

**ST. GEORGE SELECT BOARD & ASSESSORS**  
**St. George Town Office**  
**MEETING MINUTES**  
**Monday, April 9, 2018**

The Select Board meeting was called to order at 7 p.m. Members present were: Richard Bates, Chair; Randy Elwell, Jerry Hall, Wayne Sawyer, and Tammy Willey. Also present: Tim Polky, Elizabeth Curtis, and Wendy Carr.

**PUBLIC HEARING:**

- Luke's at Tenants Harbor – Application for a Liquor License.

Chairperson Bates declared the Public Hearing open at 7:01 p.m. Town Manager Polky said he had not received any complaints or heard of any issues regarding Luke's. Hearing no public comments, Chairperson Bates declared the Public Hearing closed.

**PUBLIC COMMENTS:** None.

**REGULAR SESSION:**

- Adjustments to Agenda: The following adjustments were made:

The Citizen Petition was moved from New Business to Regular Session

- Citizen Petition: (edited and nonverbatim) Chairperson Bates composed a chronological outline regarding the issue of the Shoreland Zoning and Site Plan Review Ordinance and presented the review to the Select Board. The "Recent Chronology" is as follows:

- April 2, 2018, Planning Board Chair Anne Cox requested that Attorney Kelly meet with the Planning Board as soon as possible to explain to everyone his March 13 letter, where he identified issues with the Shoreland Zoning and Site Plan Review Ordinance amendments proposed by the Planning Board.
- April 2, 2018, the status of the proposed amendments and the decision to postpone any public ballot on these beyond May 14 was discussed at the Select Board meeting. The March 13 Planning Board meeting was cancelled due to snow.
- April 3, 2018 the Public meeting with Attorney set for 7 p.m., Thursday, April 12, 2018. Notices were sent out.
- April 3, 2018 the PORT group presented a petition to the town proposing an amendment to the Shoreland Zoning Ordinance by secret ballot as a referendum question.
- April 3, 2018 CEO Brackett referred the PORT amendment to Attorney Kelly for review and comments.
- On April 6, 2018, Attorney Kelly replied with advice on this amendment, including:
  - This should not be placed on a town warrant.
  - If the petition was voted on as presented, and if it was approved, it would be unenforceable as violating procedural and statutory due process requirements, and thus a liability to the Town.
  - The Select Board should not entertain it, at this time.

Chairperson Bates said Attorney Kelly would be at the town office on Thursday, April 12 at 7 p.m. to talk with the Planning Board, the Select Board, and the public to discuss his letter and suggestions pertaining to the ordinances.

Chairperson Bates: I am hoping he will go through the law as it pertains to the amendments to the ordinances the Planning Board put forward, and I hope he will look at the ordinance proposed by the PORT group. Generally, I hope he will give us some guidance on how to proceed. I feel very strongly that, at least personally, I am not going to endorse any proposed ordinance change that violates state law.

I feel when we took the oath of office as Select Board members, we bound ourselves to uphold state law. I do not want to get into a situation where we have ordinances that are voted on by the public which are illegal. I am hoping with the meeting on Thursday, subsequent meetings by the Planning Board and anyone else who wants to participate, something can get on the ballot for June 12. I tried to summarize what had been happening recently and the potential path ahead. Comments from the Board.

Selectperson Sawyer said it sounded like a prudent approach.

Selectperson Elwell agreed and said: I do not think the town needs to take a chance on spending a lot of money on legal fees if this comes back on us because we did not follow state statute. If it is against the law. It is against law. It is money that could be put in other places versus trying to fight something that is already illegal.

Chairperson Bates: There is a line of thought that says we could say we feel this is so important that we would take a stand in contravention of state law. I am not ready to take that position; I don't think that is correct.

Selectperson Sawyer: I think that process has to be done through the legislature. If we want to lobby the legislature that would be one thing but there will be others who will, I am sure. That would be more appropriate to change a law, if the law is bad; but I don't see that as the Select Board's duty.

Selectperson Hall: The issue is a procedural one, isn't it? He has advised us that we simply don't have the time to do the things that need to be done before the May 14 meeting. He hasn't commented on the legality of the petition, yet.

Chairperson Bates and Selectperson Hall thought Attorney Kelly would review the legality of the petition on Thursday because there are certain criteria for petitions.

Selectperson Hall said some of the other things were debatable and there was certainly room for discussion on those but on the procedural issue, there was no debate.

Chairperson Bates said Attorney Kelly was pretty straight forward and unambiguous in his statement.

Selectperson Willey said she would like to hear what the lawyer had to say about the ordinance. Willey: If the ordinance is within the legal boundaries, that we (the Planning Board and Select Board) work diligently to get it on June's ballot, hopefully. If not, I would assume the next date would be November.

Chairperson Bates said Willey raised a good point. Bates said: We could have a situation in June where there is a decision between the PORT group and the Planning Board and there is a single ordinance change. It could be that there is not a meeting, and then there are two flavors. Or even after changes, we are still advised by the attorney that it is neither illegal, possibly, and in which case, we need to postpone it, again. I think there are various options, but I believe we are doing the right thing to have this meeting on Thursday. The intent is to make sure we have as strict an ordinance as is legal. I think that is still the goal of the Planning Board.

Wendy Carr commented: I guess I would like to say a couple of things. First of all, we never envisioned it would be on the May warrant, so I think we should move past that. We know that the notice period isn't there. So, we know it is somewhere in the future. That's not an issue for us, at all.

Chairperson Bates: Okay.

Carr: I would just note that Bristol passed almost the exact language. There's maybe two wording changes, other than substituting St. George for Bristol. There have been no challenges. Somehow, they wended their way through the State's process. They had the attorney, Jennifer Villeneuve, that the town has consulted, also. Our version of the ordinance is almost identical to the Bristol's version.

Selectperson Hall: But, Jenny said that was illegal.

Carr: It was passed. I thought she was the author of that.

Selectperson Hall: No. She advised the town against going forward with it.

Carr: Okay. Well, it hasn't been subject to a challenge.

Chairperson Bates: That is right. I think for various reasons.

Selectperson Elwell: But, it could.

Chairperson Bates: It could be, but for some reason Aqua Ventus did change their approach. So, you are right. It hasn't been challenged.

Carr: I guess I would note one more thing. Our ordinance is basically a siting ordinance that requires submission of documents and study. So, if you are going to characterize it as illegal, which I think is inappropriate, then you are going to characterize things like NEPA, the Clean Water Act, the Clean Air Act which requires the same studies that is also legal. It is simply a siting ordinance.

Selectperson Hall: I think that is a point for discussion Thursday night.

Carr: It is but I would just note that for the record.

Chairperson Bates: I hope you will be able to come or someone else from your group.

Carr: Barring unforeseen circumstances, I will be there.

Chairperson Bates: Let's hope we all can make some progress on Thursday.

- Minutes: The Select Board minutes of April 2, 2018 were amended as follows:

Page 2, bullet 3, line 2, correct to read: has not been **adequately** maintained...

Page 3, under 10 Cold Storage Road corrections: paragraph 4, line 1 & 2, first sentence: place a period after doing. Delete the remaining part of the sentence.

Page 3, paragraph 6, line 1, first sentence, correct spelling of meet to **met**

Page 4, paragraph 1, line 1, change to read: ...say Rockport **has** a beautiful facility, Wiscasset **has** a beautiful...

Page 4, paragraph 4, line 5, delete the word **to**, so change to read ... St. George do.

Page 5, first full paragraph, line 3, change to read: ...a boat since **I was** little, ...

Page 5, paragraph 3, under Schmanska, line 3, change to: ... the ocean in **any** way, shape...

Page 6, paragraph 7, line 1, correct to: Chairperson **Bates** Page 6, paragraph 7, line 4, change to read: ... dollars might **bring** the St. George voters...

Page 7, paragraph 3 change: line 1, change to read: recommendation was that **these ordinance revisions were** not ready...

Page 7, paragraph 3, line 2, change to: ...possible to get **them** ready...

Page 7, paragraph 6, line 5, **delete word if**

Page 9, under First Advisors, line 2, change to read: ...did not include **a reference to** the town's Trust Fund...

- Warrant: The warrant for the week of April 9, 2018 was reviewed and signed. The total expenses were \$459,798.04 and included payroll for the weeks of April 4 and April 11, and a school payment of \$413,417.08. A March 2018 bill was received from Attorney Meader for her work on the Wyeth Reading Room appeal. Town Manager Polky said there could be additional legal costs for that appeal. The case is in Superior Court and the parties are awaiting a decision from the Superior Court Judge.

- Communications: None.

#### TOWN MANAGER'S REPORT:

- Solar Panel System: Mr. Polky said the Solar Panel project installed by ReVision Energy at the St. George Transfer Station had been completed and officially went online (April 9, 2018) at 3 p.m. Polky was very pleased to see so many attendees at the event. Polky said Pen Bay Pilot was there and thought they would do a write up on the "ribbon cutting" ceremony/event.

- Committee Meetings:

The Planning Board will meet on Tuesday, April 10 at 7 p.m.

The Comprehensive Plan will meet on Thursday, April 12 at 5 p.m.

The Planning Board, the Select Board, PORT, and Attorney Kelly will meet on Thursday, April 12 at 7 p.m. to hold a workshop regarding the ordinance pertaining to cable landings. The public is welcome to attend.

#### COMMITTEE REPORTS:

- Budget Committee: Selectperson Hall reported on the Budget Committee. He said he received a copy of their draft minutes. One item noted by the Budget Committee was to make a proposal that starting in 2018 (stated in their draft minutes), that raises be limited to a COLA instead of a flat 3%. The Budget Committee scheduled a meeting for April 30. Selectperson Hall will remind them that they had approved the FY' 2019 budget proposal.

Curtis said the Budget Committee had discussed the COLA issue for nine months, wanted to get it in the January budget process, but the Committee did not get the information in time. She said because of the many COLA variations, the Budget Committee wants to have a specific COLA; they want to say exactly which one the town should look at. Curtis said they do not like the flat 3%.

Selectperson Hall said the Budget Committee also recommends that raises be dependent on an employee review. He said the standard approach is that you have a COLA that guides you, and then you do plus or minus around that, depending on performance and responsibilities. Selectperson Hall said he would point out to the Budget Committee that they missed Fiscal Year 2019. Curtis believed they knew that.

Selectperson Hall will check with the Budget Committee regarding their vote on 10 Cold Storage Road. He pointed out that only five members can vote, but it appeared that six members may have voted. Curtis believed it was a wording issue in their minutes because two did not abstain, they just were not there.

- Solid Waste & Recycling Committee: Selectperson Willey was unable to attend the last meeting and will forward the minutes to the Select Board as soon as she receives them.

- Harbor Committee Update: Selectperson Elwell thought the newspaper article on 10 Cold Storage Road was very well written and informative. The write up was posted on the town website, on facebook, in newspapers, including the Working Waterfront and other various news media outlets.

Selectperson Hall said at the Public Hearing, there was a question asked about the cost of maintenance, going forward. Hall believed there was \$30,000 budgeted this year and that was more than enough to cover additional operating costs and establish a reserve for float, piling, wharf maintenance, etc. He said the question that people had about incurring future liability would seem to be covered by that \$30,000.

Mr. Polky said he and Schmanska talked at length, and the opinion was that the \$30,000 would cover it. Selectperson Elwell said cost wise, it was better to stay on top of maintenance versus waiting two years. Selectperson Hall said if the town put aside \$10,000 a year and if the town continued spending at the same level each year, the town could put away more than that. Ms. Curtis said there were reserves in the Harbor Department for those type of expenses. Selectperson Hall said the town puts money into reserve accounts for floats, maintenance, the boat, etc., so it is consistent with what the town already does. Chairperson Bates said the relevance is that the taxpayer would not see an increase due to maintenance on 10 Cold Storage Road because for the last couple of years, the town has had \$30,000 set aside in the budget for planning.

#### OLD BUSINESS:

- Agreement with First Advisors for Trust Fund Investments: Ms. Curtis said she received a response to her request from Laura Comer of First Advisors. Ms. Comer concurred that their "agreement is, in fact, boiler plate as it is utilized for all relationships in which we have discretion." Ms. Comer also believed that "all the items that Selectperson Hall outlined could either be addressed with clarification or it can initiate other actions to accommodate the Town's requests." Curtis said that Ms. Comer reviewed all of Selectperson Hall's numbered items and she was pleased with Ms. Comer's response. Ms. Comer said, "The investment policy is not a problem." Curtis said there are other documents which can be referenced where the Select Board can be specific and answer the questions Selectperson Hall brought up.

Chairperson Bates said he would like to have an agreement signed before Town meeting and asked Curtis if that would be possible. Ms. Curtis thought Ms. Comer could have the paperwork completed by

April 30. Curtis will forward Ms. Comer's response to the Select Board and Curtis will follow up on this next week.

#### NEW BUSINESS:

- Luke's at Tenants Harbor Liquor License Application: A Public Hearing was held at 7 p.m. on April 9, 2018 at the St. George Town Office. There were no objections.

On a motion by Selectperson Elwell, seconded by Hall, it was voted 5-0 to approve Luke's at Tenants Harbor **a/k/a Luke's Lobster victualer's license**.

- Granite Gardens Agreement Extension - Summer 2018: Ms. Curtis reported that Nate Russell, general manager of Granite Gardens, would be willing to extend their agreement with the town. The agreement would be at the same rate as last year - \$775 per mowing and \$38 per hour for any other services. Curtis said Granite Gardens uses the cemetery mowing as filler for when their employees do not have a full day's work, elsewhere. She said Mr. Russell was very interested in maintaining the Memorandum of Understanding. Selectperson Sawyer said if you could get anybody to work for you for \$38, you should get them. Mr. Polky said he had talked with David Lowell and Ray Emerson before the town entered into last year's agreement, and they were pleased with Granite Garden's work.

On a motion by Selectperson Elwell, seconded by Hall, it was voted 5-0 to grant the Town Manager permission to sign an agreement with Granite Gardens through November 15, 2018 at the rate of \$775 per mowing and \$38 per hour for any other services, or negotiate up to a three-year contract at the same rate, **through November 15, 2020**.

- Ranked-Choice Voting Tutorial: Chairperson Bates asked Ms. Curtis to summarize her conversation with Cherie Yattaw regarding ranked-choice voting. Curtis said that Cherie Yattaw had received an implementation schedule from the State. If a decision was made by the judge, the voter instruction materials would be created between April 13 and April 30. Instructions and training materials for municipal election officials would be available between April 13 and May 4. The State would arrange for a central and secure location in Augusta in which to conduct ranked-choice voting and recounts.

Selectperson Hall thought the town should wait until the State had a process in place before organizing a tutorial. Chairperson Bates agreed and thought the process would come together quickly. He said there were still many issues to be worked out. Polky added, "Even the part that the Constitution says that the voting has to be counted in individual towns." Selectperson Hall suggested the Select Board discuss this issue again at their April 30 meeting.

- Select Board Meeting Dates: The Select Board reviewed their upcoming meeting dates for April and May and scheduled a meeting for Monday, May 7 at 7 p.m.

- Sound System: Selectperson Willey asked for an update on the sound system. Mr. Polky said he believed Rockbound Computer would be at the town office, on Thursday, April 12, hopefully to install the system.

- St. George Town Office Website: Selectperson Willey asked for an update on the town's website. Mr. Polky said the town hired Virtual Towns and Schools to re-do the town's website, and it might go online in May, possibly before the annual town meeting. Polky felt the new website would be easier for the staff and the public to navigate through. Chairperson Bates suggested looking at the Town of Falmouth's website. He thought the St. George Town Office website would be similar to theirs, as the same company that hosted Falmouth's was creating ours.

At 7:58 p.m., on a motion by Selectperson Sawyer, seconded Willey, it was voted 5-0 to adjourn the meeting.

Respectfully Submitted,

Marguerite R. Wilson  
Select Board Recording Secretary

