**MINUTES**

**TOWN COUNCIL MEETING**

**STANDISH, MAINE**

**TUESDAY, APRIL 11, 2017**

**STANDISH MUNICIPAL CENTER**

**7:00 PM**

**CALL TO ORDER**

The meeting was called to order by Chair Nesbitt and the Pledge of Allegiance was led by Roger Mosley.

**ROLL CALL**

Councilors present:Delcourt, Higgins, Nesbitt, Pomerleau, Sargent and Sirpis.

Councilor Blanck was excused.

Chair Nesbitt explained that during the Finance Committee meeting order 34-17 was reviewed and a substitute order is available tonight to replace the document that was in their packets.

Moved by Sirpis seconded by Higgins and voted to replace order 34-17 with the substitute order 34-17 Abatement for Uncollectible Personal Property Taxes [Nesbitt] (Unanimous)

**MINUTES OF PREVIOUS MEETING (S)**

Moved by Sirpis seconded by Sargent and voted to approve the minutes from the March 15, 2017 meeting. (Unanimous)

**PETITIONS AND COMMUNICATIONS**

There were no petitions or communications at this meeting.

**REPORT OF THE TOWN MANAGER**

***MSAD 6 Budget Presentation***

Mr. Billington introduced Paul Penna the MSAD # 6 Superintendent and William Brockman the MSAD 6 business manager to provide their budget presentation.

Mr. Penna explained that the MSAD 6 loss in state funding comes in part from a reduction in

enrollment and secondly from increased property valuations. He highlighted the enrollment in

the various classes noting that the decreased enrollment had led to decreased staffing. He

went on to touch upon the supplement request that they have included in their budget, he noted that due to the class sizes at the H.B. Emery, an additional 4th / 5th grade teacher will be added. Another initiative is to strive to have students literate on grade level by third grade, ed-techs will be needed to support this plan. He explained that for a number of years kindergarten students have been taught Chinese, this program will be moved to the 5th, 6th, 7th and 8th grades. The teachers for this program will be funded through two grants, the cost to the district of will be less than $100,000 and provide the students with a unique opportunity. Another new program is an outdoor educator position which takes into consideration that not all students learn in the same way. He said that we have to develop pathways and options for the kids so they can understand for the way that they learn. This curriculum will give students choices.

Councilor Sirpis questioned if there is a Chinese population it the district?

Superintendent Penna said that there is not, however, knowing Chinese will help our students understand the world around them.

Councilor Delcourt asked what state allocation per student?

Mr. Brockman said that it is approximately $7,200. He continued to explain that if you review the amount that we spend per student we’re in the bottom 10%. He said that we get a bang for our buck, we don’t spend a lot of money, but have a lot of great programs. He explained that when looking at our budget, we’re presenting draft at this time, which is not complete and does not include the state subsidy. We have received documentation from the state that indicates that we’ll be allotted approximately $20,776,000 which is $1,145,000 less than this year’s subsidy. He said that they were flabbergasted when they received that information regarding the allotment. He explained that they knew it would be lower than last year due to the decreased enrollment, yet they were not expecting as much as a reduction. He noted that some of the things that hurt the district financially is the new teacher/student and ed tech/student ratios; and removing administration from the EPS formula. He said that they know that the legislature is working diligently to put more money into the funding formula. He said that they won’t know until July what the funding level will be. He explained that they will estimate what the subsidy will be, if they estimate $21,400,000, we’re looking at an increase of .76%, which he noted is the lowest amount since he has been involved in the process. He explained that the .76% increase will represent a 3.69% on average to the towns. Standish’s increase will actually be 3.25% based on the state valuation. They are hoping that the state comes through with more funding to help reduce the local taxes.

Councilor Sirpis questioned how many teachers there are in the district?

Mr. Brockman said that there are approximately 320 teachers.

Councilor Sirpis asked of those 320 teachers what percent are full-time?

Mr. Brockman responded about 95% of the teachers are full-time.

Councilor Sirpis asked if they have to operate on a reduced budget where is the first place you would look to reduce the budget?

Mr. Brockman said that they have already reduced the budget by $1,478,000 which includes some vacant positions and maintenance positions. He said that they trying not to reduce the number of teachers, however there has been a reduction due to attrition. He noted that in the governor’s budget this year, it is proposed to reduce state wide funding by $9.5 million. Next year’s budget proposes a $5.5 million reduction.

Councilor Sirpis said if you had to make additional cuts where would those be made?

Mr. Brockman said that the .76% increase is not sustainable over time, he said that they have reduced the bottom-line of the budget as far as they can this year, any reduction in force would have to come from professional staff. He said that 76% of the budget is in staffing costs.

Councilor Sargent disclosed that he and Councilor Higgins are members of the Budget Advisory Committee. He said that a lot of items have already been cut from the budget through the process thus far. He encouraged interested individuals to join the committee to assist on future budgets.

Councilor Higgins she said that being on the Budget Advisory Committee has been an unbelievable education. She noted that the budget process starts long before knowing what state funding will be received and also having deal the arbitrary change in the funding and other formulas.

Mr. Brockman encouraged interested persons to attend these meetings.

Chair Nesbitt asked him to explain their reduction in their capital line?

Mr. Brockman noted that the initial capital budget was reduced by $805,000 leaving $108,900 to make sure that their facilities roofs are in good shape and other systems will run. He continued to explain that some of the items that are normally covered under capital are being paid out of the department’s operating budget. He said that fortunately the buildings are in pretty good shape.

Chair Nesbitt said that it sounds like you’re comfortable with the process at this point.

Councilor Delcourt said that it was his opinion that the class size is too large for the younger students and it doesn’t give them a good shot.

Mr. Brockman said that the governor wants to increase the class size, he said that effort goes against what we’re trying to do to make sure that the kids get an outstanding education.

Councilor Delcourt mentioned that pending legislation regarding Frye Island could be a disaster.

Mr. Brockman explained that there are two bills before the legislature regarding Frye Island. He said that the bills would have an impact on the district if they were to pass. L.D. 749 is for Frye Island to withdraw from the district, L.D 1153 would allow them to develop the island into

a village corporation within another municipality. He noted that neither bill has had the public hearing yet, when that’s scheduled they will let everyone know. He said that he knows that our legislators are working in this for us.

Councilor Delcourt said that putting off maintenance will be more costly in the future.

Mr. Brockman explained that they received million dollars from the state’s revolving loan fund. That will be used along with another $2.5 million to replace the heating system and

distribution at the high school, this will not have an impact on this year’s budget. The way the

revolving loan fund works is that $522,100 of that is a grant that doesn’t need to be paid back.

The balance of $477,900 is a zero percent interest loan. The interest on the lease purchase will be approximately 2.7% for the rest of the energy improvements.

Mr. Billington thanked Mr. Penna and Mr. Brockman for presenting the budget information this evening. He noted that copies of their budget presentation are available.

Mr. Billington then introduced Brad Curry the Senior Area Manager for the York/Cumberland County for the Small Business Administration.

Mr. Curry said that he moved to the area in February, however has worked for the SBA for four years. He explained that he works with various groups to let them know what SBA

resources that are available.

Mr. Billington noted the following items:

* Public Works had tough winter, but was able to keep the budget in line. He noted that the department purchased a sweeper and the process of sweeping the towns roads will being soon.
* Public Safety Department reports that call volume continue to run higher than normal.

***Departmental Report – Jen DeRice***

Recreation Director, Jen DeRice introduced the department’s new employee Brady Lloyd who will be the program coordinator. Recently, Brady worked in Colorado for the WMCA, but relocated to Fryeburg. Jen DeRice explained that Brady will be overseeing a number of new

programs for the department.

Brady said that he looks forward to helping grow the departments programs.

Jen DeRice highlighted recent and upcoming events to include: Breakfast with the Easter Bunny noting that the Lions Club offer an awesome egg hunt, she touched on the June recreation referendum question that if ratified will include the purchase of a 14-passeneger van and improvements to the Johnson Field Ice Skating Rink that was built in 1993, and the new beach facility for residents of the town. For the beach, an annual sticker will be available for $35 which will allow unlimited use of the facility. She continued to thank Roger Mosely, his crew and the marines for construction of the facility. Jen DeRice announced there is a new logo for the Summer Spectacular, the event will be held June 22, 23 and 24, attendees will see some changes to the daily events. She introduced that Summer Spectacular members that were present and thanked them for all that they do.

Mr. Billington said that there is an order on the agenda this evening to award the bid for paving of the beach facility.

**PUBLIC HEARINGS**

**\*\*Determine Legal status of a portion of Cram Road and the Cabbage Yard Road\*\***

Chair Nesbitt explained that the Town was approached by David and Nancy Gavenda and their attorney, Chris Neagle, to request that the Town determine the status of a section of Cram Road running from Dow Road to the northerly end of Lot 43 as shown on Tax Map 6 – the Cram Road Section - and to make a determination on the entire length of the Cabbage Yard Road to see if these have been abandoned under Maine law. Chair Nesbitt said that are three main things that we’re taking to public hearing tonight, we need to consider both roads, not as one but as separate things. He explained that that they will be taking testimony in regards to the Cram Road section and the Cabbage Yard Road.

Councilor Sirpis called for a point of order, he said that in the interest of full disclosure, he has a business relationship with the individual that submitted the email testimony. He said that if the Council deems it necessary, he will recuse himself from the proceedings.

Chair Nesbitt continued to explain that what they need to determine is if either of those roads were part of a town way, has it been abandoned, has there been thirty-years where the road has not been kept passible by the Town, and if we can determine when end date of that public maintenance took place. With regards to disclosure that Councilor Sirpis made regarding the business relationship that he has with someone that is bringing forth testimony in this matter, he didn’t see a reason for Councilor Sirpis to recuse himself as long as he can move forward in an impartial manner.

Council Sirpis said that he believed that he could but he wanted the Council to be aware of the situation.

Councilor Pomerleau said that she too had a business relationship with this person.

Chair Nesbitt said that he did not see a problem this.

Councilor Sargent said for the public, when you live in a small town we wear multiple hats and know a lot of people, so these things come up periodically.

Council consensus was to allow Councilors Sirpis and Pomerleau to participate.

Chair Nesbitt opened to the public for discussion. He then invited Chris Neagle, the Gavenda’s attorney, to speak first and provide an explanation.

Attorney Chris Neagle provided a handout to the Council, noting that there were copies available for the public.

Town attorney, Sally Daggett asked whether the Town Council had previously seen this information.

Chair Nesbitt said that the Council had not seen the documents.

Mr. Neagle said that it was similar to the documents that he had previously given them. He continued telling them that he had sent them a memo in January with the information that he had, he said that this is similar, but more complete. He thanked them for listening to him and noted that he was an attorney and lives in Cumberland. He explained that he’s been on the Planning Board for twelve years so he understands what you do and appreciates their time. He said that he represents David and Nancy Gavenda, an elderly couple from Massachusetts. He asked that people flip to Exhibit 1, which is a blow-up of an 1871 map. He said that he found it interesting, that if you look at the yellow circle and then closer at the red circle, you’ll see David’s house in the red circle – it is the Chick Place, so-called. He said on the map, the Cram Road runs east/west and the Chick House is down the road that runs between “P” and “N” in *Nason.*  He said that, without question, that is his client’s house and an image of what you call Cabbage Yard Road. He asked them to flip to the next page which is a copy of the tax map, he noted that the yellow highlighted section of Cram Road was discontinued, the red “L” shaped piece are the two roads we are discussing and the shaded blue piece are Mr. Gavenda’s two lots, the circled lots are three other lots that appear to need both of these roads to gain access to Dow Road. He said that he believed that Mr. Marean, who he understands is here tonight and will probably speak, owns the two lots at the intersection of Dow Road and Cram Road on either side of it. He said that is kind of the lay out of the land. If you flip to the next page, this was taken from the Council packet, it is an aerial photo showing Dow Road running up the right side, it shows Cram Road t-ing off it, it shows Mr. Marean’s house and it shows Cram Road and it shows in the yellow/black circle his clients’ house. He said so that’s where we are in the world. He said he’d like to tell them a little bit about the place, it was once the Joseph Paine residence. He said that Joseph Paine is a name with some history around here, at least Mr. Gavenda tells him there is. He said that the house was built in 1780, it’s on about three acres of land. He bought the residence on the smaller lot in 1971 – the deed called it the Old Road to the Chick Homestead. He purchased the adjacent land in 1988. He’s owned it and used it for forty-six years. It has no plumbing, it has no electricity, it’s an old house. He has come here in summer months, he said that he’s not surprised that no-one seems to know him because that’s a hard place to get to, and he just kind of hangs out and doesn’t get around. But, nonetheless, he’s never had any problems going to and from his house. In 1993, he got a building permit to restore the residence, which he did. They have been trying to sell the residence since 2016, the latest buyers, this nice couple over here, are very anxious to buy this. He said that the problem that we have is the deeds don’t describe access over these roads. He said that he thought that was because when the lots were created they were both public streets. He said that they had it under contract last year, but Mr. Marean allegedly told the buyer that he couldn’t use the road for access. The buyer was put off by that and came down to Town Hall, where he learned this was not a public street and decided not to go forward with the contract. He said that he thought that the Town has been great, the manager received an email from his client and forwarded a letter from the town attorney to them. He noted that Mary Chapman has been extremely helpful in helping him find old records that he’ll be talking about. He said that he’d like to tell them what we knows about Cram Road, he said that it was probably not as much as some in this room. He said that we do know in 1929 that the Town affirmatively discontinued a section of Cram Road and the language that they use is *from the* *residence of Henry Allen to the road leading to the Chick Place*. He said that the Chick Place is his client’s house. He noted that the plan that he showed them before it goes down from Route 25 to Cram Road, the rest of Cram Road was left un-discontinued, which to him indicates it must have been a town road because they wouldn’t have discontinued the rest of Cram Road if it was never a town road. He said that we know Cram Road was on the 1871 map, it’s a range road, it been discontinued. You can’t get through Cabbage Yard Road because there are wet lands. The only way his client can get back out to the public way is to go across Cram Road. As he mentioned earlier there are at least three other lots that need access, and he hoped those owners are here. In terms of the maintenance by the Town, his client claims that it’s never been maintained by the Town since 1971—that’s 46-years, that’s a lot more than 30. He said that his client has only been here in the summer months. He said that Cabbage Yard Road in particular was also a public way, it shows on your Standish map. If you look at Exhibit 5, you see the 1880 perambulation of the Buxton/Standish line. What is circled is the road from North Bridgton by the Cabbage Yard Road. He said that he writes a lot of deeds, he doesn’t pay attention to the road other than what he happens to know about the road. If you look at the deeds that David has, the Cabbage Yard Road is called either the “old highway” or the “highway.” In the 1988 deed where that extra lot was created, it was called an “old highway off Cram Road” and the road leading to the Cabbage Yard. It clearly describes Cabbage Yard Road as a highway. He said that they think there is ample evidence with just this information that this was once a public road. He said that they’re hoping to gain more information. He hoping that someone can tell him what a Cabbage Yard exactly is. He’s not a rural type of person, he didn’t know if it was a place where cabbage grew and the public would come and pick it. He said that their request is that you make it clear that these things were discontinued. With respect to Sally’s memo, he hoped that they have given them evidence that both roads were once town roads. He hoped that they had given evidence that they hadn’t been maintained for more than thirty years. So the big question becomes when were they abandoned. He said as he understands it, if they were abandoned in 1950, then, in 1980 they would be determined to be discontinued in 1980. That’s a law that was passed in 1965. So, the key date from his prospective is to show that it was abandoned after 1935. So how do we do that? What he hoped to find, but couldn’t find, was evidence that the Town maintained either of these roads after 1935. What he learned is that the maintenance records for this road doesn’t exist. He said that he read through a number of years of town reports from 1935 through the 1960’s, occasionally there were discussions of improvements and disbursements – they’re going to rebuild the Smith Road kind of thing. He said that he had hoped to find something - he found nothing. He said that there’s nothing on paper here that anyone has found yet that gives us any answer. He said as a conceptual issue it is difficult to prove that something didn’t happen. It’s hard to prove that the Town didn’t maintain it, it’s like trying to prove the martians landed in my backyard last night and left before I woke up – I can’t prove that, if they did or didn’t. Proving a negative is understandably difficult. He said that he can only point to a few pieces of evidence on this issue. He said that he’s hoping the members of the public know more. He said that one of his pieces of evidence is that the Town affirmatively abandoned only part of Cram Road in 1929; it’s reasonable to assume that it continued to maintain these roads for at least another six years. He said that’s what we call inductive logic, that’s one piece of evidence. Another piece of evidence that’s better than nothing, but it’s not compelling, is that when David bought the extra lot, the description talked about it being the Old Highway and the Highway. In 1971 the deed language changed, it only used the term Old Highway. He said as an attorney that drafts deeds for a living, that doesn’t prove a whole lot. Except that at some point in time someone changed the language and he didn’t know why, saying that he thinks that it’s something. He said that’s our evidence and position, and he looked forward to hearing what the members of the public have to say. He said that they’re just trying to make sure that there is access to this property like there’s been in the past 250 years so these nice people can turn it into their home. He thanked them and said that he would answer any questions.

Chair Nesbitt asked if additional members of the public wanted to speak to this matter.

Clifton Marean explained that his father bought the property that abuts Cram and Cabbage Yard Roads in 1955. He said that his mother transferred a deed to him in 1969, to his sister in 1966 and then another deed to him in 1983 for the back piece of land that abuts Cram Road and Cabbage Yard Roads. He stated that deed says that the Cabbage Yard Road was discontinued, that’s what it says. He said that he and his wife have lived there for 48-years, nobody, nobody has ever done anything to either one of these roads, maybe Roger has put a culvert down by Dow Road in the right-of-way. He said that he’s put in three culverts himself. He said that he’s maintained the road just to his house. He said that they use the road for the kids and whatever. He said that they’ve lived there 48-years and no one has spent a dime on either one of those roads. Cabbage Yard Road has been way longer than that. He said that his father brought this property in 1955 for $100. It was 15-acres to strip the loam off from it. He said that he was 10-years old and remembers it to today. He said that nothing has been done there in 48-years that he knows of. During that time he’s been married to his wife and they’ve done the work.

Chair Nesbitt asked if additional members of the public wanted to speak to this matter.

Richard Brown said that he chased up this 1929 copy of a town report, which says that the road was discontinued. He said that unless somewhere else in the records of the Town it shows that this was rescinded or changed, which he couldn’t find, then this road was discontinued by the vote of the Town at that time, in 1929.

Neal Dow explained that he inherited the land in 1984. His uncle owned it before him, however he didn’t know for how long. He said that they’ve never done anything to it but logged out through that road several times. He said that it was his understanding that you can’t land lock a piece of land now. He said that if you can’t land lock it, he would assume that you should be able use it. He said, as Cliffy said, not much has been done to the road, but in some places they’ve trimmed trees or put fill in or something. He said from what was said in 1929 when it was discontinued, as he understood it was only discontinued to the Cabbage Yard Road – from there back to Route 25.

Chair Nesbitt said that seem to be what that document saying.

Neal Dow said that the deed says that it was discontinued just beyond the Cabbage Yard Road. He said that’s what he knows.

Don Essman said that he owns land on Cram Road. He said that when he got the land 34 years ago, he was told at the time that that was the road to Cabbage Yard Road and the Town didn’t want to spend any money to repair it. He said his land is part on town road and part that was returned to the owner’s.

Chair Nesbitt call for any new comments. Hearing none, he allowed Mr. Marean to speak for a second time.

Clifton Marean of 131 Dow Road said that he didn’t want to land lock anybody. He said that anyone has the right to pass, go over his lawn, if that want. He said that the people that own land there, Richard Brown, Neal Dow, anybody, Don, anybody can go across his land. The people that want to buy the house can go across his land, he didn’t want to land lock anybody. He said that he just wanted to close these roads – are they closed or are they not closed.

Chris Neagle said just three points to some of the things that he’s heard. He said that Mr. Gavenda had told him that there was a time when he used to contribute to Mr. Marean for the maintenance of the common road.

Mr. Marean said “what?”

Chris Neagle said that he’d heard that from his client. He said that he didn’t pretend to know the difference, and he said that he didn’t think that it was relevant. He said that his client tried to be a good neighbor. He said the he would like to see the deed that describes something about Cabbage Yard Road being discontinued. He’s never seen that reference. He said that he’s glad to hear that he [Mr. Marean] doesn’t appear to have a problem with people crossing his land, which is great news. Unfortunately, in the world we live in, if someone goes to borrow money, for instance to buy a house, the bank will look at it and do a title search, and say how do you have access. That’s something that people look at, and the fair answer is that we do not have a deeded easement and his client probably has a claim to what is called a prescriptive easement. That’s a lawsuit to prove, and they have no desire to do that. The other is, if it’s a town road, or isn’t a town road. If you can grant the request then the statutes say the public can cross it for access and utilities. His testimony that no one has maintained that road for fifty years is not surprising to him.

Chair Nesbitt asked if additional members of the public wanted to speak to this matter.

Jim Hansome from Windham said he is the co-broker on the property and a former Windham Planning Board member. He said that occasionally stuff like this comes across their desk, the bottom line is that the buyer and the seller want just one thing, equal access like anyone else would have. They are not asking for an exception, they want what everyone else has, a right to pass and a right for utilities to the property. He said that’s all they are looking for. Hopefully, you guys will see that and grant them what they are looking for.

Cliff Marean of 131 Dow Road said that we’re not here for easements or anything else. He said that we’re here, what this meeting is for, is to close Cabbage Yard Road and Cram Road. He said that he didn’t think that we were here for easements. He said that anyone could cross, these new people can cross, and he didn’t care. He said that the homeowner’s attorney called him and said that he can’t say anything. So he won’t say anything. He said that he didn’t mind anyone crossing his property, just take care of it and don’t destroy it. He said that Richard Brown and Neal Dow own property there and cut their timber. He said that we’re here to close those two roads.

Chair Nesbitt said that was part of it, to determine if they have been abandoned, but also to determine when maintenance from the Town has ceased. He said that from what he is hearing if we determine that the roads were abandoned and maintenance has stopped after 1935 then there is an easement using Cram and Cabbage Yard Roads. If we were to find that they were indeed abandoned but we cannot determine when maintenance stopped and we have to determine for example that maintenance stopped at the time of abandonment. He said that we’re seeing some evidence of that – the date would be 1929, then that easement to get to those back lots no longer exists. So, therefore, even though we have a homeowner that is saying go ahead and use it, it’s not legally binding. For a house to be sold, the lawyers and so forth are looking for a legal easement that says that this is an access way to that property and to get utilities to that property.

Mr. Neagle said that he’d like to clarify that he did send Mr. Marean a letter last summer after his client was unhappy with a conversation with the buyers. Mr. Neagle said that he had asked Mr. Marean to stop talking to the buyers. He said as far as he knows, Mr. Marean has not had contact with the buyers, and that’s appreciated. He said that the 1929 discontinuance is evidence that the road was not abandoned at that time because they did not abandon the section of Cram Road and they referred to the Cabbage Yard Road as the road to the Chick property. To him, that says that both of these sections were still town roads after the discontinuance.

Chair Nesbitt asked that the email that had been received from Matt Sabasteanski be read into the record.

The Clerk explained that the following email was received today:

Hi Mary, Thanks for your letter regarding the meeting tonight. Unfortunately, I will not be

able to attend and wanted to express my thanks for keeping us abreast of what’s happening

in our area of Standish.

If I understand correctly that there is a parcel of land on the Old Cabbage Yard Rd. Lot 43 Map 6 that the owner is trying to gain deeded access to? This property is also landlocked and

currently for sale? Further that the abutters to the Old Cabbage Yard Road have deeded rights to the centerline of that old road as it abuts to their property as is in my deed Map 6 lot 52. If

there should be an owner of two adjacent lots than that owner solely owns the entire width of that road.

If these things are all correct, then the owner of the landlocked property should negotiate an

easement, right of way or purchase so that they will have access to their property. My concern

would be setting a precedent to reallocate the use of Old Cabbage Yard Road.

Thanks again for this information and as an abutter to this old road I am concerned with the

outcome of this decision. Will there be minutes for distribution of this meeting?

Sincerely and Thankfully, Matt Sabasteanski

Chair Nesbitt called for additional public discussion, hearing none, he asked the Council if they felt they had heard enough public comment to close the public portion of this meeting.

Councilor Higgins said that she had some questions that would require responses from the people involved.

Chair Nesbitt said that since the people are here, he asked that she ask the questions.

Councilor Higgins said that what she believes that she is hearing is that this residence has been used seasonally and it’s been restored. Will it be purchased as year-round residence?

From the audience, Mr. Neagle responded yes.

Councilor Higgins said that puts a whole other thing on this, because if it has been used seasonally, there has been enough access for somebody to get back and forth in good weather.

Mr. Neagle said that his client has never used it year round. He said that it was used year round in the nineteenth century because it was called a homestead.

Linda Griffin, a real estate broker, former Standish resident, now living in Windham, is representing both the buyer and sellers. She said that David Gavenda has used the place in the winter. She said that he had told her that he had fixed up the guest cottage, it has a fire place and it well insulated. He told her he came in the winter as a getaway. He didn’t come often but he did use it in the winter.

Councilor Higgins asked how did he access the property in the winter?

Linda Griffin responded by snowshoes and cross country skis. She said that he mentioned that he had attended New Year’s Portland many times, leaving the fire going to return to a warm cottage.

Councilor Sirpis said that clearly this is a very complicated matter. He said that his confusion is if we were to give an easement, someone will be giving up some land, who exactly is that.

Chair Nesbitt said that we would not technically be giving an easement. If we determine that the road was abandoned and maintenance stopped after 1935 and it’s been over 30-years then there is, not knowing the correct term, we asked that the town attorney to explain further.

Town attorney, Sally Daggett, noted that it may help if she gave a little background. She said that the statute that we’re talking about is the abandonment statute. She said that basically the premise of the statute is to allow a municipality to shed itself of the obligation to maintain a town way. The whole premise behind this statutory process is that the road at issue, and we actually have two roads that are at issue here, they first have to have been a town way. That’s a term of art under Maine law, what a town way is, it is a road that’s open to the public and the municipality not only has the right but also has the obligation to maintain it. She explained that the maintenance obligation is the Town has to snow plow it in the winter, it has to be kept passable by motor vehicles, so that’s what this statutory process is all about. She said that if there is a road that’s been determined to be a town way, the municipality has the obligation, not just the right, to maintain it. She said that going through the abandonment statutory procedure, the municipal officers, i.e. the Town Council, makes a determination that that this road had not been kept passable by motor vehicles for a period of thirty years, then the municipality can be relieved of the obligation to maintain it. She said that the property owner is going forward trying to use this statutory procedure for a slightly different purpose, relating more to their access and who has rights to use the section of Cram Road and the Cabbage Yard Road. She said the big picture is, if the abandonment, meaning the end period of the lack of public maintenance for a period of thirty years if that is before September 3, 1965, the abutters own to the center line of the road. In this case, no public easement is retained, meaning the general public doesn’t have the right to travel over that section of road. She said that there still may be private rights to travel over it, but no public rights to travel over it. She said that the time frame is important to look at. First, there has to have been public maintenance, then you have to look at when did the public maintenance end. If it was before September 3, 1935, there is no public easement retained and the road reverts to the abutters to the centerline and the general public doesn’t have the right to travel over that section of road. But, if the last act of maintenance was on or after September 3, 1935, then the public easement is retained. Meaning the general public will have the right to travel over that section of road. She said she thought what the Gavenda’s are hoping to do is have the Council determine that the last act of maintenance was on or after September 3, 1935 so that a public easement is retained so they will have the right to travel over this road. She said that this statute is all about trying to relieve a municipality of the obligation to maintain a town way. She said that this process is never going to figure out what private rights there may be in that section of Cram Road or Cabbage Yard Road. She maybe even today there are private rights of the Gavendas to travel down that section of Cram Road and to go up Cabbage Yard Road. She said but that’s nothing that the Town Council of Standish is ever going to be required to figure out. She said that the Councilors have to decide if they have enough evidence with respect to both of these two roads, that both of them at some point of time were a town way, was there a municipal obligation to keep the section of Cram Road and Cabbage Yard Road passable in the winter. If so, you have to figure out when that public maintenance ended, and then there has to be thirty years of non-maintenance by the municipality in order for there to be a determination that these two sections of road have been abandoned. Once you figure out when that last act of maintenance is, if it was before September 3, 1935, there is no public easement retained. If it’s on or after September 3, 1935, a public easement is retained. Sally Daggett suggested that perhaps what is being asked of you here is something, quite frankly, you may not have enough evidence to make a determination about one way or the other. She said that maybe it’s something that the Gavenda’s and their neighbors need to sit down and figure out what the private rights may be, as that is never going to be something that the Standish Town Council is going to have to get in the middle of and referee. She said that she hoped that this helps set the background of what you’re being asked to do. She reiterated that they may not have enough evidence to make a determination one way or the other. She said that she didn’t hear anything for sure about the section of Cram Road or Cabbage Yard Road being town ways to begin with. She said that didn’t mean there weren’t some ancient records that haven’t been looked at, and Roger Mosley, the Public Works Director, hasn’t spoken yet. It may be that we don’t know; if that’s the case, you can’t be forced into making a determination if you don’t have enough information.

Councilor Sirpis asked Sally Daggett her to differentiate between discontinued and abandonment.

Sally Daggett explained that they are different statutory procedures. The statutory procedure for a discontinuance – there are a bunch of hoops that the municipality has to jump though. First, the municipal officers have to provide notice, have a public hearing, and make an order to discontinue the portion of road, being clear whether or not a public easement is retained or not. Once that discontinuance order is adopted by the municipal officers, the legislative body has to award damages. So, money has to get paid when a road is discontinued because the municipality is saying that it’s no longer going to maintain it at a public expense. She said that’s not what we’re talking about tonight, even though there might be some evidence that Cram Road was discontinued, she said that she hadn’t heard that the remaining section of Cram Road that wasn’t discontinued – was that ever a town way?

Chris Neagle said that he wanted to address a couple of points that Sally mentioned, should you make this determination as requested, it’s not the final say, the law says it creates a presumption that that’s what happened. He said if you make that kind of decision and someone doesn’t like it or finds it’s not a proper decision, they can appeal that decision. He said for what it’s worth you’re not determining this for all time, there are other avenues if someone is unhappy. He said the with respect to the private rights that Sally mentioned, there are none in the deeds. He said that that’s not unusual because people don’t give easements over public streets. He said that with all due respect to Sally when something is repeatedly referred to as a highway, to him that is some evidence that it was a town road. He said that he thought that was pretty convincing evidence that these both have been town roads. He continued to say that if they discontinued a portion of Cram Road and not the rest of it, to him that’s conclusive evidence that it once was a town way.

Linda Griffin, representing the buyers and sellers, wanted to make the point that David Gavenda and the other lady are brother and sister. They do come up together and separately and use it as a camp. She noted that when she looked into the Town’s records, it’s being taxed as if it’s a livable house. She said that for 46-years David Gavenda has been paying your town taxes, he has no bathroom, there is an outhouse, there is no septic, there is no kitchen, no furnace. She said that the house is a cape from one of your earliest founders, Mr. Paine. It’s not to the standards, but he’s been paying taxes right along.

Councilor Delcourt said that he thought that we were here to as to whether this is abandoned, the rest of this is with lawyers. If they want to get a right-of-way, they can do whatever they have to do. He said that’s none of our business.

Chair Nesbitt said that’s correct, we’re trying to determine if it was abandoned and when that happened. He said as Sally Daggett has explained, we have to prove that they were truly town ways.

Sally Daggett responded to attorney Neagle’s statements regarding what happens if the Town decides that it has enough information to make a determination whether or not that there’s been an abandonment. That decision needs to be written up and then recorded at the Registry of Deeds. If someone is unhappy with that determination, then they file what’s called a declaratory judgment action in Superior Court, and guess who they sue, they sue the Town of Standish. The Town of Standish will be defending whatever determination it makes. She said that she wanted to caution them to make sure that they have enough information before you make any determination. Attorney Neagle also said that there’s nothing in his clients deeds relating to access, well, it could be that his clients have gained what are called prescriptive rights. She said that users may have established the right to travel from the Dow Road to Cabbage Yard Road to the Gavenda’s house. Prescriptive rights don’t show up in a deed, make sure that everyone’s clear on that. She noted that attorney Neagle referenced the word *highway* in the deed, she said that could cut both ways, was it a private or public highway, she said that reference is not dispositive here, the Council will have to make that determination.

Councilor Sirpis said that he personally didn’t feel that they had enough information. He said that he was not sure about anything at this point. He said that he wouldn’t be ready to act on this soon, he suggested that this topic be discussed at workshop to figure out what our position is, because the decision that we make as our attorney has explained could have significant cost to the Town.

Chair Nesbitt asked the town attorney if we don’t feel that we have enough information here tonight to make the judgment, can we continue the public hearing until the next month’s meeting and discuss the matter at a workshop.

Sally Daggett said that they could continue the public hearing to a future meeting and discuss this issue at a workshop prior to that future meeting. They could brainstorm what information might be helpful.

Richard Brown said that in 1929 that road was discontinued, he said that all they have to find is where that was rescinded. He said that the people at a town meeting voted to close that road, unless you can find in a town recorded that that was changed.

Mr. Neagle wanted to know if Sally agreed with him that the only way to establish the prescriptive easements to the satisfaction of a bank would be to file a lawsuit against all abutters. He said that is the only way that they will be able to sell the house that he knows, short of reaching an agreement with Mr. Marean. He noted that Mr. Marean has been clear that people can pass over his property, however, he does not want to make that permanent. He said that he respected that, but he wants people to understand the reality.

Sally Daggett said that prescriptive rights would not involve the Town of Standish, and it would require a ruling from the court or negotiating with the abutting property owners.

Councilor Sirpis said that he believed that we were way beyond the scope of where we should be.

Mr. Clifton Marean said that this meeting is to close the road, it is not about any right-of-way. He then asked Roger Mosley when was the last time he worked on that road.

Roger Mosley, Public Works Director, explained that in the forty years that he has worked for the town, he has never worked on those roads.

Mr. Marean said he would let anyone pass over the property, have them come talk to him.

Councilor Pomerleau asked if they had ever approached him about an easement.

Mr. Marean said that he was advised by their lawyer to say nothing. He cited when a previous buyer had approached him about putting in power, and Mr. Marean said that they could talk about it but it probably wouldn’t happen. Shortly after that, he received a letter from the attorney saying he didn’t have the right to do that.

Councilor Pomerleau questioned whether there had been an attempt to solve this in any other way.

Mr. Marean said no and as far as David Gavenda being there, he hasn’t been there for six years.

Moved by Sirpis, seconded by Pomerleau, to continue the public hearing at the regularly scheduled May meeting and to discuss how to proceed with this at our April Town Council Workshop.

Chair Nesbitt called for discussion on the motion.

Councilor Delcourt said that he didn’t know what additional information there was to come forward.

Councilor Higgins said that we’re talking semantics - discontinuation versus abandonment - which is part of the problem.

Sally Daggett explained that they are two separate procedures and legally different concepts. She said it is confusing because under the abandonment statute you look for the status of the road by looking at the discontinuance statute.

Councilor Sirpis suggested that legal counsel attend the workshop.

Councilor Sargent said that the map doesn’t show the names of the abutters; he said that at the workshop he’d like to have a blowup of the map showing the property owners.

Chair Nesbitt called for further discussion on the motion, hearing none, he called for the vote.

Moved by Sirpis, seconded by Pomerleau, and voted to continue the public hearing at the regularly scheduled May meeting and to discuss how to proceed with this at our April Town Council Workshop with the town attorney present. (5 Yeas – 1 Nay, Delcourt)

The Chair called for a break while members of the public left the meeting.

The Chair called the meeting back to order at 8:46 p.m.

**18-17 Amendment to Standish Town Code, Chapter 202, Parks and Recreation, Section 202-1, Trespassing Prohibited Certain Hours [Blanck]**

Chair Nesbitt explained that this is being done to keep the beach facility hours of no trespassing consistent with other town facilities.

Chair Nesbitt called for public discussion.

Lester Ordway of Richville Road said that the 10 pm closing in the winter would affect the ability of cusk fishing, he suggested that the winter hours be different.

Chair Nesbitt call for additional public discussion, hearing none, he closed discussion from the public.

Chair Nesbitt then called for Council discussion.

Councilor Sirpis said that in regard to Representative Ordway’s comments this would be for the beach not the water, is that correct?

Chair Nesbit said that this is for the parking lot.

Councilor Sirpis said, than is issue is a valid concern, since many ice-fisherman fish for cusk at night. He thought that it’s something that they should consider.

Councilor Sargent said that this is a case where we’re trying to make one ordinance fit all facilities. He thought that perhaps the beach should have separate hours.

Gordon Billington pointed out that the Sebago Lake Station Boat Launch is a very active fishing location has the same prohibition. He also noted that the prohibition are not to be coincident with the operational hours.

Chair Nesbitt said that this is the Public Hearing, he said that he’s heard the concern regarding the winter hours and other discussions that town facilities do not have to have the same hours. He said that this could be tabled back to the Ordinance Committee, however he noted that any substantive change would restart the legislative process. If that happened, we would be opening the beach without any provisions in place. Another option would be to move forward tonight and be amended at a later date.

Councilor Sirpis said based on the managers comments he no longer has a concern. He said that the ordinance can be changed in the future if necessary. He said that he didn’t want to delay this.

Chair Nesbitt agreed with Councilor Sirpis’ comments adding that all town facilities should include the no trespassing restriction.

Councilor Higgins said that since the ice fishing concern is a seasonal, there is time to change this if necessary.

Chair Nesbitt allowed Roland Cloutier to speak even though public input had been closed.

Roland Cloutier questioned if they were intending to maintain the parking lot in the winter months?

Chair Nesbitt said that if the conditions allow the facility to be opened in the winter, the road and parking lot will be plowed. He noted that they do want to encourage ice fishing at the facility.

Councilor Sirpis said that he hoped that the facility would be made accessible in the winter.

Chair Nesbitt noted that the plan now is to pave the entire area so plowing will be feasible, initially in the plan there may have been gravel areas that would make plowing difficult.

Chair Nesbitt called for the roll call vote:

After a Public Hearing without additional public or Council discussion the council voted on the ordinance amendment and the Public Hearing was closed.

**VOTE: 6 Yeas**

**COMMITTEE REPORTS**

Councilor Pomerleau noted that the Appointments Committee did not meet this month.

Councilor Pomerleau explained that the Public Safety Committee met and discussed the flags that will be purchased.

Councilor Sargent said that the Capital Improvements Committee met and will be bringing orders forward on tonight’s agenda.

Chair Nesbitt explained that the Finance Committee met and reviewed revenues and appropriations through March. He announced that everything is in-line with regards to revenues and spending. He said that there is an order on tonight’s agenda regarding an abatement and an order to move the budget to the Budget Committee.

Councilor Delcourt explained that the MSAD6 Apportionment Committee met noting that the schools attorney announced that the school board directors will no longer fall under the term limit provisions of the Standish Charter. He said that the plan needs to be approved by the Department of Education so its provisions will be effective in 2018. An in-depth report will be presented when the plan is adopted.

Council Higgins announced that the recycling numbers are down this month as is solid waste. A meeting will be scheduled to discuss composting issues.

Councilor Higgins said that people have generously donated to the Bottle for Fuel Program. Those in need of assistance from this program should contact Jackie Dyer at the Town Office.

Councilor Sirpis said that the Economic Development Committee will meet this month on April 20 to discuss their vision, mission statement and development of a hardcopy and/or electronic brochure.

Chair Nesbitt spoke on behalf of Councilor Blanck regarding the Ordinance Committee’s continuing work on the village plans, uses have been reviewed and parking provision are still under review.

**CONSENT CALENDAR**

The Clerk read the orders by title and the Council voted on the orders collectively.

**24-17 Appointment of Ballot/Election Clerks and Election Warden for the June 13, 2017 Elections [Pomerleau]**

**25-17 Establish Hours for Voter Registration Prior to the June 13, 2017 Elections [Nesbitt]**

**26-17 Waive No Parking Restriction on Saco Road for Bonny Eagle Car Show [Nesbitt]**

Chair Nesbitt called for discussion on the orders. Hearing none he called for the vote.

**VOTE ON CONSENT ORDERS: 6 Yeas**

**UNFINISHED BUSINESS**

There was no unfinished business on the agenda this evening.

**NEW BUSINESS**

**27-17 Authorize Consent Agreement – Grant - Map 20 Lot 23 E2 [Nesbitt]**

Gordon Billington explained that the consent agreement is a way to deal with De Minimis setback violations. In this case, the violation is between the home and the road, one of the roads in the subdivision has a 75’ setback which is an unusual distance. If this is agreed to, it will be recorded at the Registry of Deeds.

Chair Nesbitt reviewed the materials that were submitted. It appears that the building was mis-located in error. He noted that the Consent Decree calls for a fine to be assessed – he would propose the amount of $0.00.

Moved by Sirpis seconded by Sargent to amend the consent agreement to show the fine as being $0.00.

Chair Nesbitt called for discussion on the amendment. Hearing none he called for the vote on the amendment.

Moved by Sirpis seconded by Sargent and voted to amend the consent agreement to show the fine as being $0.00. (6 Yeas)

Chair Nesbitt called for additional discussion on the order as amended. Hearing none he called for the vote.

**VOTE ON ORDER AS AMENDED: 6 Yeas**

The applicants signed the agreement at this time.

**28-17 Resolution Proclaiming April 2017 to be Child Abuse and Neglect Prevention Month in the Town of Standish [Nesbitt]**

Vickie Morgan a resident of Standish and a survivor of child abuse thanked them for this opportunity to speak and their help on getting the word out on this matter. She and her husband started this company called MPower to focusing their efforts on child abuse prevention and education. She noted that they believe that these ideals are the corner stone of prevention. She continued to tell them of upcoming events including a GoBlueDay and a walk to raise awareness of the cause.

Chair Nesbitt called for public discussion. There were no comments.

Chair Nesbitt then called for Council discussion.

Councilor Delcourt asked what could he do as a grandfather?

Vickie Morgan said that he should be open to discuss the issue.

Councilor Higgins thank her for her efforts. She then suggested that we link the MPower site to our website.

Vickie Morgan said that both the Town of Standish and St. Joseph’s College have been very supportive in this cause.

Councilor Pomerleau invited her to have a table at the Public Safety Fair held here in October.

Chair Nesbitt noted that he has challenged his co-workers to wear blue on April 21 to support the cause.

Vickie Morgan passed out blue hats for them to wear on the Go Blue Day.

Chair Nesbitt called for additional discussion on the resolution. Hearing none he called for the vote.

**VOTE ON RESOLUTION: 6 Yeas**

**29-17 Resolution Establishing June 22nd, 23rd and 24th as the “Standish Summer Spectacular” Weekend [Nesbitt]**

Chair Nesbitt explained that some events are new and some are as were in the past. He was looking forward to see this year’s events.

Chair Nesbitt called for public discussion. There were no comments.

Chair Nesbitt then called for Council discussion. There were no comments. Hearing none he called for the vote.

**VOTE ON RESOLUTION: 6 Yeas**

**30-17 Resolution Proclaiming May 21, 2017 as Blue Star Salute Day [Nesbitt]**

Chair Nesbitt said that this is a way to honor our armed forces.

Chair Nesbitt called for public discussion. There were no comments.

Chair Nesbitt then called for Council discussion. There were no comments.

Chair Nesbitt called for additional discussion on the resolution. Hearing none he called for the vote.

**VOTE ON RESOLUTION: 6 Yeas**

**31-17 Resolution Concerning Frye Island Legislation [Nesbitt]**

Chair Nesbitt said that Frye Island wanting to leave MSAD 6 has been a topic of discussion for a long time. This matter was discussed at a recent workshop and Mr. Billington wrote an excellent commentary that can go along with this resolution to the public hearing. He noted that additional bills have been presented regarding this issue so an amendment to this resolution is in order.

Chair Nesbitt called for public discussion.

Representative Ordway explained that this has been an issue the towns have been dealing with for about fifteen years. He said that there are a number of bills, one is an empty bill – it’s only a title; another was piggybacked on a bill submitted by Representative Turner of Washington County, she didn’t get what she wanted so she pulled her bill, however it’s been resubmitted. It’s LD 51 so you can watch it. At this time she’s holding her bill. He said that he wanted to assure them that he, Representative Kinney, Representative Marean are working hard on this as is Senator Chenette and Senator Diamond. He said that they need the Councils support to go after this full force. He thanked Representative Beth Turner for supporting this issue and holding her bill. He said that the last time this came up there was some conversation from the Governor’s Office suggesting that we were bulling Frye Island into staying with us for the tax money. He said that he has relayed to the Governor through his staff, that last year the Governor vetoed a bill for a town in Aroostook County because they had made a deal, and a deals a deal. He said that he’s hoping the Governor bill back off his previous stance.

Chair Nesbitt asked how is it possible to be added to another’s bill?

Representative Ordway said that the maker of the bill is asked to have an amendment added.

Chair Nesbitt called for additional public discussion. There was none.

Chair Nesbitt then called for Council discussion.

Council Higgins asked if they know when the Public Hearing will be held?

Representative Ordway said he would get ahold of them. He said that it’s not scheduled to go to the State and Local Government Committee, it’s scheduled to go to Education and Cultural Affairs Committee.

Councilor Sirpis said that he too would offer an amendment.

**Moved by Nesbitt seconded by Sirpis to amend the resolution as follows:**

WHEREAS LD 749 is scheduled to be heard by the Legislature’s ~~State and Local Government~~ Education and Cultural Affairs Committee on \_\_\_, 2017, and

WHEREAS LD 1153 is scheduled to be heard by the Legislature’s State and local Government Committee on \_\_\_\_\_\_, 2017,

NOW THEREFORE BE IT

RESOLVED that the Town of Standish opposes LD 749, LD 1153 and any newly proposed legislation and its authorization that Frye Island would no longer be required to remain a part of, and continue to provide its fair share of financial support to, MSAD #6, and

Chair Nesbitt called for discussion on the amendment. Hearing none, he called for the roll call on the amendment.

**Moved by Nesbitt seconded by Sirpis and voted to amend the resolution as follows:**

WHEREAS LD 749 is scheduled to be heard by the Legislature’s ~~State and Local Government~~ Education and Cultural Affairs Committee on \_\_\_, 2017, and

WHEREAS LD 1153 is scheduled to be heard by the Legislature’s State and local Government Committee on \_\_\_\_\_\_, 2017,

NOW THEREFORE BE IT

RESOLVED that the Town of Standish opposes LD 749, LD 1153 and any newly proposed legislation and its authorization that Frye Island would no longer be required to remain a part of, and continue to provide its fair share of financial support to, MSAD #6, and

(Unanimous)

Councilor Sirpis noted at their November 2016 meeting he read into the record the report submitted by he and Councilor Delcourt. In addition, the Town Manager wrote an eloquent letter regarding this issue. He wanted both of these documents submitted with the resolution.

**Moved by Sirpis seconded by Delcourt to amend the resolution as follows:**

Add the Frye Island Cost Sharing Committee Report that Councilor Sirpis and Councilor Delcourt had read into the record at the November 1, 2016 Standish Town Council meeting and Mr. Billington’s testimony regarding LD 749 be added to this resolution to become part of the record. (Unanimous)

Chair Nesbitt called for public discussion. There was none.

Chair Nesbitt then called for Council discussion. There was none.

**Moved by Sirpis seconded by Delcourt and Voted to amend the resolution as follows:**

Add the Frye Island Cost Sharing Committee Report that Councilor Sirpis and Councilor Delcourt had read into the record at the November 1, 2016 Standish Town Council meeting and Mr. Billington’s testimony regarding LD 749 be added to this resolution to become part of the record. (Unanimous)

Chair Nesbitt called for additional discussion on the resolution as amended. Hearing none he called for the vote.

**VOTE ON RESOLUTION AS AMENDED: 6 Yeas**

**32-17 Resolution Concerning Gorham East West Corridor [Nesbitt]**

Moved by Sargent seconded by Sirpis and Voted to dispense with the Clerk’s reading of the resolution. (Unanimous)

Chair Nesbitt explained that this has been discussed at recent meetings. He noted that the Town of Gorham is executing a similar resolution in an attempt to reduce congestion through the Town of Gorham. In addition, Standish is asking the state to look at the impact on our failed 35/25 intersection and the impact on the Routes 35 and 114 intersection.

Chair Nesbitt called for public discussion.

Representative Ordway thanked them for bringing this forward. He said that he brought their support to the Transportation Committee at a recent meeting. The committee took note of this matter and wrote a letter to MDOT addressing the Town of Standish’s concerns regarding the intersections. He said that he also had a conversation with Peter Mills who assured him that these intersections will be taken into consideration while looking into the study. He suggested that there may be some economic development opportunities for Standish if this spur is built.

Chair Nesbitt then called for Council discussion. There was none. Hearing none he called for the vote.

**VOTE ON RESOLUTION: 6 Yeas**

**33-17 Call for Annual Municipal and Town Meeting Referendum Election, Place Referendum Questions on Ballot, Authorize Warrant and Call for Public Hearing for the June 13, 2017 Annual Municipal Election [Nesbitt]**

Moved by Sirpis seconded by Higgins and Voted to dispense with the Clerk’s reading of the resolution. (Unanimous)

Chair Nesbitt said that this action will approve the warrant and call for the Public Hearing for our referendum questions.

Chair Nesbitt called for public discussion. There was none.

Chair Nesbitt then called for Council discussion. There was none. Hearing none he called for the vote.

**VOTE: 6 Yeas**

**34-17 Write-off Uncollectible Personal Property Taxes [Nesbitt]**

The clerk reminded them that this was the substitute order.

Chair Nesbitt said that this was discussed during the Finance Committee meeting and the order speaks for itself.

Chair Nesbitt called for public discussion. There was none.

Chair Nesbitt then called for Council discussion. There was none. Hearing none he called for the vote.

**VOTE: 6 Yeas**

**35-17 Acceptance of Dry Hydrant Easement Deed from 650 Cape Road Holdings, LLC [Nesbitt]**

Chair Nesbitt said that this was a dry hydrant that was installed at 650 Cape Road as part of a project. He said that the deed will allow the Town to take care of the dry hydrant. He noted that this is a pretty significant dry hydrant and will serve quite a bit of that neighborhood for fire protection.

Chair Nesbitt called for public discussion. There was none.

Chair Nesbitt then called for Council discussion. There was none. Hearing none he called for the vote.

**VOTE: 6 Yeas**

**36-17 Award Bid and Authorize Contract for Harmons Beach Road Rehabilitation Project [Sargent]**

Councilor Sargent said five businesses submitted bids. FR Carroll was the low bidder and has done work for the Town in the past.

Moved by Sargent seconded by Pomerleau to add the name of FR Carroll at a cost not to exceed $243,265.

Councilor Sargent explained that a 10% amount has been added to this bid so we can make sure it’s done right the first time.

Chair Nesbitt called for discussion.

Councilor Delcourt questioned why the bid amount was increased? Shouldn’t they do the bid right with the amount they submitted?

Roger Mosley the Director of Public Works explained the following information is relating to the next two bids. He explained that the bids were drafted with his best guess as to what they can do. He said that once they open up the road or paving the transfer station there may be some unknowns that come up. This contingency amount to insure that the project is done right in case something comes up. He explained that the bid is based on estimated quantities.

Chair Nesbitt asked if he would verify the additional work.

Mr. Mosley acknowledged that he would inspect the additional work.

Councilor Sirpis questioned how many times have this contingency plan been used before?

Roger Mosley said that this is the first time. The reason is because past projects have been developed by engineers, other bids have been quantity prices. In these cases they used estimated amounts to compare apples to apples.

Councilor Sirpis questioned if any of these businesses were located in Standish?

Chair Nesbitt agreed that none of these businesses were located in Standish.

Councilor Sargent said that whenever anything is built there always is a buffer built in in case of unexpected issues.

Councilor Sirpis said that he agreed with Councilor Sargent’s statements, however, a business has an obligation to bid correctly. He didn’t think they should support the additional funding for this the business should be able to bid the job correctly.

Mr. Billington explained that this is not the estimate from the vendor, this is Roger’s estimate. He explained that normally an engineer comes up with the bid quantities. This purely Roger’s best guess and he thinks that his best guess needs at 10% contingency.

Councilor Sirpis asked that his last remarks be cancelled.

Councilor Higgins questioned who should be doing the estimating of these projects?

Chair Nesbitt said that this is last year’s bonding and it does not go over the budgeted amount.

Chair Nesbitt called for additional discussion on the amendment. Hearing none he called for the vote on the amendment.

Moved by Sargent seconded by Pomerleau and voted to add the name of FR Carroll at a cost not to exceed $243,265. (Unanimous)

Chair Nesbitt called for additional discussion on the order as amended. Hearing none he called for the vote.

**VOTE ON ORDER AS AMENDED: 6 Yeas**

**37-17 Award Bid and Authorize Contract for Paving Newbegin Way and Rich Memorial Beach Parking Lot [Sargent]**

Councilor Sargent said five businesses submitted bids. Shaw Brothers was the low bidder and has done work for the Town in the past.

Moved by Sargent seconded by Pomerleau to add the name of Shaw Brothers at a cost not to exceed $164,240.

Councilor Sargent explained this is the low bid plus 10%.

Chair Nesbitt called for public discussion on the amendment. There was none.

Chair Nesbitt then called for Council discussion on the amendment. There was none.

Moved by Sargent seconded by Pomerleau and voted to add the name of Shaw Brothers at a cost not to exceed $164,240. (Unanimous)

Chair Nesbitt called for public discussion on the order as amended.

Ellen Kasprzyk questioned how these differ to use Roger’s estimate rather than an engineers?

Chair Nesbitt asked what will be the criteria that is used to determine who prepares the estimate on future projects.

Councilor Sargent said that in the past an engineer has been hired to give us cost estimates and then that information given to the vendors.

Roger Mosley mentioned that even in those cases a contingency is sometimes included.

Councilor Sargent said that is for totally new paving on Newbegin Way and the parking lot. He said that this is just due diligence. It may come in less, but you can get the job done.

Ellen Kasprzyk said that she didn’t mean any dis-respect or doubt to anyone. It just seemed like the process was being changed.

Chair Nesbitt then called for Council discussion on the order as amended.

Councilor Higgins said that because these are brand new projects it’s harder to determine the cost.

Roger Mosley said that’s part of the equation, part is too, the configuration of all the area to be constructed. He continued to explained that the prices that they received for the asphalt was fantastic. He added that all the bids were under the budgeted amount.

The Chair called for the roll call on the order as amended.

**VOTE ON ORDER AS AMENDED: 6 Yeas**

Chair Nesbit said that due to the Marines help and the hard work of the Public Works Department, monies were saved to provide funding to pave the road and parking lot.

**38-17 Award Bid and Authorize Contract for Repaving the Standish Transfer Station Roadways and Service Areas [Sargent]**

Councilor Sargent noted that this a resurface of the transfer station, this is a little differed because it is a rebuild. This includes a contingency because we’re going to seek a heavier mix of pavement due to the heavy truck traffic at the transfer station.

Moved by Sargent seconded by Pomerleau to add the name of Glidden Paving at a cost not to exceed $45,575.

Roger Mosley explained that when the number was put into the budget it was $60,000. The bid spec called for and 1¼ of pavement with a smaller stone. When the bids came back and were lower than expected he went back to the vendor and asked for the price on a 1½ of pavement and a larger size stone which makes a more rugged mix.

Chair Nesbitt called for public discussion on the amendment. There was none.

Chair Nesbitt then called for Council discussion on the amendment. There was none.

Moved by Sargent seconded by Pomerleau and voted to add the name of Glidden Paving at a cost not to exceed $45,575. (Unanimous)

Chair Nesbitt called for public discussion on the order as amended. There was none.

Chair Nesbitt then called for Council discussion on the order as amended.

Councilor Sirpis asked if Glidden was being selected solely because they were the low bidder.

Councilor Sargent said that the rule of thumb is to take the low bidder unless there has been a problem with that vendor in the past. He said that Glidden is a local vendor they started out in Westbrook but are based in Gorham now. He said most of the vendors are located in the area.

Councilor Sirpis said that the reason that he asked was because some of the other vendors have an extensive commercial work history. He said that it was his opinion that Glidden’s commercial work history was not extensive as some of the other vendors. He wondered if we should consider Shaw Brothers for this for the additional $577, because of their track record.

Roger Mosely said that he had no problem with Glidden, they are up and coming and for a number of years have done state paving and commercial projects. They did start off as a family operation, his contact at Glidden is the former site supervisor for Blue Rock, in addition, much of Glidden’s crew formerly worked for Blue Rock. He said he had no concern with Glidden’s ability to compete the project.

The Chair called for the roll call on the order as amended.

**VOTE ON ORDER AS AMENDED: 6 Yeas**

**39-17 Award Bid and Execute Contract for Waste Hauling Services [Sargent]**

Councilor Sargent said there were three vendors that were interested in the bid, one submitted only a price per haul, another did not submit the bid, and RW Herrick submitted that was complete and we’ve used them in the past.

Moved by Sargent seconded by Higgins to add the name of RW Herrick at a cost not to exceed $175,500 for Part I - Municipal Solid Waste.

Chair Nesbitt call for public discussion on the amendment. There was none.

Chair Nesbitt then called for Council discussion on the amendment. There was none.

Moved by Sargent seconded by Higgins and voted to add the name of RW Herrick at a cost not to exceed $175,500 for Part I - Municipal Solid Waste. (Unanimous)

Chair Nesbitt called for public discussion on the order as amended. There was none.

Chair Nesbitt then called for Council discussion on the order as amended. There was none. Hearing none he called for the roll call vote.

**VOTE ON ORDER AS AMENDED: 6 Yeas**

**40-17 Forward Fiscal Year 2018 Municipal Budget to the Budget Committee [Nesbitt**]

Chair Nesbitt said that this is the next step in our budget process. He said that Council received the Manager’s budget in February and started the review by meeting with department heads and those requesting donations. He said that they just passed the Solid Waste bid, the Finance Director has asked to amend page 163 regarding the municipal solid waste hauling change the number to $58,500, the line waste pick up for 8 sites to $7,140, and on page 164 for roll-off hauling to $110,000.

Chair Nesbitt asked if they were all favor of making those changes prior to passing the budget to the Budget Committee. (Unanimous)

The finance Director said that the contractual line is now $326,580; the Special waste line is now $125,000; the total for the Solid Waste Department is $542,748.

Chair Nesbitt called for public discussion. There was none.

Chair Nesbitt then called for Council discussion. There was none.

Chair Nesbitt said that the Budget Committee will have 14-days to review the budget and return their recommendations to the Council. He suggested that they could meet at workshop to and then accept or reject their recommendations at the May council meeting.

Ellen Kaspersky noted that the Budget Committee will meet on Thursday and then on Saturday, more meetings will be scheduled.

The Chair called for the roll call on the order as amended.

**VOTE: 6 Yeas**

**PUBLIC ITEMS**

Representative Ordway said that he tried cusk fishing once and apparently he was trespassing.

Chair Nesbitt thanked the Budget Committee for staying through the meeting.

Representative Ordway continued to speak about the school budget and state cuts that will affect the school’s budgets. He said that he had concerns regarding the numbers that were looking at. He said that the school has considerably less students than it did 25-years ago but a considerable budget increase. He talked about the wages that teaches in the district are paid noting that we lose teachers to other school because the rate of pay is higher elsewhere. He said that he did not support the teachers in the Chinese program because 70% of the students that graduate from Bonny Eagle that apply to the community college need remedial help. He said if the school came and wanted more English or math teachers he’d support it but he just can’t buy into spending money on the Chinese teacher. He said that less than 3% of the school budget goes to career or technical education. He said that was sad in his opinion. He said that the Education Committee at the state has voted to fund 55% of education based on the EPS formula. He thanked them for all they do.

**ANNOUNCEMENTS**

Several upcoming meetings were announced.

**EXECUTIVE SESSION**

An executive session was not held at this meeting.

**ADJOURN**

Moved by Sirpis seconded by Sargent and voted to adjourn. The meeting adjourn at 10:30 pm by unanimous consent.

Submitted by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Clerk/Secretary