

ST. GEORGE SELECT BOARD & ASSESSORS
St. George Town Office
MEETING MINUTES
December 20, 2021 – 7 p.m.

The Select Board meeting was called to order at 7 p.m. Members present in person were: Richard Bates, Chair; Randy Elwell, Jerry Hall, Wayne Sawyer, and Tammy Willey. Also present in person: Richard Erb, Irene Ames, and Bruce Hodsdon. Present via Zoom: Loreen Meyer.

PUBLIC COMMENTS: None.

REGULAR SESSION:

- Adjustments to Agenda: In-person Meetings were added to the agenda under New Business.

- Minutes: The Select Board minutes of December 6, 2021, were reviewed.

A motion was made by Selectperson Sawyer, seconded by Elwell, to approve the December 6, 2021, minutes as corrected. The vote was 5-0 in favor. Motion carried.

- Communications: The following communications were received.

1. A press release stating St. George resident Ray Emerson was awarded the 2021 Spirit of America Award.
2. A Christmas card from Frederick Brewer, the Town auditor.
3. A letter from the US Census Bureau.

Chair Bates reviewed the US Census Bureau letter with the Select Board. He said the Census Bureau's letter stated that if the Select Board disagreed with their count on the number of housing units in St. George, there was a process to appeal. The letter indicated that in 2020, the US Census Bureau referenced that the town had 2,083 housing units which were 24 less than they found 10 years ago. In 1990, the Census Bureau's count was 1,567. In 2000, it was 1,777. In 2010, it was 2,107 but in 2020, the count was 24 less. Chair Bates thought it was strange that the number of housing units had decreased and wondered if things had changed in town. Selectperson Hall asked how they could contest the housing unit numbers if they decided to. Chair Bates said the Census Bureau had enclosed paperwork in their letter to appeal their findings, and that the Select Board had until June 30, 2023, to explore the issue.

- Warrant: A warrant was presented for the week of December 8, 2021, and the week of December 16, 2021. The warrants were reviewed. The total expenses were \$555,104.31 and included a school payment of \$462,695.62, payments for maintenance for the Fire Department, and other regular expenses. The warrant was signed by the Select Board.

Selectperson Willey asked about the Mutt Mitt expense. Ames explained the town had to buy a new canine disposal bag dispenser and bags from the Mutt Mitt company.

TOWN MANAGER'S REPORT:

Tax Acquired Property: Town Manager Erb said he and the Select Board had talked about getting a response from the taxpayer to the town's letter within a 60-day period. He said he had

had a conversation with the town's attorney, Mary Costigan, about this issue. Costigan said there was a recent law that created a 90-day response period, and she advised all involved to go with that time period to avoid confusion between the two. Erb, "Unless there is objection when we do proceed with that, I'll go along with the state requirement of 90 days."

Erb: "Attorney Costigan also explained there was another recent law. If we are not careful, we will create a land installment agreement which becomes quite a bit more complicated. Attorney Costigan can tell me how to avoid getting the town into that position. It is where you have an agreement on partial payments, and we can't avoid it but could stumble into it if we are not aware of that."

Meeting with Dan Falla. Dan Falla met with Town Manager Erb about the Happy Clam and the public hearing issues that had been brought up. Erb thought the Select Board would see a petition soon requesting the Select Board put together a Special Amusements Ordinance and prepare something for the May town meeting. Erb said Attorney Costigan also gave him some advice on this issue.

Town Planning & Assessing Clerk. Beth Smith told Erb and the staff that she plans to resign employment sometime in early 2022. Erb said Smith had not given him a specific termination date as of this meeting.

Maine State Supreme Court Decision Regarding Appeals to the Court.

Erb: The Maine State Supreme Court states that when someone appeals a Code Enforcement Officer's decision, it should be a De Novo hearing before the Board of Appeals. That means the Board of Appeals starts over again and can listen to whatever information is presented, not just what the Code Enforcement Officer presented or happened to be presented with.

Attorney James Katsiaficas is filling in for the town's regular attorney. In his opinion, according to the new decision from the State Supreme Court, the CEO has to create Findings of Fact. Potentially, that means creating Findings of Fact for every single permit that the CEO issues. Otherwise, the permit will get kicked back if it is appealed to the courts.

Erb: We do have language to amend our ordinance. It would be a relatively simple fix that would make this a De Novo hearing and not require the Code Enforcement Officer to create Findings of Fact every time. I brought it up at this meeting, knowing that it is going to come back on the Select Board agenda.

Chair Bates thought there might be about six ordinances that could be changed, and that the town would have to vote on any proposed changes. He said there is a group working on revising the Ordinances, and they are Planning Board members Anne Cox and Michael Jordan, and Board of Appeals member, Jane Conrad. They will be meeting again on December 21, 2021.

Changes in Meetings. Erb said he was contacted by a member of one of the town Boards asking if the Select Board would be changing their position on in-person meetings because of rising Covid-19 cases and the new variants.

Selectperson Elwell said he had planned to have this topic placed on the agenda but forgot to request it. Chair Bates stated they would add it to the agenda under New Business, discussion item.

Littering Trash/Garbage. Selectperson Elwell asked Erb if he had heard about garbage being dumped at the Drift Inn Beach area and parking lot. Erb said he had not heard that. Chair Bates stated this had happened before. Elwell thought nothing had been done about it before, other than people cleaning it up. Erb believed the most the town could do was to clean it up. Selectperson Hall suggested the town purchase a trail camera. He said if you can determine who it is, the town could charge them for littering. Selectperson Willey said she had heard that on the Kinney Woods Road, tires, couches, mattresses, fee-related items had been left there in the past. Erb said he would look into the issue.

COMMITTEE REPORTS:

- Conservation Commission: Selectperson Willey reported the Conservation Commission (CC) met on December 9, 2021, at 4 p.m. They discussed trails and decided to keep the Fort Point Trail closed for safety issues. She said the Jones Brook Trail was partly closed because there were issues with people trespassing over private property.

A representative from the Maine Conservation Corps in Augusta came down and walked the Fort Point Trail. This organization may play a role in the future rebuild of the trail.

The CC discussed the possibility of building a path from Tenants Harbor to Port Clyde. Selectperson Willey noted that Les Hyde had started looking into this idea in 2014, so the CC is reviewing it again. They had a loosely held fact-finding discussion with a few of the property owners and the water district to get their thoughts on this potential proposal. Willey noted that the CC did an exploration walk on December 19th at 9 a.m.

The CC is planning to place a small article in the next town newsletter regarding invasives. New photographs have been posted on the Conservation Commission's web page on the town website related to the latest work that was done on the boardwalk and the trail at the Bamford property.

One of the CC members is collecting data and photographs related to sea-level rise. Chair Bates also noted that the Sea Level Rise Committee has a repository of photos from the King tide and the day after.

The Commission discussed bill LD 936 which limits solar expansion. The state would like to slow things down until they get better control of larger solar projects and to find out what the risks are for non-solar CMP customers. The CC mentioned specifically CMP and the rising cost to customers to cover the loss CMP and other electrical companies are incurring.

Chair Bates noted it is the classic problem because solar generators are selling their electricity back to CMP at the retail rate instead of the commercial rate. Bates, "We knew this was going to be a problem."

Selectperson Hall: CMP would normally buy the electricity and then charge the customer for the electricity plus the distribution costs. "So, CMP is now not able to charge the customer for the distribution costs. I can understand it. CMP has a big problem."

- Shellfish Committee: Selectperson Sawyer reported the committee met on Thursday, December 16, 2021. He said they may be hiring a shellfish warden.

Selectperson Sawyer said there are still human contaminants coming from Thomaston and going into the river which causes concern. They know where the contaminants are located in the river, but they do not yet know the reason for them being there.

Selectperson Sawyer stated that the Shellfish Committee would like to open the section (the clam flats) closest to Thomaston, but the State of Maine is not interested in doing so.

- Planning Board: Chair Bates reported the Planning Board met on Tuesday, December 14, 2021, at 7 p.m. The meeting consisted mostly of reviewing and approving the Board's minutes. There was a brief discussion after adjourning about the outcome of the Board of Appeals and the need to change the ordinances to cope with the recommendations of the lawyers.

OLD BUSINESS:

- The Restorative Justice Project of the Midcoast. Bruce Hodsdon gave a short presentation on the Restorative Justice Project (RJP). Hodsdon said he had been an RJP volunteer mentor for approximately four years, had sat on their steering committee, and also has worked on some of their other projects.

Chair Bates stated that someone from the RJP reached out to the St. George Select Board, and he wondered if that was to see if the town could help support RJP financially. Bates asked Hodsdon if the organization had expanded its area from Belfast and if the scope of Restorative Justice had changed to include Knox County.

Hodsdon explained that RJP had always had a presence in Knox County. Currently, they have a satellite office located at 11 White Street, Rockland at the St. Peter's Episcopal Church. They share a rented space with Coastal Recovery Community Center and Volunteers of America. RJP has a case coordinator, Afton Sinclair-Holland, assigned to Knox County and the Knox County Coordinator is Erica Buswell.

Hodsdon stated that RJP does a lot of work at the courthouse with juveniles. The objective is to try to intervene before the juvenile gets a record and heads down the wrong path. RJP works with the DA, the lawyers, and juvenile probation officers who decide whether RJP could be helpful. The idea is to determine the harm and then attempt to find some type of restorative or repair agreement that usually includes reimbursement for what was stolen, a written apology, community service hours, or other related things. The program runs 8-12 weeks.

Hodsdon said RJP was working with the Knox County Sheriff on projects with inmates in the jail and were getting ready to do community circles.

Hodsdon said RJP was also working with people who were coming out of a re-entry center. If someone in St. George was incarcerated and was getting out, RJP could try and help them through the process of transitioning back into being a citizen.

Hodsdon said they were going to be doing resolution work out in the community and that might be why the director contacted the Select Board; to let them know RJP was expanding into community-related disputes/issues.

Chair Bates asked if there were people in St. George who had been involved with the Restorative Justice Project. Hodsdon said as an RJP volunteer, he had dealt with two people in St. George. He said that RJP does work with adults though he had not worked with any yet.

Selectperson Willey asked if all the people were volunteers, or did people get paid and how did they fundraise for that? Hodsdon stated RJP had some staff who were paid through grants, donations, and fundraising. Everyone else volunteered and did not receive stipends.

Selectperson Willey asked if RJP was involved with the Community Development Corporation. Hodsdon did not think so though they do have contact with each other's organization.

NEW BUSINESS:

Public Hearing for the Caignair Inn Liquor License: At 7:50 p.m., Chair Bates declared the public hearing open for comment for the Caignair Inn liquor license. Hearing no comments, Chair Bates closed the public hearing at 7:50 p.m.

- Caignair Inn Liquor License:

A motion was made by Selectperson Hall, seconded by Elwell to approve a liquor license for the Caignair Inn. The vote was 5-0 in favor. The motion carried.

- Victualer's Licenses for 2022: Town Manager Erb explained why this item was on the agenda. "When there were concerns expressed about the Happy Clam, we were asked could we approach this through the victualer's license. I looked up state law on victualer's licenses and found that the authority that you have to issue victualer's license came through state law, but I also found that law was repealed.

"At this point, we do not have the authority to charge or license food establishments. The innkeeper's license which goes along with the victualer's license, to the best of my knowledge, is still in place. So, you (the Select Board) will still continue to license inns and places of lodging, but my recommendation would be that we no longer go through the victualer's license process. It is only a \$25 fee. It is not going to be a substantial hit to the town but from a legal point of view, I do not believe that we should continue. I have had conversations with the Maine Municipal Association to confirm that."

Selectperson Sawyer: When people come in for their victualer's license, what do we do?

Erb: "If they contact us about their victualer's license, I think we can say that that law has been repealed. Now they all still need, and they will know this, they need to be licensed by the state and as you probably know, the state did all the inspections. We really did not have anything to do other than when you issued the license."

Erb: "There are some towns that adopted their own ordinance for victualer's licenses. You could do that here. I am not sure there is a real need to do it here."

Chair Bates: By settling tonight to do away with licenses from January 2022 onward would save the victualers \$25 each and a little less paperwork.

Selectperson Elwell: Does the town need to change its policies?

Erb said he would review the town policies again to see if it is addressed but he did not think so.

On a motion by Selectperson Elwell, seconded by Hall, it was voted 5-0 in favor that as of January 2022, food establishments in St. George will no longer need to apply for a victualer's license through the St. George Town Office. The motion carried.

Food establishments and innkeepers will still need to apply for their victualers' and innkeepers' licenses through the State of Maine, Division of Environmental and Community Health.

Selectpersons Willey and Elwell suggested a notification regarding this change be placed in the town newsletter and to notify the St. George Business Alliance of this change.

- School Committee Ordinance: Chair Bates distributed a hand-out on "Handling Vacancy (Resignation) on a Municipal School Committee." Bates noted that this was a hypothetical issue that arose from a question on handling a resignation.

The hand-out cited information under State law 20-A M.R.S. §2305(4) on filling a vacancy in towns without a Charter, and State law 20-A M.R.S. §2301, Sections 2302, 2303, and 2305 on filling a vacancy in towns with a Charter.

Chair Bates explained that there appears to be some ambiguity in the St. George Town Charter when it comes to filling a vacancy. He received a letter from Michael Lichtenstein, staff attorney at MMA. Lichtenstein pointed out that if the Select Board followed the School Administrative Ordinance and it was challenged, he did not think he could confidently predict how the court would rule.

Chair Bates said the issue is that the Charter does not fully specify the election but instead it points to the School Administrative Ordinance. Bates, "If for example, someone was to resign from the School Board Committee, and we (the Select Board) were to do what the Ordinance says and have an election that could be challenged in court." Chair Bates noted that the Ordinance said that it was actually up to the School Board.

Chair Bates stated there were a couple of ways the Select Board could go on this. "We could amend the Charter to be clear that all vacancies be handled by the Special Election. Take some of the wording that is in the Administrative Ordinance and incorporate it into the Charter, or the Select Board could say, 'Actually, we could see a value in giving the school committee 30 days to try to fill it themselves and amend the Charter that way'."

Selectperson Elwell asked what brought this up. Had there been an issue already? Chair Bates said there had been some discussions on the School Committee of somebody who was wondering what would happen, and it was a hypothetical issue. Bates said he had a letter from Attorney Mary Costigan on this issue, and she agreed with the MMA about the ambiguity.

Selectperson Sawyer said if there was a vacancy on the school board, he thought it would be more consistent to have another election. That way, the townspeople would have the say on who would sit on the school board as opposed to a few people appointing someone.

Chair Bates said he wondered whether the Select Board should give the School Committee the option. Selectperson Elwell thought they had held special elections in the past. Chair Bates was not sure if the town had held special elections on this before. Erb said he thought the Town Administration would be responsible for running the election and for the cost of the election. Selectperson Elwell asked Bates if he had talked with Michael Felton about this issue and Chair Bates said he had not.

Selectperson Willey: Common sense would be to have a special election. I thought that was the way they have always done it in the past.

Chair Bates: Tara Elwell was approached about this and started looking into it. When I contacted Lee Bragg about this, he didn't have any notes on it. The MMA letter said that the Board might want to confer with the person to see if they addressed this when §202.1 was being drafted. Lee Bragg who advised the Town on the latest Charter amendment had no comments on this.

Chair Bates thought a minor clarification to the Charter might be needed. For example, "When there is a vacancy on the School Committee, an election is held."

Selectperson Hall thought the attitude of the Charter Committee was that the School Board runs the school, that they have an ordinance, and their ordinance sets the manner in which they run the school. Hall, "The Charter refers to the School Administrative Ordinance. The other thing I will say is that we were, and this could be an exception, but we were cautioned to view the Charter as a framework and leave specifics to Ordinances." Hall felt that maybe a revision of the Ordinance would be more appropriate than a revision of the Charter.

Chair Bates: Right now, the Ordinance clearly states there should be just a special election. The last paragraph on the first page of my notes. The concern is that specificity should have been in the Charter.

Selectperson Hall did not think the previous version of the Town Charter addressed this situation at all. Chair Bates said he would talk with Michael Felton and Attorney Mary Costigan about this issue.

Chair Bates stated they will discuss this matter again after he looks into it further.

- Discussion of In-person Meetings: The Select Board discussed continuing to meet in person. Chair Bates stated that COVID cases had been rising in St. George and that Pen Bay Medical Center was experiencing rising cases of Covid. He asked if the Select Board should consider going to remote meetings. He explained that the Remote Participation Policy allowed the Select Board to meet by Zoom and allowed the public to participate by Zoom, and the MMA said it was permissible for health reasons.

Selectperson Elwell thought it depended on how comfortable people were continuing to meet in person. Selectperson Hall noted that the omicron variant was very transmissible, and the breakthrough cases were all over the place. He thought keeping their distance for a while would be advisable, especially if people were or had been traveling. Selectperson Sawyer suggested meeting by Zoom since the windows are closed this time of year and it is difficult to get good air

ventilation. Selectperson Willey said it did not matter, either way, was okay. The town manager asked if there was a period of time where meetings were entirely by Zoom and Select Board members stated yes.

On a motion by Selectperson Elwell, seconded by Hall, it was voted 5-0 in favor to hold Select Board meetings remotely by Zoom as of January 10, 2022, due to the rising cases of Covid-19 in the area following the Remote Participation Policy, and the Select Board will reassess the issue of in-person meetings, periodically. The motion carried.

Chair Bates stated he and Town Manager Erb had been discussing the health and safety issues of the town staff as Covid-19 had been on the rise. Erb said that voluntary masking, the configuration of the office and staff, and their work settings seemed to have worked well so far.

EXECUTIVE SESSION:

Present for the executive session were Richard Bates, Wayne Sawyer, Randall Elwell, Jerry Hall, Tammy Willey, and Town Manager Richard Erb.

At 8:23 p.m., on a motion by Selectperson Willey, seconded by Hall, it was voted 5-0 to go into executive session pursuant to Title 1 M.R.S.A. § 405(6)(C) – acquisition of real property. The Select Board came out of the executive session at 8:46 p.m.

At 8:50 p.m., on a motion by Selectperson Elwell, seconded by Hall, it was voted 5-0 to authorize the Town Manager to begin exploratory discussions with the owner of the property Map/Lot 218-003, to purchase a portion sufficient for storage.

At 8:51 p.m., on a motion by Selectperson Willey, seconded by Elwell, it was voted 5-0 to adjourn the meeting.

Respectfully Submitted,

Marguerite R. Wilson
Select Board Recording Secretary