, compared to the baseline.

Along with those components, the Beach Monitoring Plan includes parameters for a sediment survey and plan duration.

Finding: Based on the evidence in the record, including the Ransom submittals, MGS comments, and engineering review comments, the Department finds that the stepped wall design will reduce wave run-up and, therefore, concludes that the new wall design will be less damaging to adjacent properties, specifically those located behind the wall, than the sloped design.

With regard to the impacts to the coastal sand dune system, the Department finds there is some uncertainty about whether the stepped configuration will result in more or less erosion of the beach. This uncertainty is evident in the wave reflection analysis and engineering review discussed above. While there is some uncertainty, the Department finds the application contains sufficient supporting information for the Department to conclude the new seawall configuration, without additional monitoring, will not result in significantly more damage to the dune system.

The existence of some uncertainty associated with a new seawall design, even when an applicant makes reasonable efforts to model the impacts of the proposed design, is reasonable to expect in situations such as the present one where the difference between the existing seawall (the sloped wall) and the proposed seawall (the stepped wall) is limited. The Department finds, based on the evidence in the record including modeling results, the level of uncertainty associated with the new design, while not insignificant, is small enough that the uncertainty may be resolved through careful monitoring of the beach post-construction and, if necessary, nourishment. Therefore, provided the applicant implements and complies with the Beach Monitoring Plan included as Attachment A to this Order, the Department concludes the new seawall configuration will be less damaging to the coastal dune system and existing wildlife habitat when compared to current conditions with the sloped seawall.

4. OTHER CONSIDERATIONS:

To ensure that the newly-configured seawall, as required by Chapter 355, § 5(E), does not extend any farther seaward at its base, the applicant must retain a qualified professional to be present on site with sufficient frequency to verify that the footer of the reconstructed seawall along its entire length is not placed any farther seaward from the toe of the existing sloped seawall. A certification to this effect must be made to the Department within 30 days of completion of the seawall reconstruction.

The Department finds that the applicant sufficiently demonstrated, with no conflicting evidence in the record, that the NRPA criteria pertaining to potential impacts to existing scenic, aesthetic, or navigational uses, potential soil erosion, potential impacts to habitat
or fisheries, potential impacts to the natural transfer of soil, the natural flow of water, or water quality, and potential impacts causing flooding, all have been met.

BASED on the above Findings of Fact, and subject to the conditions listed below, the Department makes the following conclusions pursuant to 38 M.R.S. §§ 480-A–480-JJ and Section 401 of the Federal Water Pollution Control Act:

A. The proposed activity will not unreasonably interfere with existing scenic, aesthetic, recreational, or navigational uses.

B. The proposed activity will not cause unreasonable erosion of soil or sediment.

C. The proposed activity will not unreasonably inhibit the natural transfer of soil from the terrestrial to the marine or freshwater environment.

D. The proposed activity will not unreasonably harm any significant wildlife habitat, freshwater wetland plant habitat, threatened or endangered plant habitat, aquatic or adjacent upland habitat, travel corridor, freshwater, estuarine, or marine fisheries or other aquatic life.

E. The proposed activity will not unreasonably interfere with the natural flow of any surface or subsurface waters.

F. The proposed activity will not violate any state water quality law including those governing the classifications of the State's waters.

G. The proposed activity will not unreasonably cause or increase the flooding of the alteration area or adjacent properties.

H. The proposed activity will not unreasonably interfere with the natural supply or movement of sand within or to the sand dune system or unreasonably increase the erosion hazard to the sand dune system provided the applicant implements and complies with the Long Sands Beach Monitoring Plan, as required by Condition #4, and retains a qualified professional to inspect the seawall footer installation, as required in Condition #5. (The Long Sands Beach Monitoring Plan is incorporated as part of this Order as Attachment A.)

I. The proposed activity is not on an outstanding river segment as noted in Title 38 M.R.S. § 480-P.

THEREFORE, the Department APPROVES the partially after-the-fact application of the TOWN OF YORK to modify the existing seawall on Long Beach Avenue as described in Finding 1 and in accordance with the July 31, 2018 permit application, SUBJECT TO THE ATTACHED CONDITIONS, and all applicable standards and regulations.
1. Standard Conditions of Approval, a copy is attached as Attachment B.

2. The applicant shall take all necessary measures to ensure that its activities or those of its agents do not result in measurable erosion of soil on the site during the construction of the project covered by this approval.

3. Severability. The invalidity or unenforceability of any provision, or part thereof, of this License shall not affect the remainder of the provision or any other provisions. This License shall be construed and enforced in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

4. The applicant shall implement and comply with the Long Sands Beach Monitoring Plan, included as part of this Order as Attachment A.

5. The applicant shall retain a qualified professional to be present on site with sufficient frequency to verify that the footer of the reconstructed seawall along its entire length is not placed any further seaward from the toe of the existing sloped seawall. The applicant shall submit to the Department a certification to this effect within 30 days from completion of seawall reconstruction.

THIS APPROVAL DOES NOT CONSTITUTE OR SUBSTITUTE FOR ANY OTHER REQUIRED STATE, FEDERAL OR LOCAL APPROVALS NOR DOES IT VERIFY COMPLIANCE WITH ANY APPLICABLE SHORELAND ZONING ORDINANCES.

DONE AND DATED IN AUGUSTA, MAINE, THIS 10th DAY OF October, 2019.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: [Signature]

For: Gerald Reid, Commissioner

PLEASE NOTE THE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES.

MR/L27976AN/ATS#83416
ATTACHMENT A:

Town of York
Long Sands Beach Monitoring Plan
October 10, 2019
(Department Order #L-27976-4H-A-N)

The Long Sands Beach Monitoring Plan (the Plan) and its implementation by the Town of York (the Town) is required by Department of Environmental Protection (the Department or DEP) Order #L-27976-4H-A-N. The Order authorizes the Town to reconfigure an existing approximately 6,600-foot long, sloped seawall along Long Sands Beach (the Beach) with a step design. The Town began construction of the steps in 2018, so a portion of the seawall has already been converted to the step design. The stepped seawall replaces a sloped seawall dating back to the 1940s. The Plan involves seasonal surveys of the Beach by the Town to evaluate the impact of the stepped seawall and provides for nourishment of the Beach if the stepped seawall causes more erosion than the former sloped seawall.

The Plan consists of the following components. The Town shall be responsible for completion of each component, whether carried out by the Town or its contractor, and for overall implementation of the Plan.

I. Seasonal Surveys

A. Transects. The Town shall establish 12 shore-perpendicular transects across the Beach, as depicted on Figure 1 of the Ransom letter dated May 16, 2019 and attached to this Plan for reference.

B. Surveys of beach elevation profile. Along each transect, the Town shall survey the elevation of the Beach starting at the base of the seawall and continuing offshore to reach -5.0 ft. NAVD88. Elevation measurements shall be taken at approximately 30-foot increments along the transect or at shorter increments at slope breaks as field conditions warrant. The elevation measurements shall be taken using RTK-GPS equipment or other equipment with similar accuracy (i.e., 1 to 2 cm) and shall be used to generate a beach elevation profile along each transect.

Along with the transect elevation profiles, the elevation of the Beach at the toe of the seawall shall be surveyed at approximately 100-foot increments along the base of the seawall using the same equipment. Additional survey points shall be taken to delineate areas where the surficial sediment changes from sand to exposed cobble.

C. Timing of surveys. To record seasonal winter-summer variability, surveys shall be conducted in the spring following the winter season, and in the fall following the summer season. Each seasonal survey shall consist of two separate surveys taken approximately 10 days apart, with one survey before and one after a spring high tide. Surveys shall be
conducted at low tide so transects, and the corresponding elevation profile measurements, can be extended to reach -5.0 ft NAVD88.

II. Comparison of Seasonal Survey Results to Baseline

A. Creation of Baseline. The Town shall create a baseline digital elevation model (the Baseline), which will be used to evaluate the impact of the stepped seawall on the Beach. The Baseline shall be a composite of existing digital elevation data and reflect the lowest recorded elevations from the datasets included in the composite model. The Baseline will reflect the most erosive conditions (i.e., lowest profile) digitally recorded at each point on the Beach during the time the sloped seawall existed and before any changes were made to reconfigure it to the stepped design. At a minimum, the 2007 and 2010 topo-bathy datasets shall be included in the Baseline. The Town may elect to include the 2004 and 2006 bathymetric datasets and, once available, the 2018 topo-bathy dataset. The Town may include other datasets, but only after obtaining approval from the Department. The digital elevation data making up the composite Baseline shall not be modified or adjusted by the Town, even within the range of error for the individual datasets. The Baseline shall include the area extending from the base of the seawall to -5.0 ft NAVD88 (approximately mean lower low water, or MLLW).

B. Comparison of seasonal data to Baseline. To evaluate the impact of the stepped seawall on the Beach, the elevation profile for each of the 12 transects developed from the seasonal surveys shall be compared to the Baseline profile for the corresponding transect. In comparing the profiles, the Town shall identify any transect(s) where – for a distance of 125 feet or more – the seasonal survey profile is lower than the Baseline.

C. Reporting. Within six weeks of completing a seasonal survey, the Town shall submit a report to the Department. The report shall contain: 1) the raw survey data for each of the elevations measured along the 12 transects, 2) toe of seawall elevations and the location of surficial sediment changes, 3) beach profiles for each of the 12 transects and graphic comparison of each profile to the Baseline, 4) identification of the location along any transect where the survey profile is lower than the Baseline profile for a distance of 125 feet or more, 5) data showing the exemption(s) in Section III(B) apply, if claimed, 6) results of the sediment survey required in Section V for the first spring and first fall surveys, 7) a narrative discussion of any trends or relevant points of comparison to the data presented in previous reports, and 8) a narrative summary of the information presented in the report. (Note: A seasonal survey in accordance with Section I consists of two survey days. The data for each day should be presented independently in a single seasonal report.)
III. Development of Digital Elevation Model and Sand Volume Calculations (if necessary)

A. Trigger for digital data collection. If seasonal survey results for two consecutive qualifying seasons show one or more beach profiles lower than the Baseline profile for a distance of 125 feet or more along a transect, the Town shall collect digital elevation data for the Beach. This digital elevation data shall be collected within two months of the Town filing the report with the Department identifying the need for gathering this elevation information. For the requirement to collect this data to be triggered, the erosion observed along a transect may be along the same transect in the consecutive qualifying survey seasons or along different transects in consecutive qualifying survey seasons. By requiring erosion to be observed over consecutive qualifying seasons the Plan allows for natural recovery between seasons. Qualifying seasons are those survey seasons not exempt under Section III(B), below. (E.g., Spring 2021 and fall 2022 would be consecutive qualifying seasons if a large storm event occurred in the winter prior to the fall 2021 survey and the Department determined the spring 2022 survey results still qualified for exemption, as the Beach's recovery from the storm continued.)

B. Exemptions. The purpose of the Plan is to ensure the impacts of the stepped seawall on the Beach are monitored and, should the stepped seawall cause more erosion than the pre-existing sloped seawall, to provide for those impacts to be mitigated by the Town through beach nourishment. The seasonal surveys and comparison of the beach profiles with the Baseline helps evaluate the impact of the stepped seawall on the Beach. Large storm events and abnormally high sea levels also may cause increased erosion, including more erosion than is reflected in the Baseline. Therefore, if comparison of the results from a seasonal survey to the Baseline shows erosion along a 125-foot section of one or more transects, this erosion shall not be attributed to the stepped seawall if either a large storm event or abnormally high sea levels preceded the seasonal survey.

1. Large storm event. A large storm event is a storm within one year prior to the initial survey season, or since the prior survey season in all subsequent seasons, with the following characteristics:

   a) Storm tide reaching or exceeding 12.9 feet MLLW (7.7 feet NAVD88) at the Portland Tide Gauge;

   b) Waves reaching or exceeding 20.7 feet at NERACOOS Buoy B (Western Maine Shelf) or, if Buoy B is not operational, at NOAA NDBC Buoy 44007; and

   c) Significant beach erosion, as determined by the Department in consultation with the Maine Geological Survey (MGS), is documented in the region of the Beach – a proxy being the beach in Wells that also is developed with a seawall.
2. **Abnormally high sea level.** If for the 12 months preceding a seasonal survey the average sea level is 0.42 feet or more above mean sea level (MSL) as determined by the 1983 – 2001 Tidal Datum Epoch, this shall be considered an abnormally high sea level. The average sea level shall be calculated using verified monthly mean water levels from NOAA’s Portland, Maine tide gauge referenced to MSL from the 1983-2001 National Tidal Datum Epoch.

Seasonal survey results immediately following a large storm event or abnormally high sea level that show erosion when compared to the Baseline shall be excluded from use in determining whether additional digital data collection is required. Whether subsequent seasonal survey results showing erosion compared to the Baseline shall continue to be exempt from use in determining whether digital data collection is required shall be determined by the Department, after consultation with MGS and the Town, and upon considering whether the Beach has had adequate time to naturally recover from the erosion attributed to the large storm event or abnormally high sea level.

C. **Digital elevation model.** When required to be collected, the digital elevation data shall be high quality with an error no greater than the 2010 topo-bathy data set included in the Baseline. The digital elevation data shall be used to create a 3-dimensional (3-D) digital elevation model (DEM) of the Beach. The DEM shall be for the same area included in the Baseline – extending from the base of the seawall to -5.0 ft. NAVD88.

D. **Sand volume calculations.** The DEM shall be used to calculate the volume of the sand on the Beach. Similarly, the volume of sand associated with the Baseline also shall be calculated. These two volumes shall then be compared to evaluate whether there has been a net loss or gain of sand within the entire Beach, compared to the Baseline. The DEM and associated dataset and the results of the sand volume comparison shall be provided to the Department, in the form of a report, within six weeks of collection of the digital elevation data.

IV. **Beach Nourishment (if necessary)**

A. **Trigger for beach nourishment.** If comparison of the DEM to the Baseline shows a net loss of sand greater than 100 cubic yards, the Town shall nourish the Beach to return to the volume to at least the Baseline volume.

B. **Beach nourishment.** If nourishment of the Beach is required, sand must be imported from a source outside the coastal sand dune system and the project must comply with the standards for beach nourishment in the Department’s Coastal Sand Dune Rules, Chapter 355, § 8, and, depending on the source of sand, with the Solid Waste Management Rules, Chapter 418. Sand must be applied to either the intertidal zone or to a nearshore feeder system within 18 months of filing a report required under Section IV(A) with the
C. Monitoring of nourishment. Following nourishment, the Town shall continue seasonal surveys in accordance with Section I, above. In addition, for the first year following nourishment, in the months when seasonal surveys are not conducted, the Town shall conduct monthly surveys. These surveys shall be conducted at low tide and the results included in the seasonal reports. These additional survey results will provide a better understanding of the success of beach nourishment and how to make any future nourishment, if needed, most effective. The additional survey results will not be compared to the Baseline for the purpose of determining whether a subsequent DEM may be required if erosion continues after nourishment. Only the seasonal surveys conducted in accordance with Section I will be used to evaluate the need for creation of a DEM.

V. Sediment Survey

The Town shall complete a sediment survey of the Beach to determine the physical characteristics of the sediment that comprises the beach/dune system. The sediment survey shall be done once during the first spring seasonal survey and once during the first fall seasonal survey. (The window of time in which seasonal surveys must be conducted is addressed in Section I, above.) The sediment survey must include obtaining a visual description of the distribution of surficial sediments and sediment sampling for laboratory grain size analyses and excavating test holes to identify variations of sediment characteristics with depth. Locations for sediment samples and test holes shall be determined in the field and surveyed with GPS. Test holes shall be dug by hand to a depth no greater than 4 feet during low tide and shall be filled in with the displaced sediment immediately after sediment characterization and sampling. A summary of the sediment survey methodology and the results shall be included in the first spring and fall report required in Section II(C), above. The results of the sediment survey will inform beach nourishment, should nourishment ever be required.

VI. Commencement of monitoring and duration of the Plan

A. Start of Plan. The Town shall start seasonal surveys across all 12 transects when 50 percent of the total length of the seawall has been converted to the stepped design or by September 1, 2020, whichever occurs first. All other portions of the Plan go into effect with the commencement of the seasonal surveys.

B. Duration of Plan. The Plan shall remain in effect for at least 10 qualifying seasonal surveys following completion of the conversion of the seawall to the stepped design. After completion of these seasonal surveys, if the need for beach nourishment has not been triggered, the Town shall meet with the Department and MGS to discuss ending the Plan. If beach nourishment has been triggered the Department may extend the monitoring and requirements of the Plan for up to 10 seasonal surveys beyond the time of
nourishment, before jointly revisiting the Plan and its protocol and purpose with the Town.

C. Check-in. Following the eight-year anniversary of the Town completing conversion of the seawall to the stepped design, if the Plan remains in effect, the Town shall participate in a meeting with the Department to review whether the Plan is functioning as intended. Only upon agreement of both parties may this meeting not be held. Nothing in this paragraph prevents these parties from meeting earlier or at additional times to discuss the Plan. Notwithstanding the foregoing, the Town and the Department may mutually agree to terminate the Plan prior to the occurrence of 10 qualifying seasons.
Figure 1. Location of proposed beach elevation survey transects.

Ranson Project 151.06011
YorkSeawallMonitoringPlan.docx May 16, 2019
ATTACHMENT B:

SAND DUNE STANDARD CONDITIONS

A. Shoreline recession. If the shoreline recedes such that a coastal wetland, as defined under 38 M.R.S. § 480-B(2), extends to any part of the structure, including support posts, but excluding seawalls, for a period of six months or more, then the approved structure along with appurtenant facilities must be removed and the site must be restored to natural conditions within one year.

B. Removing debris. Any debris or other remains from damaged structures on the property must be removed from the coastal sand dune system.

C. Dune restoration. Within one year after completion of construction, the applicant shall restore any areas of dune vegetation and topography that are disturbed during construction on the lot and that exceed the size of the development area permitted by the department in accordance with Sections 5(B), 6(B)(5) and 9(A)(2). Dune vegetation includes, but is not limited to American beach grass, virginia rose, bayberry, beach pea, beach heather and pitch pine.

D. Approval of variations from plans. The granting of this permit is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted by the applicant. Any variation from these plans, proposals and supported documents is subject to review and approval prior to implementation.

E. Compliance with all applicable laws. The applicant shall secure and comply with all applicable federal, state and local licenses, permits, authorizations, conditions, agreements, and orders prior to or during construction and operation, as applicable.

Note: Applicants should obtain and incorporate into their proposed project any standards or limitations contained in local floodplain ordinances.

F. Compliance with all permit terms and conditions. The applicant shall submit all reports and information requested by the department demonstrating that the applicant has complied or will comply with all terms and conditions of this permit. All preconstruction terms and conditions must be met before construction begins.

G. Time frame for approvals. If construction or operation of the activity is not begun within four years, this permit shall lapse and the applicant must reapply for a new permit. The applicant may not begin construction or operation of the activity until a new permit is granted. Reapplications for permits must state the reasons why the activity was not begun within four years from the granting of the initial permit and the reasons why the applicant will be able to begin the activity within four years from the granting of a new permit, if so granted. Reapplication for permits may include information submitted in the initial application by reference, but must include documentation of any changes on the site. If construction is begun within the four-year time frame, this approval is valid for seven years. If construction is not completed within the seven-year time frame, the applicant must reapply for, and receive, approval prior to continuing construction.

H. Permit included in contract bids. A copy of this permit must be included in or attached to all contract bid specifications for the approved activity.

I. Permit shown to contractor. Work done by a contractor pursuant to this permit may not begin before the applicant has shown the contractor a copy of this permit.

Revised December 18, 2012.
DEP INFORMATION SHEET
Appealing a Department Licensing Decision

Dated: March 2012
Contact: (207) 287-2811

SUMMARY
There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection’s (“DEP”) Commissioner (1) in an administrative process before the Board of Environmental Protection (“Board”); or (2) in a judicial process before Maine’s Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine’s Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development (35-A M.R.S.A. § 3451(4)) or a general permit for an offshore wind energy demonstration project (38 M.R.S.A. § 480-3HH(1)) or a general permit for a tidal energy demonstration project (38 M.R.S.A. § 636-A) must be taken to the Supreme Judicial Court sitting as the Law Court.

This INFORMATION SHEET, in conjunction with a review of the statutory and regulatory provisions referred to herein, can help a person to understand his or her rights and obligations in filing an administrative or judicial appeal.

1. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD
The Board must receive a written appeal within 30 days of the date on which the Commissioner’s decision was filed with the Board. Appeals filed after 30 calendar days of the date on which the Commissioner’s decision was filed with the Board will be rejected.

HOW TO SUBMIT AN APPEAL TO THE BOARD
Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; facsimiles are acceptable for purposes of meeting the deadline when followed by the Board’s receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP’s offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP’s Commissioner a copy of the appeal documents and if the person appealing is not the applicant in the license proceeding at issue the applicant must also be sent a copy of the appeal documents. All of the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP’s record at the time of decision being added to the record for consideration by the Board as part of an appeal.
WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

Appeal materials must contain the following information at the time submitted:

1. **Aggrieved Status.** The appeal must explain how the person filing the appeal has standing to maintain an appeal. This requires an explanation of how the person filing the appeal may suffer a particularized injury as a result of the Commissioner’s decision.

2. **The findings, conclusions, or conditions objected to or believed to be in error.** Specific references and facts regarding the appellant’s issues with the decision must be provided in the notice of appeal.

3. **The basis of the objections or challenge.** If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.

4. **The remedy sought.** This can range from reversal of the Commissioner’s decision on the license or permit to changes in specific permit conditions.

5. **All the matters to be contested.** The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.

6. **Request for hearing.** The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing on the appeal is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.

7. **New or additional evidence to be offered.** The Board may allow new or additional evidence, referred to as supplemental evidence, to be considered by the Board in an appeal only when the evidence is relevant and material and that the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP’s attention at the earliest possible time in the licensing process or that the evidence itself is newly discovered and could not have been presented earlier in the process.

Specific requirements for additional evidence are found in Chapter 2.

OTHER CONSIDERATIONS IN APPELLING A DECISION TO THE BOARD

1. **Be familiar with all relevant material in the DEP record.** A license application file is public information, subject to any applicable statutory exceptions, made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.

2. **Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.** DEP staff will provide this information on request and answer questions regarding applicable requirements.

3. **The filing of an appeal does not operate as a stay to any decision.** If a license has been granted and it has been appealed the license normally remains in effect pending the processing of the appeal. A license holder may proceed with a project pending the outcome of an appeal but the license holder runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge receipt of an appeal, including the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials accepted by the Board Chair as supplementary evidence, and any materials submitted in response to the appeal will be sent to Board members with a recommendation from DEP staff. Persons filing appeals and interested persons are notified in advance of the date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, a license holder, and interested persons of its decision.
II. JUDICIAL APPEALS

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine’s Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2; 5 M.R.S.A. § 11001; & M.R. Civ. P 80C. A party’s appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board’s or the Commissioner’s decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. Failure to file a timely appeal will result in the Board’s or the Commissioner’s decision becoming final.

An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S.A. § 346(4).

Maine’s Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board’s Executive Analyst at (207) 287-2452 or for judicial appeals contact the court clerk’s office in which your appeal will be filed.

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant’s rights.
Hello,

Attached to this email you will find a signed copy of your NRPA/dune permit, # L-27976-4H-A-N, located in York from the Bureau of Land Resources, Maine Department of Environmental Protection. Please take a few minutes to review your permit carefully. You will note that the permit includes a description of your project, findings of fact that relate to the approval criteria the Department used in evaluating your project, and conditions that are based on those findings and the particulars of your project. Please read your permit carefully, paying particular attention to the conditions of the approval. The Department reviews every application thoroughly and strives to formulate reasonable conditions of approval within the context of the Department’s environmental laws. At the end of the document, you’ll find an information sheet describing the Department’s appeal procedures.

This electronic version of your permit is an Adobe Acrobat .pdf file. If you don’t have the Adobe Acrobat Reader on your computer, you can click on this link to download the free reader. http://www.adobe.com/products/acrobat/readstep2.html

If you have any questions about the permit or thoughts on how the Department processed this application please get in touch with your project manager Marybeth Richardson directly. She can be reached at (207) 592-1692 or at Marybeth.Richardson@maine.gov.

Thank you!
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 31, 2019
DATE ACTION REQUESTED: November 4, 2019

SUBJECT: LED Street light product approval & selection.

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD:
The Town of York leases approximately 830 street light fixtures from Central Maine Power (CMP) on utility poles owned by CMP, which charges a monthly flat fee per fixture. Recent changes to Maine State law enables municipalities to purchase these street lights from CMP and work with consultants and contractors to upgrade the fixtures to Light Emitting Diode (LED) technology. The Maine PUC has recently finalized standards, requirements and fees for municipal street light purchases and upgrades.

The Town of York is working to upgrade its street lights with new Light Emitting Diode (LED) technologies that provide better light at 40%-70% lower energy and maintenance costs and last much longer than current fixtures. LEDs can also improve public safety with better visibility, decrease light pollution and environmental impacts, and enable programmable controls. Installed cost is estimated to be in the range of $500 per fixture.

On May 18, 2019 the Voter of York approved warrant article 49 appropriating a sum not to exceed $425,000 for the purchase and LED conversion of all streetlights the Town currently leases from Central Maine Power.

On July 29, 2019 the Board of Selectmen authorized the Town Manager to sign the proposed Professional Services Agreement with RealTerm Energy US L.P. for the conversion of public street light to LED technology. The Board also authorized the Town Manager to purchase the existing street light fixtures from CMP.

Estimated Project Timeline
August 2019    RealTerm approved
October 2019   Investment-grade audit and photometric design
December 2019  BOS approval to proceed (BOS would still have the option not to move forward with the project at this time.)
January 2020   Fixture procurement and installation
March 2020     Installation complete – including GIS inventory map of lights

Included with this action form is Realterm Energy’s Post Survey Report & Product Evaluation Report.
RECOMMENDATION: The Department of Public Works recommends that the Board of Selectmen approve Acuity Brands Lighting (AEL/Holophane) cobra head & caged acorn light fixtures from Gilman Electric Supply for the Town’s LED Street Light Project.

PROPOSED MOTION: I move to approve Acuity Brands Lighting (AEL/Holophane) cobra head & caged acorn light fixtures from Gilman Electric Supply for the Town’s LED Street Light Project.

FISCAL IMPACT:

DEPARTMENT LINE ITEM ACCOUNT:

BALANCE IN LINE ITEM IF APPROVED:

PREPARED BY: Dean Lessard REVIEWED BY: [Signature]

The Board’s big decision about the design and whether or not to proceed with the LED conversion is tentatively scheduled for December 9th.
Product Evaluation Report

York, ME

21st of October 2019
Product Evaluation Report

This product evaluation report includes the following:

1) RFP details and the list of received bids
2) Evaluation procedure
3) Detailed bid evaluation including RealTerm Energy’s recommended LED fixtures.

Next steps:

For us to continue working on the Design Phase of this project, please select your preferred fixture manufacturer from the list shown on page 5. If you have any questions, please do not hesitate to contact the Project Manager:

Gökhan Güler
Email: gguler@realtermenergy.com
Phone: (410) 934-1740 Ext. 0311
Evaluation Procedure

In this procurement process, suppliers were invited to bid on the Town of York’s fixture replacement. 10 RFQs were submitted through BuildingConnected (an online bidding platform). 13 complete bids were received from the following suppliers:

- Acuity Brands Lighting
- Gilman Electric Supply
- Eaton-Cooper
- General Electric
- Signify
- Langlais Group
- Cree
- Aemlux/Lumision
- Leotek
- Wesco
- Eaton-Cooper

The received bids were evaluated through a three-stage process outlined below:

**Stage 1 – Minimum Requirements Review**
A pass/fail stage through which any supplier/manufacturer that does not meet the following minimum requirements is eliminated:

1. Fixtures are assembled in North America.
2. Surge Protection with IEEE/ANSI minimum requirements.
3. Dimmable Driver.
4. Equipped with 7-Pin Photocell Receptacle, allowing for future smart control compatibility.
5. Minimum 10 years warranty.

**Stage 2 – Fixture Evaluation**
All fixtures that meet the above requirements are then evaluated based on four main criteria.

**A) Fixture Price**
The price to purchase the fixtures.

**B) Ten Year Operation Costs**
The cost of operating the fixtures for ten years based on utility tariff. This also factors the estimated rebates or incentives, if applicable.

**C) Photometric Analysis**
Fixtures produced by different manufacturers tend to have unique lighting patterns. In this criterion, we utilize the roads geometry data collected to predict which fixtures would provide optimal lighting to your Municipality.

**D) Lumens Per Watt Per Dollar**
Lumens per watt is a metric used to measure the efficiency of a fixture. It is essentially the amount of light produced per unit of power. We add the price component to this criterion to compare the value received per dollar.
Stage 3 – Fixture Ranking

In this stage the fixtures are ranked based on a weighted system. A maximum weight or score is assigned to each of the criterions above based on their relative importance. The weights are initially assigned by RTE; however, the weighting system can be customized based on individual need and the importance of criteria. For example, RTE defaults the largest weight being placed on 10-year operating costs due to the long life and long-term impacts of the fixtures.

The sum of the scores is equal to 100 as shown in table below

<table>
<thead>
<tr>
<th>Lumen/Watt/Weight</th>
<th>Fixture Cost Weight</th>
<th>Photometric Weight</th>
<th>10 Year Operation</th>
<th>Total Possible Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>30</td>
<td>10</td>
<td>55</td>
<td>100</td>
</tr>
</tbody>
</table>

Cobrahead Ranking

Cobrahead fixtures are evaluated and ranked collectively. In other words, when comparing any attribute such as the Fixture Price, the cost to purchase all the cobraheads from one manufacturer vs another is compared. Similarly, the total 10-year operational cost, photometrics and lumens per watt per dollar are evaluated.

For instance, if the Fixture Price criterion is given a weight of 30, the manufacturer with the most cost-effective fixtures overall will obtain a score of 30. The remaining manufactures will be scored relative to the most effective fixtures as shown in the table below

<table>
<thead>
<tr>
<th>Manufacturer 1</th>
<th>Manufacturer 2</th>
<th>Manufacturer 3</th>
<th>Cost Effectiveness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Fixture Price</td>
<td>$415,421.00</td>
<td>$499,506.00</td>
<td>$570,455.00</td>
</tr>
<tr>
<td>Fixture Price Score</td>
<td>36</td>
<td>24.9</td>
<td>21.8</td>
</tr>
</tbody>
</table>

Please note the above table is for illustration purposes only

Decorative Ranking

Each type of decorative fixtures is evaluated and ranked separately. For instance, floodlights submitted by all manufactures are compared to each other based on the criterions listed above. If the Fixture Price criterion is given a weight of 30, the most cost-effective floodlight will obtain a score of 30 as shown in the table below

<table>
<thead>
<tr>
<th>Floodlight 1</th>
<th>Floodlight 2</th>
<th>Floodlight 3</th>
<th>Cost Effectiveness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Fixture Price</td>
<td>$10,000.00</td>
<td>$15,000.00</td>
<td>$20,000.00</td>
</tr>
<tr>
<td>Fixture Price Score</td>
<td>30</td>
<td>20</td>
<td>15</td>
</tr>
</tbody>
</table>

Please note the above table is for illustration purposes only

Once all the fixtures are ranked, the manufacturer with the highest average score based on the inventory (cobrahead vs decoratives) is highlighted.
Results

Detailed bid evaluations

The brands that were evaluated include: AEL/Holophane, Eaton-Cooper, GE, Signify, Cree, Amerlux/Lumecon, and Leotek.

Below is the summary of RTE’s evaluation. This includes all the criteria explained above. Highlighted in green is RTE’s recommended option. AEL/Holophane and Eaton-Cooper scored higher in photometrics, efficiency and fixture prices.

<table>
<thead>
<tr>
<th>Fixture Type</th>
<th>Cobrahead Score</th>
<th>Decorative Score</th>
<th>Total Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acuity/Gilman – AEL/Holophane</td>
<td>81.78</td>
<td>5.69</td>
<td>87.47</td>
</tr>
<tr>
<td>Graybar, Wesco – Eaton-Cooper</td>
<td>71.11</td>
<td>7.29</td>
<td>78.40</td>
</tr>
<tr>
<td>Graybar – GE</td>
<td>72.75</td>
<td>6.91</td>
<td>79.67</td>
</tr>
<tr>
<td>Langlais – Cree</td>
<td>64.82</td>
<td>n/a</td>
<td>64.82</td>
</tr>
<tr>
<td>Specines – Leotek, Amerlux/Lumecon</td>
<td>74.30</td>
<td>4.13</td>
<td>78.43</td>
</tr>
<tr>
<td>Graybar – Signify</td>
<td>71.66</td>
<td>n/a</td>
<td>71.66</td>
</tr>
</tbody>
</table>

* The scores are adjusted to account for the percentage of cobrahead/decorative fixtures in the inventory. For example, Acuity (as shown on page 7) scored 89.7 when compared to other cobrahead fixtures. However, cobrahead fixtures account for 91.2% of the inventory. As a result, the actual Acuity cobrahead score is 99.6 * 0.989 = 81.78. The same applies to decorative fixtures.

*To find the breakdown on cobrahead and decorative pricing, please review pages 6-11.
### Cobrahead Evaluation:

#### Assigned Weights

<table>
<thead>
<tr>
<th>Lumen/Watt $/Weight</th>
<th>Fixture Cost $/Weight</th>
<th>Photometric Weight</th>
<th>10-Year Operation Weight</th>
<th>Total Possible Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>30</td>
<td>20</td>
<td>4%</td>
<td>100</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Supplier - Manufacturer</th>
<th>Usage</th>
<th>Total Price ($)</th>
<th>Average Lumen/Watt</th>
<th>Photometric Loss</th>
<th>10-Year Operating Cost</th>
<th>Total Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>GE</td>
<td></td>
<td>500,115</td>
<td>3.7</td>
<td>25.4</td>
<td>40.1</td>
<td>8.8</td>
</tr>
<tr>
<td>Cree</td>
<td></td>
<td>598,997</td>
<td>4.6</td>
<td>74.4</td>
<td>41.5</td>
<td>8.7</td>
</tr>
<tr>
<td>Halco</td>
<td></td>
<td>564,229</td>
<td>3.7</td>
<td>27.3</td>
<td>33.1</td>
<td>8.0</td>
</tr>
<tr>
<td>Lexel</td>
<td></td>
<td>517,303</td>
<td>2.0</td>
<td>29.5</td>
<td>36.9</td>
<td>9.7</td>
</tr>
<tr>
<td>Specular - Lecotek</td>
<td></td>
<td>583,108</td>
<td>4.1</td>
<td>27.8</td>
<td>41.9</td>
<td>8.8</td>
</tr>
<tr>
<td>Acuity/Gilman</td>
<td></td>
<td>576,412</td>
<td>5.0</td>
<td>20.0</td>
<td>45.0</td>
<td>9.7</td>
</tr>
</tbody>
</table>

*Please note: The prices above are approximate and are for evaluation purposes only. Accurate pricing will be provided in the Investment Grade Audit (IGA).*
### Decorative Evaluation:

**Assigned Weights**

<table>
<thead>
<tr>
<th>Lumen/Watt/Weight</th>
<th>Fixture Cost/Weight</th>
<th>10-Year Operation/Weight</th>
<th>Total Possible Score</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>10</td>
<td>40</td>
<td>50</td>
</tr>
</tbody>
</table>

**Caged Acorn (A1)**

<table>
<thead>
<tr>
<th>Company</th>
<th>Anlyh/Polyn - AEI</th>
<th>Holophane</th>
<th>Graybar - GE</th>
<th>Speciabes - Aeroflux - Lumecorn</th>
<th>Wesco - Eaton Cooper</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Price</td>
<td>$24,050.02</td>
<td>$40,744.02</td>
<td>$41,534.00</td>
<td>$16,170.00</td>
<td></td>
</tr>
<tr>
<td>Average Lumen/Per Watt/Per Dollar Score</td>
<td>8.5</td>
<td>6.6</td>
<td>6.6</td>
<td>10.6</td>
<td></td>
</tr>
<tr>
<td>Total fixture cost score</td>
<td>28.5</td>
<td>29.5</td>
<td>15.6</td>
<td>40.6</td>
<td></td>
</tr>
<tr>
<td>10-Year operations score</td>
<td>0.6</td>
<td>0.0</td>
<td>0.0</td>
<td>40.6</td>
<td></td>
</tr>
<tr>
<td>Total Weight</td>
<td>31.6</td>
<td>27.1</td>
<td>40.1</td>
<td>90.0</td>
<td></td>
</tr>
</tbody>
</table>

*Please note: The prices above are approximate and are for evaluation purposes only. Accurate pricing will be provided in the Investment Grade Audit (IQA).*
**Lantern Post Top (L1)**

<table>
<thead>
<tr>
<th>CITY &amp; 11</th>
<th>Arista/Aluma - AFI, Holophane</th>
<th>Geysse - GE</th>
<th>Speedlux - Amerlux, Lumenlux</th>
<th>WEACCO - Eaton Cooper</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total Price</strong></td>
<td>$3,578.00</td>
<td>$5,011.00</td>
<td>$7,841.00</td>
<td>$3,258.00</td>
</tr>
<tr>
<td><strong>Average Lumens per Watt per Unitarian</strong></td>
<td>2100</td>
<td>7.6</td>
<td>3.4</td>
<td>7.8</td>
</tr>
<tr>
<td><strong>Total Fixture Cost Score</strong></td>
<td>40.0</td>
<td>30.5</td>
<td>16.4</td>
<td>93.1</td>
</tr>
<tr>
<td><strong>30 YR Operations Score</strong></td>
<td>50.0</td>
<td>46.4</td>
<td>36.7</td>
<td>88.5</td>
</tr>
<tr>
<td><strong>Total Weight</strong></td>
<td>100.0</td>
<td>90.3</td>
<td>58.2</td>
<td>85.4</td>
</tr>
</tbody>
</table>

*Please note: The prices above are approximate and are for evaluation purposes only. Accurate pricing will be provided in the Investment Grade Audit (IGA).*
Shoe Box (51)

<table>
<thead>
<tr>
<th></th>
<th>QTY</th>
<th>500W GE</th>
<th>500W Ameriflame</th>
<th>500W Eaten Cooper</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Price</td>
<td></td>
<td>$2,898.00</td>
<td>$4,455.00</td>
<td>$2,495.00</td>
</tr>
<tr>
<td>Average Lumens Per Watt Per Dollar Score</td>
<td>7.0</td>
<td>3.0</td>
<td>5.6</td>
<td></td>
</tr>
<tr>
<td>Total Fixture Cost Score</td>
<td>19.4</td>
<td>13.0</td>
<td>21.3</td>
<td></td>
</tr>
<tr>
<td>10 YR Operations Score</td>
<td>46.4</td>
<td>36.0</td>
<td>39.2</td>
<td></td>
</tr>
<tr>
<td>Total Weight</td>
<td>19.7</td>
<td>59.2</td>
<td>66.3</td>
<td></td>
</tr>
</tbody>
</table>

AEL/Holpohane did not submit a bid for an LED replacement shoebox fixture. However, it is also possible to replace a Shoe Box with a Coloredhead, should the Town prefer not to maintain the current aesthetic.

*Please note: The prices above are approximate and are for evaluation purposes only. Accurate pricing will be provided in the Investment Grade Audit (IGA).*
Teardrop Pendant (T1)

<table>
<thead>
<tr>
<th>QTY #</th>
<th>Acuity/Gillman, APL, Ledcapsule</th>
<th>Vercos - Fulton Cageset</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total Price</td>
<td></td>
</tr>
<tr>
<td></td>
<td>$6,687.00</td>
<td>$7,856.00</td>
</tr>
<tr>
<td></td>
<td>Average Lumen Per Watt Per Dollar Score</td>
<td>7.0</td>
</tr>
<tr>
<td></td>
<td>Total Fixture Const. Score</td>
<td>22.8</td>
</tr>
<tr>
<td></td>
<td>10 YR Operations Score</td>
<td>55.0</td>
</tr>
<tr>
<td></td>
<td>Total Weight</td>
<td>79.8</td>
</tr>
</tbody>
</table>

GE and Amerlux/Lumecon did not submit a bid for an LED replacement teardrop fixture. However, it is also possible to retrofit the current teardrop fixture with an LED driver (meaning the glass and arm will not be replaced), should the Town prefer it.

*Please note: The prices above are approximate and are for evaluation purposes only. Accurate pricing will be provided in the Investment Grade Audit (IGA).
### Floodlight Yoke (F1)

<table>
<thead>
<tr>
<th>FY Yoke</th>
<th>Acuity/Simpio - AIL, Holophane</th>
<th>GE: CMH 80W</th>
<th>Streamline: AmorLux Lumenio</th>
<th>WP900 - Eikon Gaspar</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Price</td>
<td>$6,085.20</td>
<td>$6,720.00</td>
<td>$19,500.00</td>
<td>$17,500.00</td>
</tr>
<tr>
<td>Average Lumen Per Watt Per Dollar Score</td>
<td>8.3</td>
<td>10.0</td>
<td>5.0</td>
<td>9.3</td>
</tr>
<tr>
<td>Total Fixture Cost Score</td>
<td>37.1</td>
<td>34.4</td>
<td>31.6</td>
<td>40.0</td>
</tr>
<tr>
<td>10 YR Operations Score</td>
<td>38.0</td>
<td>46.9</td>
<td>40.0</td>
<td>18.2</td>
</tr>
<tr>
<td>Total Weight</td>
<td>83.4</td>
<td>97.1</td>
<td>88.6</td>
<td>77.6</td>
</tr>
</tbody>
</table>

*Please note: The prices above are approximate and are for evaluation purposes only. Accurate pricing will be provided in the Investment Grade Audit (IGA).
Post Survey Report

Summary

The original data provided to RealTerm Energy by Central Maine Power at the beginning of the audit estimated approximately 829 fixtures in the Town of York. Upon completion of the audit, the results demonstrate that there are 910 fixtures. This includes parks, parking lots and all other requested areas that were surveyed.

Streetlight Audit Breakdown

<table>
<thead>
<tr>
<th>Fixture Type</th>
<th>RTE QTY</th>
<th>CMP QTY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cobrahead</td>
<td>834*</td>
<td>766</td>
</tr>
<tr>
<td>Decorative</td>
<td>61**</td>
<td>19</td>
</tr>
<tr>
<td>Floodlight</td>
<td>16</td>
<td>14</td>
</tr>
</tbody>
</table>

* Includes 24 poles with no lights and a few private roads. Please, consult page 3 for more information.
** Includes decorative lights that are not in CMPs inventory. Please consult page 5 for more information.
Survey Methodology and Deliverables

To complete this field audit, our team surveyed all the roads within the agreed-upon limits of the Town of York. The auditors used ArcGIS’s Collector App to record all the attributes relevant to streetlighting. ArcGIS is a georeferenced mapping tool that displays the collected attributes on a map in real time. This map is part of the GIS deliverable and is used extensively throughout the conversion project. During the installation phase of the new LED lights, the map allows the Town to view the installation progress and monitor any issues in real time.

Prior to the audit, our team reviewed the inventory data provided by the Town of York and identified any missing attributes.

The following is a summary of the collected attributes with a brief explanation of each attribute.

<table>
<thead>
<tr>
<th>Attribute Name</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>RTE ID</td>
<td>A unique identifier assigned to each light collected</td>
</tr>
<tr>
<td>Fixture Type</td>
<td>The type of fixture (ex: Cobrohead, Decorative, Floodlight etc...)</td>
</tr>
<tr>
<td>Deco Subtype</td>
<td>If needed, identifies decorative fixture sub types.</td>
</tr>
<tr>
<td>Deco Color</td>
<td>Color of decorative fixtures</td>
</tr>
<tr>
<td>Technology</td>
<td>The technology powering the fixture (ex: High Pressure Sodium (HPS), LED)</td>
</tr>
<tr>
<td>Lamp Wattage</td>
<td>The power consumption of the fixture (Wattage)</td>
</tr>
<tr>
<td>Lamp Height (ft)</td>
<td>The height of the lamp from the base of the pole</td>
</tr>
<tr>
<td>Arm Length (ft)</td>
<td>The length of the arm the fixture is attached to (if applicable)</td>
</tr>
<tr>
<td>Setback</td>
<td>The distance from the fixture to the road</td>
</tr>
<tr>
<td>Road Width</td>
<td>The width of the road including the sidewalk</td>
</tr>
<tr>
<td>Road Class</td>
<td>The road classification (ex: major, local, collector, park, parking lot, etc.)</td>
</tr>
<tr>
<td>Pedestrian Activity</td>
<td>The activity in the road relative to the number of pedestrians crossing the road (ex: high, low, medium)</td>
</tr>
<tr>
<td>Street Name</td>
<td>Name of the road the light is directed over</td>
</tr>
<tr>
<td>Intersection</td>
<td>Indicates if the light is on an intersection (Yes, No, N/A)</td>
</tr>
<tr>
<td>Arm Orientation</td>
<td>The direction the light is pointing</td>
</tr>
<tr>
<td>Wire Location</td>
<td>The location of the wiring (ex: underground, overhead etc...)</td>
</tr>
<tr>
<td>High Voltage</td>
<td>Indicates if the fixture is connected or in close proximity to a pole with high voltage</td>
</tr>
<tr>
<td>Pole Material</td>
<td>The material of the pole (ex: wood etc.)</td>
</tr>
<tr>
<td>Pole Usage</td>
<td>The main purpose of the pole (ex: telecommunication, power, etc...)</td>
</tr>
<tr>
<td>Utility Pole ID</td>
<td>Pole ID (if applicable and shown on the pole)</td>
</tr>
<tr>
<td>Problems</td>
<td>Any issues identified (ex: broken pole, tree trimming required etc...)</td>
</tr>
<tr>
<td>Survey Comments</td>
<td>Any additional comments by the field surveyors (ex: private areas, etc...)</td>
</tr>
<tr>
<td>Survey Date</td>
<td>Date the light was surveyed</td>
</tr>
<tr>
<td>Surveyor</td>
<td>The name of the Surveyor</td>
</tr>
</tbody>
</table>

The following was delivered to the Town of York at the end of the audit:

1) A report summarizing our field audit findings
2) An Excel document containing a summary of all the data collected.
3) An online ArcGIS map identifying the locations of all the streetlight assets.
4) Post-Survey questionnaire
Survey Results

Areas in question

To assist you in reviewing the inventory, we have determined some locations that will require your attention. RealTerm’s streetlight audit matches 99% of CMP’s inventory. The remaining 1% represents some discrepancies in the data. These cases are described in the sections below.

1. No lights
In these locations, CMP indicates a light is installed on the pole. However, our audit confirms that the light is no longer present. Please refer to appendix C for the list of no lights. These locations should be reviewed with CMP.
2. Private Roads

In these locations, the lights are deemed private and per town’s request they were included in the streetlight audit. Please refer to appendix C for the detailed list. These locations will not be included in the scope of work. If the Town of York wishes to include them, please notify RealTerm Energy.

3. Streets with fewer Luminaries in RealTerm’s Inventory

In these locations, our auditing team surveyed the roads and could not identify all the lights. This could be due to changes in pole locations or removal of lights. During the installation phase, our team completes a second round of review to identify any potential missing lights.

<table>
<thead>
<tr>
<th>Street Name</th>
<th>RTE QTY</th>
<th>CMP QTY</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cape Neddick Rd</td>
<td>0</td>
<td>3</td>
<td>Road not found</td>
</tr>
<tr>
<td>Chases Pond Rd Ext</td>
<td>0</td>
<td>1</td>
<td>Road not found</td>
</tr>
<tr>
<td>Eyret Circle</td>
<td>0</td>
<td>1</td>
<td>Road not found</td>
</tr>
<tr>
<td>North Berwick Rd (New Route 91)</td>
<td>0</td>
<td>1</td>
<td>Road not found</td>
</tr>
<tr>
<td>Woonward Rd</td>
<td>0</td>
<td>1</td>
<td>Road not found</td>
</tr>
<tr>
<td>Ogunquit Rd</td>
<td>4</td>
<td>7</td>
<td>Poles 25, 69 and 74 not found. Currently, there is construction in the area and the lights might have been relocated.</td>
</tr>
<tr>
<td>South Main Street</td>
<td>28</td>
<td>29</td>
<td>Pole 7.8 not found – The lantern could have been removed</td>
</tr>
<tr>
<td>Long Beach Rd</td>
<td>49</td>
<td>52</td>
<td>Poles 148 and 149, 146 could not be identified. They could have been removed when the decorative lights were installed.</td>
</tr>
</tbody>
</table>
4. Streets with more Luminaries in RealTerm’s Inventory

In these locations, our auditing team identified more lights than indicated in CMP’s inventory. Please review the comments section for more information.

<table>
<thead>
<tr>
<th>Street Name</th>
<th>RTE QTY</th>
<th>CMP QTY</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barrel Ln E (1)</td>
<td>1</td>
<td>0</td>
<td>Pole 4 (RTE ID 191)</td>
</tr>
<tr>
<td>Lona Sands Rd</td>
<td>30</td>
<td>29</td>
<td>Pole 20 (RTE ID 781) not in CMP’s inventory.</td>
</tr>
<tr>
<td>Meadowlark Drive</td>
<td>3</td>
<td>2</td>
<td>One extra decorative light found (Pole 1 / RTE ID 734). CMP has 3 listed in their inventory. The extra light matches the other two in aesthetic and type. We recommend including it in the scope of work.</td>
</tr>
<tr>
<td>Old Countr Road</td>
<td>3</td>
<td>0</td>
<td>Pole 11 (RTE ID 474)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Pole 8 (RTE ID 475)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Pole 4 (RTE ID 476)</td>
</tr>
<tr>
<td>Ridgus Rd (Back Rd)</td>
<td>25</td>
<td>24</td>
<td>Pole 24 (RTE ID 300) not in CMP’s inventory.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Pole 32 (RTE ID 304) not in CMP’s inventory.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Pole 58 (RTE ID 317) not in CMP’s inventory.</td>
</tr>
<tr>
<td>Scituate Rd</td>
<td>13</td>
<td>11</td>
<td>Pole 8 (RTE ID 408) not in CMP’s inventory.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Pole 1/83 (RTE ID 407) not in CMP’s inventory.</td>
</tr>
<tr>
<td>The Lane</td>
<td>3</td>
<td>2</td>
<td>Pole 3 (RTE ID 524) is not on CMP’s inventory.</td>
</tr>
<tr>
<td>Winler Brook Court</td>
<td>3</td>
<td>2</td>
<td>Pole 3 (RTE ID 590) is not on CMP’s inventory.</td>
</tr>
<tr>
<td>North Main Street (york St)</td>
<td>50</td>
<td>52</td>
<td>Pole 49 (RTE ID 666)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Pole 124 (RTE ID 229)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>These are not part of CMP’s inventory. We recommend they are included as they do not seem to be private.</td>
</tr>
</tbody>
</table>

You can review these locations on the web map; please refer to Appendix C. They are displayed on the web map in the “issues” layer (which also shows private lights) with the following symbology:

5. Decorative lights not in CMP’s inventory:

These decorative lights were audited per the town’s request, please confirm if they are to be included in the scope of work.

<table>
<thead>
<tr>
<th>Street Name</th>
<th>QTY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Young St (Beach St)</td>
<td>8</td>
</tr>
<tr>
<td>Railroad Rd</td>
<td>9</td>
</tr>
<tr>
<td>Ocean Ave / Long Beach Rd</td>
<td>16</td>
</tr>
</tbody>
</table>
Appendix A – Sample of the images collected during the Survey:

Please note: More images are accessible through the map.

1. Cobrahead

![Pole 204 on Shore Rd](image1.jpg)

2. Decorative – Caged Acorn

![Pole on Ocean Ave Ext](image2.jpg)
3 – Decorative – Lantern Post Top:

Pole 7.2 on York St

Pole 4.1 on Woodside Meadow Rd

3 – Decorative – Shoe Box:

Decorative light on Town's Dock
3 – Decoative – Tear Drop

Pole 1.1 on Meadowlark Drive.
Source: Google Street View (2016)

4 – Floodlight – Yoke

Pole 159 on Long Beach Rd
Appendix B: Links to the ArcGIS map and login credentials:

Link to ArcGIS web map: [https://arcgis.ie/1855GK](https://arcgis.ie/1855GK)

Please use the following credentials to login to the web map:

**Username:** guest012

**Password:** guest2018

Each surveyed streetlight in your inventory has been assigned a unique identifier called RTE ID and these can be found in the attribute table in the RTE_ID column. Please use this ID to refer to any of the streetlights in future communication.

Link to Post Survey Questionnaire: [https://arcg.is/30eI9Qj](https://arcg.is/30eI9Qj)
Appendix C: Inventory Summary File

Please refer to the separate excel file attachment.
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 31, 2019

DATE ACTION REQUESTED: November 4, 2019

☐ ACTION

☐ DISCUSSION ONLY

SUBJECT: York Village Improvement Project update. (Final Parking Design)

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: The Town of York has secured State and Federal transportation funding from Maine DOT and the Federal Highway Administration (FHWA) thru the Kittery Area Comprehensive Transportation Study Committee (KACTS) Metropolitan Planning Organization (MPO) for the construction of phase 1 of the York Village Improvement Project. The Maine DOT has authorized the Town of York to administer the project locally with the help of our consultants (LAP). The Town is administering the project locally in order to better engage those who will be served by the project and those who may have a vested interest in the project. The Town of York through the Village Steering Committee has a better understanding of local concerns and will be able to work through those issues in a more timely and successful manner than the Maine DOT.

Municipalities delivering LAP projects with State and Federal funds are required to follow a rigorous federal and state project development process. This process requires a number of activities to be done by the Maine DOT. At this time Maine DOT has approved the Town’s Preliminary Design Report (PDR). Maine DOT has also begun work related to the National Environmental Policy Act (NEPA). NEPA review is required on all projects with a federal action (funding/permits). Maine DOT is responsible for completing the NEPA process when a project has federal funding. Section 106 of the National Historic Preservation Act, Section 4(f) of the Department of Transportation Act, right of way, public meeting, hazardous material review, Section 7 of the Endangered Species Act and federal permitting level must be done before completing NEPA. Maine DOT will also be assisting the Town by providing Right-of-Way (ROW) assistance and certification.

Now that Maine DOT has approved the Town’s Preliminary Design Report (PDR) the Town’s consultants have begun working on the final design and identifying all the impacts associated with the final design. Before the final design and plan impacts can be completed the new proposed parking plan needs to be approved.

Included with this action form is a plan showing the new proposed parking, the latest renderings of the intersection and the latest phase 1 project construction cost estimate.
RECENT PROJECT HISTORY

• On Monday May 13, 2019 Our Consultant’s Milone & MacBroom submitted the Preliminary Design Report (PDR) and preliminary plans to Maine DOT for approval.
• On Tuesday May 28, 2019 Maine DOT requested that our consultant’s submit an updated engineer’s construction estimate.
• On Tuesday June 25 2019 Milone & MacBroom submitted the updated engineer’s construction estimate to Maine DOT.
• On Wednesday July 10, 2019 We received comments on our PDR and preliminary plan change requests from Maine DOT.
• On Monday August 26, 2019 Milone & MacBroom submitted responses to the comments we received on our PDR and submitted revised preliminary plans to Maine DOT for approval.
• On Wednesday September 25, 2019, Maine DOT approved our Preliminary Design Report (PDR) and our preliminary plans.

Phase 1 Construction Funding & Timeline
2018 KACTS funding - $545,107  Earliest available – October 1, 2017
2019 KACTS funding - $795,027  Earliest available – October 1, 2018
2020 KACTS funding - $795,027  Earliest available – October 1, 2019
Total Phase 1 Approved Funding: $2,135,151

Phase 2 Construction Funding & Timeline
2022 KACTS funding - $600,000  Earliest available – October 1, 2021
Total Phase 2 Approved Funding: $600,000

RECOMMENDATION:  Approve the new parking plan for the proposed phase 1 construction portion of the York Village improvement project. Also approve utilizing the $50,000 for final design project cost that was previously approved to pay the utilities for their cost to design new underground facilities.

PROPOSED MOTION: I move to approve the new parking plan for the proposed phase 1 construction portion of the York Village improvement project. I also move to utilize the $50,000 for final design project costs that was previously approved to pay the utilities for their cost to design new underground facilities.

FISCAL IMPACT: $0
DEPARTMENT LINE ITEM ACCOUNT: 216.0000.8001
BALANCE IN LINE ITEM IF APPROVED: $102,859.13

PREPARED BY: Dean Lessard  REVIEWED BY:
Putting the “village” back into York Village

Village Square Concept
Putting the “village” back into York Village

Village Square - Plan Detail

Granite Planter
Bicycle rack, typical
Flush granite band, typical
Flush radial band (brick)
Brick Plaza
Grate Curb Edge
Flush Cobblestone Paving
Monument
Granite globe feature (seating)
Granite slab bench, typical
Bollard, typical
Street Lighting
Putting the “village” back into York Village

Village Square – Sketch Perspective
STREETSCAPE TREATMENT

PROPOSED MATERIALS

STREET LIGHTING

PAVING MATERIALS

Cobblestone Paving
Brick Paving

SITE FURNISHINGS

Benches
Trash Receptacles
Tree Grates

FEATURES

Bollards
Granite Benches
Flower Hangers
Bicycle Racks
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 28, 2019

DATE ACTION REQUESTED: November 4, 2019

SUBJECT: Requests for carryforwards from FY19 budgets to FY20

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: The board has the option to approve or not approve the attached requests for carryforward totaling $138,691.08. The board has the option of approving/not approving these items in total or in part. These dollars remain in budget line items for things that were not spent down by close of year 6/30/19

RECOMMENDATION: It is my recommendation that Board of Selectmen approve the attached listing of carryforward suggestions in total.

PROPOSED MOTION: I move to approve the attached listing of carryforward requests from FY19 to FY20 in the amount of $138,691.08.

FISCAL IMPACT: $138,691.08

DEPARTMENT LINE ITEM ACCOUNT: Multiple, please see spreadsheet

BALANCE IN LINE ITEM IF APPROVED: $138,691.08

PREPARED BY: Wendy Anderson, Finance Director REVIEWED BY: Steve Burns, Town Manager.
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<thead>
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<th>Department</th>
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<th>Request to FY20</th>
<th>Carryover to FY20</th>
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Note: The table represents the budget allocations for different departments. The amounts shown are in dollars.
MEMORANDUM

DATE: September 20, 2019
TO: Stephen Burns, Town Manager
Cc: York Board of Selectmen
FROM: Chief Charles Szeniawski
SUBJECT: Request for Carry Forward Funds

The recent number of critical incidents, coupled with the mandatory overtime to meet minimum manning per patrol shift, has created an unusual burden upon our fiscal overtime budget.

The department has had to expend an unusual amount of overtime money to investigate multiple complex and serious criminal cases. The range of investigations has gone from an active shooting case, suicide, drowning, multiple criminal cases with our community's juvenile as victims, the recent downburst that required several officers to be held over and called in to adequately address the needs of our community. These unexpected events occurring so early into our fiscal year is causing an unanticipated shortfall in the overtime budget. To offset this shortfall, I am requesting that $10,000 be carried forward out of the funds in the 2019-2020 operating budget.
MEMO

TO:        Board of Selectmen
FROM:      Stephen H. Burns, Town Manager
DATE:      October 28, 2019
RE:        Carryforwards

I have recommended each of the carryforwards on the attached list. I wanted to share my perspective on each before the Board takes action.

Selectmen's Contingency Fund – three items:
• the environmental assessment of Granite Lane properties hasn't yet been billed as it was just recently written so we'll need to pay the bill in the current fiscal year
• money for match of the electric vehicle charging stations grant, which should be decided in November – if needed we'll spend this money in the current fiscal year, and if the grant is denied then the funds will lapse into the general fund. This allocation was flagged at the time of approval as requiring carryforward.
• Funds dedicated to the Veterans Affairs Committee were flagged at the time of approval as requiring carryforward.

Voting Machines. We've carried this for a number of years, and Mary-Anne has presented to the Board in the past on this topic. Our ability to spend this money is dictated by State decisions about the company it forces us to use, and timing remains uncertain. I recommend the Board carry these funds again.

Town Hall Planning and Design. This was a $30,000 budget article approved in May 2018. Our focus with this money to date has been on the property issue, but there will be more needed in the future for survey work, drafting the proposed design and construction contracts, and so forth. There is no question this money will be required to advance the Town Hall expansion, which is not a one-year project.

Police Vehicles. Each year there is a residual balance in the police vehicle account, and it is carried forward. The approach to funding these vehicles provides a degree of flexibility with respect to timing of these purchases, which are not off-the-lot cars or SUVs.

Police Budget Warrant Article 5. I defer to the Chief's memo regarding this request.

Fishermen's Walk Maintenance Account. Funds for maintenance and repairs have been carried forward for at least the past decade. The good news here is that more than half of the funds carried forward a year ago have been spent, so this is trending down at last.
Sea Wall Maintenance. Given all that’s happening with our sea wall, we could certainly put these funds to appropriate use right now. I think the direction from the Board should be to spend this money now and stop carrying it forward in the future.
REQUEST FOR ACTION BY BOARD OF SELECTMEN

<table>
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<th>October 23, 2019</th>
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<td>DATE ACTION REQUESTED:</td>
<td>November 4, 2019</td>
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| SUBJECT: | Recycling Reform Resolution |

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: I received a request from Victoria Simen and others to ask the Board to support a resolution about product packaging as it relates to municipal recycling. Attached is a letter from the Natural Resources Council of Maine seeking municipal support, along with other supporting information. The towns of Kennebunkport, Kingfield, Limerick & Poland have already endorsed this. This is a non-binding, zero municipal cost resolution.

The heart of the matter is a law passed earlier this year by the Maine Legislature, LD 1431, which requires DEP to propose a new law to address product packaging as these relate to municipal recycling and waste disposal. The details are not yet available, but it appears to me that the intention is to reduce the generation/use of packaging, and to create a new revenue source to help offset municipal waste disposal and recycling costs.

The Board may pass it or take no action.

RECOMMENDATION: I recommend the Board support the resolution.

PROPOSED MOTION: I move to support the Recycling Reform resolution.

Prepared by Stephen H. Burns, Town Manager:
Fall 2019

To Maine’s Municipal Officials,

Thank you for operating a recycling program in your town. Maine people overwhelmingly want access to recycling. We recognize the cost burden of managing municipal solid waste through your annual budget, and we know that market changes for recycled commodities are currently upending many of Maine’s recycling programs. That is why we are asking you to join a new statewide effort to reform recycling in Maine by shifting the cost burden away from taxpayers.

At the request of the Legislature, the Maine Department of Environmental Protection will submit legislation by December 16, 2019, that would help solve this problem by establishing equitable, non-taxpayer-funded municipal recycling programs for packaging waste. This type of “extended producer responsibility” law has the power to:

- **Save Maine municipalities between $16 and $17.5 million each year.** Cities and towns would be reimbursed for any recycling costs by the corporations and brand owners that produce packaging into our state, like it is done all over the world. Towns would still have control over their recycling programs; and could keep any revenues generated.
- **Protect our recycling programs and make them more resilient to market changes.** Right now, many municipalities are being forced to stop, cut back, or pay more for their recycling programs because of the expense. The key to making our recycling programs more sustainable is to change who pays for them.

**How you can help:** One simple way that your municipality can show support for Recycling Reform for Maine is by adopting the attached resolution language. Please send to sarah@nrcm.org by December 31, 2019. We will compile the documents and present them to the Legislature’s Joint Standing Committee on Environment and Natural Resources, who will consider this policy in the winter and spring of 2020.

You can visit www.recyclingreform.org to find more information on this very important policy initiative; including a list of towns that have already supported the resolution. Please feel free to contact me with any questions.

Sincerely,

Sarah K. Nichols, NRCM Sustainable Maine Director
(207) 430-0170 or sarah@nrcm.org
Whereas, Maine’s communities are struggling to maintain, expand, and in some cases are eliminating, recycling programs due to rising costs and difficult-to-manage materials; and

Whereas, product packaging, which includes plastic, metal, glass, and cardboard, constitutes approximately 30-40% of the materials managed by weight in Maine’s municipal waste management programs; and

Whereas, Maine taxpayers currently unfairly bear 100% of the cost and pay an estimated $16 million to $17 million each year to finance the management of this material through fragmented and increasingly expensive disposal or recycling options; and

Whereas, producers of product packaging have little incentive to minimize wasteful packaging or increase access to recycling; and there is no organized coordination between the producers of packaging and municipalities that are responsible for disposing of or recycling the packaging materials; and

Whereas, producers of product packaging have taken some or all responsibility for the management of post-consumer packaging in other parts of the world, including all European Union member states and five provinces in Canada, and, as a result, have greatly increased recycling rates, expanded infrastructure investment, created jobs, and reduced taxpayer costs;

Now, Therefore Be It Resolved,

We, Maine’s municipalities, support an Extended Producer Responsibility (EPR) for Packaging law as endorsed by the Legislature in 2019 through the passage of the Resolve, To Support Municipal Recycling Programs (LD 1431). We believe that this policy will work to make recycling in Maine:

More effective: Producers of packaging materials would have a direct economic incentive to produce less-wasteful packaging that can easily and profitably be managed by municipal recycling programs. Having shared responsibility between those who create the waste and those who manage the waste would foster recycling system improvements and enable greater participation in recycling across Maine;

More sustainable: An EPR law for packaging is an insurance policy for Maine municipalities when global recycling markets are unfavorable. The current approach to recycling is not resilient to fluctuations in the global recycling market. When commodity prices fall unexpectedly, towns and cities may be forced stop or restrict their programs; and

More equitable: Maine’s cities, towns, and taxpayers are currently footing the bill for a problem they didn’t create. With recycling reform, taxpayers will no longer pay for the cost of recycling since the net costs of recycling would be reimbursed—and the packaging manufacturers that produce less-wasteful, more recyclable packaging would pay less than those who do not. This is a much more equitable way to distribute costs.
STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND NINETEEN

H.P. 1041 - L.D. 1431

Resolve, To Support Municipal Recycling Programs

Sec. 1. Development of product stewardship law for packaging. Resolved:
That the Department of Environmental Protection shall develop legislation establishing
an extended producer responsibility law for packaging in the State. The proposed
legislation must, to the greatest extent practicable, adhere to the product stewardship
framework law established in the Maine Revised Statutes, Title 38, chapter 18 and must
include, but is not limited to:

1. A definition of "packaging" that covers, at a minimum, materials used to wrap or
   protect consumer goods, including food and personal care products, and containers and
   packaging used in the shipping, storage, protection and marketing of consumer products;

2. A definition of "producer" that clearly identifies the person ultimately financially
   responsible;

3. Exemptions for small producers and for product packaging that is already covered
   under Maine's beverage container redemption law;

4. An allowance for producers to voluntarily participate in the program if not
   required by the law;

5. Provisions for the establishment of a nonprofit stewardship organization of
   producers of packaging to support the State's municipal solid waste management
   programs. The agreement establishing the stewardship organization must require
   producers to:

   A. Cover at least 80% of the cost of recycling packaging material sold in the State
   that is not readily recyclable;

   B. Provide per capita reimbursement payments to municipalities for nonrecyclable
   packaging to help municipalities cover the cost of packaging needing disposal; and

   C. Invest in waste reduction and recycling education and infrastructure;

6. A requirement that the stewardship organization establish an equitable funding
   scheme among covered producers that encourages better packaging design in which:
A. Producers pay higher fees for packaging materials sold into the market that are not readily recyclable, are made of multiple materials or are toxic, in order to discourage the creation of materials needing disposal; and

B. Producers pay lower fees for packaging materials sold into the market that are of higher value reusable components and that contain higher percentages of recycled content to ensure that the stewardship program supports a strong recycling economy;

7. A description of the preferred methods to be used for regular data collection and reporting and recycling rate and contamination calculations in order that:

A. There is transparency and accountability in assessing the success of the program;

B. The costs of collecting and reporting data are paid for by the stewardship organization; and

C. There is consistency with internationally accepted standards and there is sufficient information to evaluate the effectiveness of the program;

8. Creation of incentives for municipalities and producers to reach predetermined performance goals based on reporting and data collection as described in subsection 7; and

9. Establishment of a method by which producers can protect themselves against producers that fail to register with a program. These methods may include private right of action, requirements that online retailers of packaging be responsible for paying into a fund in support of the program if the products they sell are from producers who are not part of the stewardship program or other strategies that ensure fairness and full compliance.

Sec. 2. Proposed legislation. Resolved: That the Department of Environmental Protection shall submit proposed legislation pursuant to section 1 to the Joint Standing Committee on Environment and Natural Resources no later than December 16, 2019. The joint standing committee is authorized to report out a bill relating to the proposal to the Second Regular Session of the 129th Legislature
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 29, 2019
DATE ACTION REQUESTED: November 4, 2019

☑ ACTION
☒ DISCUSSION ONLY

SUBJECT: Gift of Land to York Water District

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: Gary Stevens of the York Water District inquired about the possible transfer of this parcel to the York Water District. The Town acquired this parcel of land by tax lien in the early 1990s. It is about 16 acres in size and has no street frontage. The land is located in the watersheds of both the Kittery and York water districts and is completely surrounded by the lands of each of these water districts. Proper management of this parcel can enhance the drinking water supplies in both communities. As the Town has no use for this property, and as far as I can tell has never had any use for it, not taken any steps to manage it, I would suggest it be donated to the York Water District as protection of the drinking supply watersheds is consistent with the Comprehensive Plan. YWD may want to divide it along the watershed boundary and give part to KWD, but that wouldn’t be of concern to the Town.

I would suggest a reversion clause, that if the York and Kittery water districts have no use for the land at some point in the future that it be returned to the Town at that time at no cost.

The Board is not obligated to pursue this. It could be retained indefinitely or sold as a surplus lot. Given its location I believe the donation to the District is the best option.

Being a tax-acquired property, the Board is authorized to dispose of it per the Board’s Property Acquisition and Disposition Policy. Donation to another government entity is permitted per Section IV.D.

If the Board is would like to pursue this, I can initiate the process.

Prepared by Stephen H. Burns, Town Manager:
75, 76, and 77:

51-259  John Nowell to Samuel Young, 6-20-1787

77 only:

26-111,112  Edward and Oliver Young to Samuel P. Young, 11-5-1838

91-144  Estate of Samuel P. Young, 1839

542-134, #1 (½ main)  Nancy F. Moulton to Charles H. Steavey, 5-16-1906

and

534-2, #2 (½ main)  Samuel A. Pickle to Charles H. Steavey, 1-18-1906

776-225 (Tax assessment of ½ main)  "Charles Steavey's House" to Town of York, 2-10-1931

and

8.55-516 (Tax Lien)  "Charles Steavey House" to Town of York; acknowledged 2-27-1933

and

8.55-517 (Tax Lien)  "Charles Steavey House" to Town of York; acknowledged 2-26-1934
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 31, 2019
□ ACTION
☐ DISCUSSION ONLY
DATE ACTION REQUESTED: November 4, 2019

SUBJECT: Financial Operating Data and Fund Balance History

DISCUSSION OF OPTIONS AVAILABLE TO THE BOARD: Wendy Anderson, Finance Director, has pulled together the financial operating data and fund balance history for FY17 through FY19 (copy attached). These are the most recent three years for which we have data, though FY19 is as yet unaudited.

This information was requested by the Board because of a concern that each year we have a significant increase in fund balance and therefore we may be budgeting revenues and expenses inappropriately.

REVENUES: Wendy’s analysis shows that revenues have been coming in strong during these three years for a number of reasons that aren’t really possible to project in advance. In FY17, strong excise taxes on vehicle purchases and the sale of surplus properties are the reasons. In FY18, strong excise taxes and sale of surplus properties again helped, plus strong parking revenues with the new kiosks and a significant increase in interest income. In FY19, it was again strong excise taxes, sale of surplus properties and higher interest income. None of these is readily predictable, and any could easily change with a turn in the economy.

EXPENSES: Wendy’s analysis shows that expenses were relatively close to budget, and are typically about 2% under. The Town Charter requires most lines to be underspent and our antiquated financial software practically prevents department heads from spending down to the last dollar (Mike Sullivan was the notable exception to this rule back in the day). In FY17 the Town was able to reduce bond issuance costs because of favorable conditions with the winning bond bid, and the new property tax relief program was mostly unused. In FY18, again reduce borrowing costs were achieved, general assistance and property tax relief were underspent, and there were some savings from temporary vacancies and turnover savings. In FY19, the primary driver was the fact that health insurance rates rose much less than normal. As with the revenues, these sorts of impacts are not readily projected with any certainty.

You can see the impact of Overlay in the line “Plus Taxes Less Abatements.” In FY17 this number is uncharacteristically high because of the overlay was so large (about $800,000). Following discussions with the Board last year, I set the overlay for the current year in the order of magnitude of $100,000.

In summary, the additions to fund balance aren’t being driven by the manner in which we budget revenues and expenses. As I interpret this data, we use an appropriate amount of conservative
discretion in preparing the budget requests and I believe it is reasonable to continue the current approach to budgeting.

I think it is appropriate to remind the Board that, when the fund balance exceeds the target range set in the Board of Selectmen’s Fund Balance Policy (copy attached), that excess has typically been applied to the Board’s policy initiatives and to reduce the coming year’s tax appropriation. Any overage is put back into the system in relatively short order. If the fund balance was allowed to build without limits, this would not be the case.

Prepared by Stephen H. Burns, Town Manager: [Signature]
MEMO

October 21, 2019

To: Steve Burns, Town Manager
From: Wendy Anderson, Finance Director

Summary of Operating Data and Fund Balance FY2017, FY2018 and FY2019

Fiscal Year 2017 resulted in an increase to the General Fund fund balance of approximately $1,076,680.

The primary contributors to the increase in fund balance can be found at the bottom of the FY2017 spreadsheet attached.

The largest increases in Town revenues are from excise tax coming in over budget by $307K and sale of property in the amount of $169K that was unanticipated.

The largest savings in Town operating budgets are $58K in debt service and $44K in bond issuance costs, both of the result of receiving premium on the sale of bonds. Premium may be applied to debt service after costs of issuance are covered. Additionally, property tax relief was budgeted at $55K with only $8K in expenses. There were unspent funds from Article 41 financial software research in the amount of $39K. Article 41 funds were carried forward to the next fiscal year and artificially inflate fund balance in the current year.

Fiscal Year 2018 resulted in an increase to the General Fund balance of approximately $1,236,307.

The primary contributors to the increase in fund balance can be found at the bottom of the FY2018 spreadsheet attached.

The largest increases in Town revenues are from excise tax coming in over budget by $249K, sale of property in the amount $121K as well as kiosk collections coming in $79K over budget, parking tickets $49K over budget and interest income $53K over budget.

The largest savings in Town operating budgets are $99K in debt service and $54K in bond issuance costs, both of the result of receiving premium on the sale of bonds. Premium may be applied to debt service after costs of issuance are covered. Additionally, $91K was not expended from General Assistance and Property Tax relief resources. Also, the finance department salary & health insurance lines combined were under budget $84K due to unfilled positions part of the year. The fire departments are under budget $81K combined, primarily due to salary and benefits savings from staff turnover.

Fiscal Year FY19 (Pre-Audit Report) resulted in an increase to the General Fund fund balance of approximately $1,567,650.

The primary contributors to the increase in fund balance can be found at the bottom of the FY2019 spreadsheet attached.
The largest increases in Town revenues are from excise tax coming in over budget $191K, interest rates tripled causing that line to come in over budget by $155K and sale of town owned property in the amount of $205K.

The largest savings in Town operating budgets are $254K in overbudgeted health insurance costs across departments. We must budget this line blindly as rates are not available to us during the budget process. Increases have been high historically. This particular year rates came in at approximately 5% over the prior year which is much lower than anticipated. In addition to insurance savings, money appropriated for financial software is under spent by $65K and funds appropriated for Town Hall planning and design were under spent by $20K. Both the software and planning/design money is anticipated to be carried forward to the FY20 budget upon BOS approval later this fall. Funds that are carried forward artificially inflate fund balance in the current year. Lastly, $52K in savings in bond issuance costs were recognized due to the receipt and use of bond premium.

When reviewing the fund balance information provided for the General Fund, please note there is not a direct translation to the audit. The audit includes additional bookkeeping items such as, but not limited to prepaid expenses and retirement incentives. Additionally, the audit includes balances of reserves & special revenues in the calculation of the fund balance for the General Fund. Reserves are typically over $1 million and are not tracked in the general fund in our accounting system, but in specially designated funds for such things. At the end of FY2017 reserves totaled $1.4M, at the end of FY2018 reserves totaled $1.0M. My estimation is that reserves will settle at approximately $1.4M at the end of FY2019 depending on how FEMA events are recorded by the auditors.

Thank you, please let me know if you have questions.
## TOWN OF YORK FY2017 BALANCES BY WARRANT ARTICLE

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<td>Public Works</td>
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<td>Article 20</td>
<td>Veteran's Graves and Ancient Burial Grounds</td>
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<td>Outside Services</td>
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<td>First Parish Church Cemetery</td>
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<td>Debt Service</td>
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<td>Article 39</td>
<td>Police Vehicles</td>
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<td>Revenues (detail attached)</td>
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**Net General Fund Operations**

$13,423,675.00  
$12,571,279.74  
$852,395.26

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<th>Actual</th>
<th>Balance</th>
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<td>$1,026,683.62</td>
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<td>Amount</td>
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<tr>
<td>------------------------------------------</td>
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<td>Rural Roads State Revenues</td>
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<td>Ellis Park Reimbursement</td>
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<td>Photocopies Revenue</td>
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<td>Shoreland Fees</td>
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**Miscellaneous**

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<tr>
<th>Description</th>
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# TOWN OF YORK FY2018 BALANCES BY WARRANT ARTICLE

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<tr>
<th>Article</th>
<th>BUDGET</th>
<th>ACTUAL</th>
<th>BALANCE</th>
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<tbody>
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<td>$2,923,580.00</td>
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<td>Fire</td>
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<td>Ambulance</td>
<td>$60,000.00</td>
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<td>Hydrants</td>
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<td>Public Works</td>
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<td>DPW - transitional (for 810 Route 1)</td>
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<td>$19,500.00</td>
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<td>Parks/Grounds/Beaches</td>
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<td>$940,727.32</td>
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<td>Ellis Short Sands Parks</td>
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<td>Social Service Requests</td>
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<td>$41,700.00</td>
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<td>General Assistance &amp; Property Tax Relief</td>
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<td>First Parish Cemetery Maintenance</td>
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<td>Revenues (detail attached)</td>
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<td>$459,779.28</td>
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<td>Bond Premium used</td>
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<tr>
<td>Bond Premium used</td>
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<table>
<thead>
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<th>FY2018 Change to GF Fund Balance</th>
<th>BUDGET</th>
<th>ACTUAL</th>
<th>BALANCE</th>
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<tr>
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<td>Less FY18 Operating Expenses</td>
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<td>$549,779.28</td>
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<td>Plus Taxes less Abatements</td>
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<tr>
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<tr>
<td>Excise - Boats</td>
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<tr>
<td>Rural Roads State Revenues</td>
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<tr>
<td>GA Reimbursement</td>
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<tr>
<td>Meter Collections</td>
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<td>Parking Ticket Revenue</td>
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<tr>
<td>CATV Franchise</td>
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<td>Clerk Fees</td>
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<td>Ellis Park Reimbursements</td>
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<td>Investment Interest Income</td>
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<td>Plumbing Permits Fees</td>
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<td>Resident Transfer Stickers</td>
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<td>Cell Tower Rental Fees</td>
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<tr>
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<td>Parking Lease</td>
<td>$0.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tax Penalty</td>
<td>$0.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Appeals Fees</td>
<td>$0.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Overpayment Of Tax</td>
<td>$0.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commercial Transfer Stickers</td>
<td>$0.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shellfish Fees</td>
<td>$0.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bad Check Fees</td>
<td>$0.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Photocopies Revenue</td>
<td>$0.00</td>
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<tr>
<td>Compliance Fees</td>
<td>$0.00</td>
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<tr>
<td>Miscellaneous</td>
<td>$0.00</td>
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<td>Total</td>
<td>$5,055,500.00</td>
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<td>Article</td>
<td>Category</td>
<td>Budget</td>
<td>Actual</td>
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<tr>
<td>---------</td>
<td>-----------------------------------------------</td>
<td>--------</td>
<td>--------</td>
</tr>
<tr>
<td>4</td>
<td>Town Hall Departments</td>
<td>$3,400,280.00</td>
<td>$3,395,757.00</td>
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<td>5</td>
<td>Police Department</td>
<td>$4,920,385.00</td>
<td>$4,875,076.20</td>
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<td>6</td>
<td>Fire Departments &amp; Ambulance Service</td>
<td>$1,140,822.00</td>
<td>$1,031,998.25</td>
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<td>7</td>
<td>Hydrants</td>
<td>$1,018,412.00</td>
<td>$1,018,266.00</td>
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<td>Department of Public Works</td>
<td>$5,184,297.00</td>
<td>$5,197,262.02</td>
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<td>9</td>
<td>Parks &amp; Recreation</td>
<td>$1,024,072.00</td>
<td>$1,021,607.73</td>
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<td>10</td>
<td>Recreation Administration</td>
<td>$175,569.00</td>
<td>$142,047.28</td>
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<td>11</td>
<td>Senior Center</td>
<td>$331,913.00</td>
<td>$331,896.29</td>
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<tr>
<td>12</td>
<td>Ellis Short Sands Park</td>
<td>$57,860.00</td>
<td>$54,111.24</td>
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<td>13</td>
<td>Social Services Outside Requests</td>
<td>$41,100.00</td>
<td>$41,100.00</td>
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<td>14</td>
<td>York Public Library</td>
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<td>$598,311.00</td>
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<td>15</td>
<td>General Assistance &amp; Property Tax Relief</td>
<td>$99,105.00</td>
<td>$47,555.07</td>
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<td>16</td>
<td>First Parish Church</td>
<td>$10,000.00</td>
<td>$10,000.00</td>
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<tr>
<td>17</td>
<td>Municipal Finance Software</td>
<td>$150,000.00</td>
<td>$84,901.30</td>
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<td>18</td>
<td>Planning &amp; Design Town Hall</td>
<td>$30,000.00</td>
<td>$10,000.00</td>
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<td>19</td>
<td>Municipal Debt Service</td>
<td>$2,637,752.00</td>
<td>$2,628,425.84</td>
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<td>20</td>
<td>Broadcast TV Station Improvements</td>
<td>$45,000.00</td>
<td>$45,000.00</td>
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<td>52</td>
<td>Bond Financing Costs</td>
<td>$54,000.00</td>
<td>$1,500.00</td>
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</tbody>
</table>

$20,918,878.00 | $20,534,815.22 | $384,062.78 | 1.84% |

$15,590,018.00 | $14,613,862.97 | $976,155.03 |

$2,493,912.00 | $2,407,952.25 | $86,959.75 | -3.54% |

<table>
<thead>
<tr>
<th>Net General Fund Operations</th>
<th>Budget</th>
<th>Actual</th>
<th>Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>$15,590,018.00</td>
<td>$14,613,862.97</td>
<td>$976,155.03</td>
<td></td>
</tr>
</tbody>
</table>

**Estimated** FY2019 Change to GF Fund Balance

| **Plus FY18 Operating Revenues** | $15,328,860.00 | $5,902,952.25 | $92,959,25 |
| **Less FY18 Operating Expenses** | $20,918,878.00 | $20,534,815.22 | $384,062.78 |
| **Plus Taxes less Abatements**  | $49,152,625.48 | $49,489,819.25 | $337,193.77 |
| **Less County Tax**             | $2,276,680.48 | $2,276,680.48 | $0.00 |
| **Less School Gen Fund Activity** | $31,285,927.00 | $30,924,269.62 | $351,657.38 |
| **Less Use of Prior Year Carryforwards** | $0.00 | $97,356.43 | ($97,356.43) |

$0.00 | ($1,567,649.75) | $1,567,649.75 | Net Chg. to Fund Balance FY19

Beginning Fund Balance | $7,839,046.90 |
Ending FY19 Unaudited Fund Balance | $9,406,696.65 |
<table>
<thead>
<tr>
<th>Revenue Type</th>
<th>FY2019 Budget</th>
<th>FY2019 Actual</th>
<th>(Over)/Under Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Excise - Vehicle</td>
<td>$3,400,000.00</td>
<td>$3,591,598.06</td>
<td>($191,598.06) Up about 6% over budget</td>
</tr>
<tr>
<td>State Revenue Sharing</td>
<td>$300,000.00</td>
<td>$367,289.32</td>
<td>($67,289.32)</td>
</tr>
<tr>
<td>Meter Collections</td>
<td>$320,000.00</td>
<td>$361,600.52</td>
<td>($41,600.52)</td>
</tr>
<tr>
<td>Rural Roads State Revenues</td>
<td>$230,000.00</td>
<td>$231,784.00</td>
<td>($1,784.00)</td>
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<tr>
<td>CATV Franchise</td>
<td>$210,000.00</td>
<td>$222,678.19</td>
<td>($12,678.19)</td>
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<tr>
<td>Parking Ticket Revenue</td>
<td>$140,000.00</td>
<td>$44,813.88</td>
<td>$95,186.12</td>
</tr>
<tr>
<td>Parking Stickers</td>
<td>$130,000.00</td>
<td>$165,950.00</td>
<td>($35,950.00) Increase in parking permit sticker sales of approx. 28%</td>
</tr>
<tr>
<td>Real Estate Interest</td>
<td>$125,000.00</td>
<td>$131,035.45</td>
<td>($6,035.45)</td>
</tr>
<tr>
<td>Clerk Fees</td>
<td>$100,000.00</td>
<td>$95,528.63</td>
<td>$4,471.37</td>
</tr>
<tr>
<td>Ellis Park Reimbursement</td>
<td>$57,880.00</td>
<td>$73,371.59</td>
<td>($15,491.59)</td>
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<tr>
<td>Plumbing Permits Fees</td>
<td>$45,000.00</td>
<td>$41,107.00</td>
<td>$3,893.00</td>
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<tr>
<td>Resident Transfer Stickers</td>
<td>$35,000.00</td>
<td>$44,732.50</td>
<td>($9,732.50)</td>
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<tr>
<td>GA Reimbursement</td>
<td>$35,000.00</td>
<td>$13,259.88</td>
<td>$21,740.12 Fewer requests for assistance processed by YCSA</td>
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<tr>
<td>Cell Tower Rental Fees</td>
<td>$30,000.00</td>
<td>$14,746.29</td>
<td>$15,253.71</td>
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<tr>
<td>Excise - Boats</td>
<td>$29,000.00</td>
<td>$28,861.80</td>
<td>$138.20</td>
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<tr>
<td>Investment Interest Income</td>
<td>$27,000.00</td>
<td>$182,491.66</td>
<td>($155,491.66) At the time of budget banks were paying .03</td>
</tr>
<tr>
<td>*Miscellaneous Income</td>
<td>$75,000.00</td>
<td>$309,703.48</td>
<td>($234,703.48) $205K in property sales.</td>
</tr>
<tr>
<td></td>
<td><strong>5,328,860.00</strong></td>
<td><strong>5,520,952.25</strong></td>
<td><strong>(592,092.25)</strong></td>
</tr>
</tbody>
</table>

*Miscellaneous Revenue

- Other Misc. Revenues $ - $23,333.35 ($23,333.35) primarily due to a calendar year 2018 insurance dividend from MMA
- Payment In Lieu Of Taxes $ - $42,533.75 ($42,533.75)
- Veteran's Exemption $ - $12,100.00 ($12,100.00)
- Photocopy Revenue $ - $2,00.00 ($2,00.00)
- Voting Lists Revenue $ - $163.25 ($163.25)
- Parking Lease $ - $6,000.00 ($6,000.00)
- Shellfish Fees $ - $885.00 ($885.00)
- Misc Permits Fees $75,000.00 $2,250.00 $72,750.00
- Appeals Fees $ - $1,800.00 ($1,800.00)
- Shoreland Fees $ - $9,660.00 ($9,660.00)
- Sale of Property $ - $205,609.51 ($205,609.51)
- Liens/Discharges $ - $3,068.09 ($3,068.09)
- Tax Penalty $ - $1,339.39 ($1,339.39)
- Overpayment of Tax $ - $6,920.32 ($6,920.32)
- Bad Check Fees $ - $175.00 ($175.00)

$75,000.00 $309,703.48 ($234,703.48)
<table>
<thead>
<tr>
<th>Account</th>
<th>Description</th>
<th>Budget</th>
<th>YTD Transactions</th>
<th>Balance</th>
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</thead>
<tbody>
<tr>
<td>100.0102.5092</td>
<td>Town Manager - Medical Benefits</td>
<td>$57,255.00</td>
<td>$57,146.83</td>
<td>$108.17</td>
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<tr>
<td>100.0103.5092</td>
<td>Finance Dept - Health Benefits</td>
<td>$93,060.00</td>
<td>$50,611.27</td>
<td>$42,448.73</td>
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<tr>
<td>100.0104.5092</td>
<td>Assessors - Health Benefits</td>
<td>$45,578.00</td>
<td>$42,380.45</td>
<td>$3,197.55</td>
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<tr>
<td>100.0105.5092</td>
<td>Code Department - Health Benefits</td>
<td>$84,015.00</td>
<td>$78,145.94</td>
<td>$5,869.06</td>
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<tr>
<td>100.0106.5092</td>
<td>Town Clerk/Tax Collector - Health Benefits</td>
<td>$81,033.00</td>
<td>$75,400.39</td>
<td>$5,632.61</td>
</tr>
<tr>
<td>100.0160.5092</td>
<td>Information Technology - Health Benefits</td>
<td>$6,234.00</td>
<td>$5,519.20</td>
<td>$714.80</td>
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<tr>
<td>100.0201.5092</td>
<td>Police - Health Benefits</td>
<td>$542,652.00</td>
<td>$452,065.44</td>
<td>$89,986.56</td>
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<tr>
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<td>Communications - Health Benefits</td>
<td>$131,336.00</td>
<td>$122,652.11</td>
<td>$8,683.89</td>
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<tr>
<td>100.0205.5092</td>
<td>Y.V.F.D. - Health Benefits</td>
<td>$69,795.00</td>
<td>$53,440.41</td>
<td>$16,354.59</td>
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<td>100.0206.5092</td>
<td>Y.F.D. - Health Benefits</td>
<td>$63,605.00</td>
<td>$55,825.36</td>
<td>$7,779.64</td>
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<td>100.0302.5092</td>
<td>M.T. A - Health Benefits</td>
<td>$250.00</td>
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<td>$89.55</td>
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<td>General Highway - Health Benefits</td>
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<td>100.0304.5092</td>
<td>Winter Maintenance - Health Benefits</td>
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<td>100.0315.5092</td>
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<td>Public Bids - Health Benefits</td>
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<td>Recreation Admin - Health Benefits</td>
<td>$34,448.00</td>
<td>$23,620.72</td>
<td>$10,827.28</td>
</tr>
</tbody>
</table>

$1,685,564.00  $1,431,700.71  $253,863.29
REQUEST FOR ACTION BY BOARD OF SELECTMEN

DATE SUBMITTED: October 31, 2019
DATE ACTION REQUESTED: November 4, 2019

☐ ACTION
☐ 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 recommends 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 Bay Haven Road 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

To the:

City: York, Maine

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 wires and cables, transformers, inverters, and other equipment thereof, 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 LLC hereby 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: [Blank]
2. Road (State & CMP): Bay Haven Rd
3. Direction: East
4. Distance: 443' East
5. Number of Poles: 1

Buried cable facilities shall be placed at a minimum depth of 24 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 nature of said objection within fourteen (14) days after the publication of this notice or within sixty (60) days after the installation of facilities without publication.

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

By: Elaine Thamorton
Date: 10/26/2018

Central Maine Power Company

Northern New England Telephone Operations LLC

By: [Signature]
Date: [Signature]

Right of Way - Dress Tegner
Facilities to consist of wood poles and appurtenance with a minimum clearance of wire and cables not less than 11 feet over the public highway. All/m underground facilities to consist of twisted 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.

Company tel: 207-822-8542  Pole Pad specs shown are approximate.
LOCATION PERMIT

Upon the Application of Center Maine Power Company and Northern New England Telephone Operations LLC, dated 10/26/2019, seeking 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 ways 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: 1
2. End (State & CMP): Bay Haven Rd
3. Direction: Eastward
4. Distance: 143' feet
5. Number of Poles: 1

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 within or conduit and appurtenances placed a minimum depth of 36 inches under pavement and 30 inches elsewhere, all in a manner consistent with the National Electric Safety Code.

By: ____________________________

By: ____________________________

By: ____________________________

By: ____________________________

By: ____________________________

Municipal Officer

Office of the ____________________________

Received and Recorded In Book: ____________________________ Page: ____________________________

Attpt: ____________________________

Clerk