

Standish Town Hall

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Town Council Meeting Minutes 2/11/2014

**MINUTES
TOWN COUNCIL MEETING
STANDISH, MAINE
TUESDAY, FEBRUARY 11, 2014
STANDISH MUNICIPAL CENTER
7:00 PM**

CALL TO ORDER

The meeting was called to order by Chair Blanck and the Pledge of Allegiance was recited.

ROLL CALL

Councilors present: Blanck, Olson, Pomerleau, Sargent, Spencer, Stack and Tompson.

MINUTES OF PREVIOUS MEETING (S)

The minutes of the January 14 meeting were approved by unanimous consent.

PETITIONS AND COMMUNICATIONS

There were no petitions or communications at this meeting.

REPORT OF THE TOWN MANAGER

Gordon Billington spoke on the following:

From the Recreation Department: A well-attended skating party at the end of January, he noted that the Fire Department maintains the rinks, with the help of the Public Works Department. A Recreation Department sponsored dance will be held on February 14 at the middle school for grades 7 and 8. For the first time in a few years the Recreation Department will hold February vacation week camp at the George E. Jack School. Recreation is hosting a senior trip to the Oxford Casino on February 27. Discount ski tickets to Attitash and Wildcat are available at the Town Clerk Office.

He noted that Public Works Department has done ~~and~~ an exemplary job keeping the roads cleared this year.

Fire Chief, Brent Libby presented an overview of the Public Safety Department, he noted that the department includes Animal Control, Health Officer, Harbormaster, Fire/EMS/Dispatch and Emergency Management. He presented a PowerPoint presentation that reviewed the department's statistics including Animal Control's 1,383 calls; Boat Launch staffing and activities; Emergency Management meetings and requirements and plans; Public Health inspections and Fire/EMS call volume. In closing, he thanked the department's membership for their dedicated work.

PUBLIC HEARINGS

5-14 Application submitted by Gerard P. Giguere, Jr. and Patricia M. Giguere dba Giguere's Wildwood Function Center located at 945 Pequawket Trail for renewal of a Bottle Club Registration [Blanck]

Chair Blanck noted that the application was in order.

After a public hearing without additional council or public input the Council voted on the application and the hearing was closed.

VOTE: 7 Yeas

6-14 Application submitted by Daniel Roberts/DDZC LLC dba Maine Street Grill located at 1 Ossipee Trail East for renewal of a Malt, Spirituous and Vinous Restaurant License [Blanck]

Chair Blanck noted that the application was in order.

After a public hearing without additional council or public input the Council voted on the application and the

hearing was closed.

VOTE: 7 Yeas

7-14 Application submitted by Daniel Roberts/DDZC LLC dba Maine Street Grill located at 1 Ossipee Trail East for renewal of Special Amusement Permit [Blanck]

Chair Blanck noted that the application was in order.

After a public hearing without additional council or public input the Council voted on the application and the hearing was closed.

VOTE: 7 Yeas

8-14 Application submitted by Daniel Roberts/DDZC LLC dba Maine Street Grill located at 1 Ossipee Trail East for renewal of a Pool Room License [Blanck]

Chair Blanck noted that the application was in order.

After a public hearing without additional council or public input the Council voted on the application and the hearing was closed.

VOTE: 7 Yeas

9-14 Application submitted by Malcolm J. Tevanian dba South Shore Market Place located at 450 Northeast Road for a new Malt and Vinous Restaurant License [Blanck]

Chair Blanck noted that the application was in order.

After a public hearing without additional council or public input the Council voted on the application and the hearing was closed.

VOTE: 7 Yeas

10-14 Adopt Town of Standish Municipal Development and Tax Increment Financing (TIF) District #1(Standish Corner) [Blanck]

Ordered that the Town hereby: (i) designates the Municipal Development and Tax Increment Financing District #1 (Standish Corner) as a municipal development and tax increment financing district and adopts the Development Program for the District, such designation and adoption to be on the terms and provisions of the "Municipal Development and Tax Increment Financing District Development Program #1 (Standish Corner)" (the "Development Program"), as presented at this Town Council Meeting, and as has been on file in the Town Clerk's Office, a copy of which is incorporated herein by reference; (ii) makes the findings set forth in the Development Program; (iii) adopts the financial plan including the percentage of increased assessed value of said District to be retained as captured assessed value in accordance with the Development Program; and (iv) authorizes the Town Manager to submit to the State of Maine Commissioner of Economic and Community development for approval such applications and further documentation as may be necessary or appropriate for final approval and establishment of the District and the Development Program and financial plan pursuant to 30-A M.R.S.A. Chapter 206.

Chair Blanck noted that Ron Epstein our attorney who is a renowned TIF expert was in attendance at the meeting to respond to questions from the public.

Pam Slattery-Thomas of Thomas Road asked why couldn't the credit enhancement agreement be added to the TIF so the people could vote on the matter?

Attorney Epstein stated if the Town wanted to include the credit enhancement agreement in the TIF, they would have to go through the same process that they have thus far, prepare an amendment to the plan, have a public hearing, that process would require town meeting approval.

Pam Slattery-Thomas suggested that it would promote good faith if the option was in the TIF and the voters could vote on the matter.

Chair Blanck said that we found that we don't need a credit enhancement agreement so it's superfluous. He said one other thing is, that the money that is captured, any project that is over \$75,000 will go to referendum vote.

Town Manager, Gordon Billington added that any amount spent will require town meeting approval no matter the amount, amounts over \$75,000 require a referendum vote. He said any expenditure will go through the budget process with full public approval before it gets expended.

Councilor Stack explained that the credit enhancement was taken out because we didn't need it. He clarified that it wasn't taken out because we didn't want the voters to vote on the matter, it was taken out because we didn't want to be providing developers tax dollars for their development. That's what the credit enhancement does, it was in there by mistake.

David Call of Chelsea Drive asked the Town Manager if all spending had to go to the Town for approval does that include bonds under \$75,000?

Gordon Billington said that any expenditure requires voter approval.

David Call said so if this passes tonight you guys can't go out and issue 5 or 6 bonds for \$74,999?

Gordon Billington said that's exactly right, we cannot do that the voters reserve that right.

David Call said that you made a very good point – you took that out because you didn't need it, but why don't you have a vote to see if we want it. So it doesn't look like the Town Council is trying to pull something – he went on to say not that he thought that they were.

Councilor Stack said that's understandable question that people might have that's why he tried to clear that up.

David Call recalled that he had asked the Town Manager a few weeks ago why not let the town vote on it.

Gordon Billington explained that a town vote would only be advisory, he then asked that Attorney Epstein speak to this question.

David Call said that he has heard conflicting information regarding whether the town can vote on this.

Gordon Billington said that there is a watchdog group that has suggested otherwise, he said that it's his opinion that they are in error.

Attorney Epstein stated that the provision of Maine law states that the town's legislative body needs to approve the TIF. He said that there are two types of TIF's, one that's before the Council tonight that sets a list of eligible expenditures but does not authorize them. The other type of TIF involves a commitment of tax dollars to developers via credit enhancement agreements which is a contract that says the Town will pay back to the developer "x" percent or "x" number of dollars to finance certain projects by the developer. He explained that those two models were presented to a Town Council workshop this past summer. He went on to say that he was perhaps responsible for some of the confusion because he prepared two different documents – one that was for the town side only, here's the resolution that the Town Council would adopt. The other version would authorize what many call rebates to developers which would require town meeting approval and an article was prepared for that. He noted that's probably what added to the confusion. He said that what he heard back from the Town Council was that they didn't want to take the more controversial option of rebates to developers. He said that the final draft was as you see it tonight without authorization to expend tax dollars or authorization of credit enhancements.

Martha Hurd-Call of Chelsea Drive questioned if they wanted to designate an area outside the TIF District and include it, are you say that area is blighted?

Gordon Billington said that is an allowable category.

Martha Hurd-Call said that disturbs her because it allows for condemnation of properties through eminent domain laws, and are you authorized to do that?

Gordon Billington said that it isn't automatically authorized and it would take a vote of the legislative body and that would be highly unlikely to occur.

Martha Hurd-Call questioned if there were provisions for tax rebates, free land or improvements in the plan?

Gordon Billington said that it not in the plan.

Attorney Epstein concurred that those items are not included in this plan.

Martha Hurd-Call cited a law case regarding an eminent domain suit in New Haven where properties were deemed blighted and then turned over to a developer, she said that was approved by the Supreme Court.

Attorney Epstein confirmed that eminent domain was not part of this TIF.

Martha Hurd-Call asked if it was a possibility?

Attorney Epstein said that there is always a possibility, but it wouldn't be in connection with this, but some other valid purpose. He said that as the manager has indicated the history of the use of eminent domain by any municipality in the State of Maine is fairly rare.

Martha Hurd-Call questioned if they wanted to declare an area blighted would that go to vote?

Gordon Billington said that there would be full public input on that.

Dan Kasprzyk Steep Falls asked for clarification of page vii and Exhibit C, Education Tax Shift, he noted that it showed a tax rate of \$8.11 and the rate was pulled off the EDU279 Report. Is that number adjusted every year or it a fixed number for these calculations?

Attorney Epstein said that the number can change. The number is used as a constant, he said as previously mentioned these are just estimates, but they're the best numbers we have to work with today.

Daniel Kasprzyk said that on page vii talks that the tax rate assumes a 2 percent increase in years 15 through 30. When he looks at the educational piece he only sees the rate of \$8.11. He questioned if you keep that as a constant or do the year 15 through 30 include the 2 percent increase?

Attorney Epstein said that it was used as a constant for the 30 years. He then noted that the on page vii the tax rate column should say in years 1 to 30 not 15 to 30.

Gordon Billington said that he would make that correction to the application.

Daniel Kasprzyk said that on page ix the numbers appear to be fixed, how were they calculated?

Attorney Epstein explained that they used an average captured assessed value because to do a separate calculation would have added thirty pages to the document. So, the convention that many people use is an average.

Daniel Kasprzyk thanked the Town Manager for forwarding him the various updates on the application. He went on to say that a statement had been made that the watchdog group made an error in one of their statements. He said as a member of that group, that question was sent to an attorney and the response that they received was in regards to a referendum was as he quotes, "I don't think that a referendum in such case where the council voted to put the matter of enacting or repealing an ordinance to referendum would be non-binding suggested". Mr. Kasprzyk went on to say that every attorney has a different view, but their opinion still stands.

Gordon Billington said that he agreed with him in regards to ordinances being put out to a referendum vote, this is not an ordinance.

Pam Slattery-Thomas questioned a previous speakers comments regarding eminent domain and re-iterated her concern with the Old Red Church being included in TIF District?

Chair Blanck explained the reason that the church and other buildings such as that are included is to keep it a continuous plot of TIF District. He went on to say that the TIF District can be changed by vote. He then cited the requirement of 25% of the available land being eligible to be developed in the TIF.

Councilor Stack questioned how residents outside the TIF District are affected by the TIF? He then noted that he has put together a presentation to explain this question. For his example it assumes 1,000,000 increase in valuation. His comparison showed the difference between the valuations being in a TIF District and not included in a district. In regard to a TIF District a million dollar would translate to 12.08 in the tax rate, ~~\$1,280~~ \$12,080 is the amount would go into the TIF fund. The town's valuation would stay the same because the state does not recognize the TIF District valuation, that's where the sheltering comes in. The contribution to SAD 6 would be the same, revenue sharing would not be reduced, and county tax would not increase either due to the sheltering caused by the TIF District. He noted that our mil rate would remain the same. He said in the non-TIF situation, using the million dollar scenario, \$12,080 dollars would go into the general fund. The town's total valuation will go up, relating to .01 ¢ on the mil rate. At this point we'd reduce the mil rate by .01 ¢, but we'd had an additional increase to SAD 6 of \$8,120, an ~~increase~~ decrease for revenue sharing of \$848, and increase of \$592 for county taxes. He said that what we'd end up with is \$2,530 out of the \$12,080 and a tax rate of 12.078 versus \$12.08. He said that 2/10 of a cent represents about \$2,000 over the whole town. He said on a \$200,000 home it would be a difference on your tax bill of .40 ¢ a year. He said if you take the \$12,080 in the TIF compared to the non-TIF we end up with \$2,530, then subtract that from the \$12,080 and \$2,000 in tax relief we'd end up with a net to the town would be \$7,550. What this is saying is the \$7,550 would be the spendable in the TIF District.

Gordon Billington said that a key point is that we'll be making expenditures in that district, we can make them through the TIF or the general fund. He said that TIF District dollars will reduce outside tax dollars to pay for the infrastructure improvements. He noted that TIF funds cannot be used for operational expenses.

Chair Blanck said that this is the first-year example, over the 30-year life of the TIF everything is sheltered from the state.

Councilor Stack said that the effect to tax payers outside the TIF District is negligible. The overall town benefits by \$7,500 by the increased TIF valuation.

Gordon Billington complemented Councilor Stack on his presentation.

After a public hearing without additional council or public input the Council voted on the order and the hearing was closed.

VOTE: 7 Yeas

COMMITTEE REPORTS

Councilor Pomerleau noted that the Public Safety Committee met to discuss the closing of the Limington Bridge during the construction project. He said that the closure will have a huge impact on traffic, he noted that the town will install signage to get the word out about the closure.

Councilor Pomerleau noted that Capital Improvements met to discuss the 10-year plan and the tough plowing season.

Councilor Sargent said that the Appointments Committee met and may have an appointment at the next meeting. He noted that he is a member of SAD 6 Budget Advisory Committee and they next meet on February 20 due to weather conditions.

Councilor Olson said that the Steep Falls Master Plan Committee met on February 6, they continue to work on the plan, their next meeting scheduled for March 20.

Councilor Olson said the Standish Advisory Group will meet tomorrow at 8 a.m. Due to lack of agenda items the Economic Development Committee meeting has been cancelled.

Councilor Stack said that the Ordinance Committee continues to work on four ordinance changes regarding the Land Use Ordinance. He thanked Steve Nesbitt and Bud Benson for their efforts on the ordinance work.

Councilor Spencer announced that the Finance Committee met yesterday and the town's finances are in good order. The town will go out for a TAN, but only use the funds if necessary.

Councilor Thompson said that the Beach Committee met on Thursday to finalize the engineering study of the road and parking area. The February 25 Council workshop will bring those plan up for discussion by all. On February 20 the Beach Committee meet to go over the management plan and the lease proposal.

CONSENT CALENDAR

There were no items on the consent calendar.

UNFINISHED BUSINESS

99-13 Order of the Discontinuance of a Road – A Portion of Emery Road (Postponed at the 11/12/13 meeting for six months) [Blanck]

This item remained on the table.

NEW BUSINESS

11-14 Amendment to Standish Town Code, Chapter 181, Land Use, Multiple Sections Regarding Manufacturing (Introduction) [Stack]

Moved by Olson seconded by Stack and voted to dispense with the Clerk's reading of the ordinance. (Unanimous)

Council Stack explained that this came forward because of the need for light manufacturing in town. He highlighted that the changes require a conforming lot, cannot be in a cluster subdivision, conservation subdivisions in the Shoreland Zone. Businesses' would be limiting to 2,000 sf of gross area, the operation has to be completely inside the structure, and outside storage is not allowed to qualify for the light manufacturing. He said that one of the reasons that he endorses this is not long ago a contractor was denied an opportunity to start a business because this was not in place.

Councilor Pomerleau said that he appreciated the work of the committee. He said that one of his companies is located in another town because light manufacturing wasn't allowed.

Councilor Stack thanked Steve Nesbitt for his work on this ordinance.

Moved seconded and voted to move this item to First Reading at the regular meeting of the Council in March. (Unanimous)

12-14 Amendment to Standish Town Code, Chapter 181, § 181-17, Signs and § 181-10 Industrial Districts (Introduction) [Stack]

Moved by Spencer seconded by Olson and voted to dispense with the Clerk's reading of the ordinance. (Unanimous)

Councilor Stack said that this will allow signage in the district in a similar way as is allowed in the Village Center. He noted that this amendment doesn't include colleges as a permitted use and should be added.

Moved by Stack seconded Spencer and voted to add (4) colleges and renumber the remaining items. (Unanimous)

Councilor Pomerleau noted that this was positive for businesses.

Moved seconded and voted to move this item to First Reading at the regular meeting of the Council in March. (Unanimous)

13-14 Emergency Amendment to Standish Town Code, Chapter 181, Land Use; Article III, District Regulations; Section 181-7.1, Standish Corner District [Stack]

Moved by Olson seconded by Stack and voted to dispense with the Clerk's reading of the ordinance. (Unanimous)

Councilor Stack said that this came up as a result of a situation at Standish Corner. He explained that a new commercial subdivision was started and under the current ordinances, the pioneer lot or first lot in the subdivision is required to put in the entire road. This amendment will provide that the subdivision owner put in half of the road, when the second lot is sold then the road had to be built to subdivision standards. Councilor Stack said that an amendment is needed to paragraph (e), it should be changed to a stand-alone paragraph renumbered [5].

Gordon Billington said that this amendment would clarify who would be responsible for the upgrade to the road.

Moved by Stack seconded by Sargent and voted to amend the emergency ordinance as follows:

[5] (e) as soon as the shared access is to serve more than the Pioneer Lot, the entire width and length of the allowable SCD street frontage type shall be built to the allowable SCD street frontage type on the Pioneer Lot.
(Unanimous)

Councilor Sargent questioned if the 5,000 square foot – foot print in section (7) (a) was correct.

Gordon Billington said that it was.

Councilor Stack explained that this becomes effective on March 4, 2014 to allow the Planning Board to have their required Public Hearing on March 3, 2014.

Daniel Kasprzyk questioned why there was a need for an emergency ordinance.

Chair Blanck said that during the Family Dollar review process the Planning Board requested that they change the facade of the building to blend in the character of Standish Corner. Family Dollar has funding to do the facade or the road, but not both. It came to the point where they were considering pulling the application, this change may allow them to do both.

Gordon Billington explained that when this ordinance was initially developed an economic impact study was not done to determine what the costs would be to a developer. Many others in the retail/sales category.

VOTE ON EMERGENCY ORDINANCE: 7 Yeas

14-14 Amendment to Standish Town Code, Chapter 181, Land Use; Article III, District Regulations; Section 181-7.1, Standish Corner District (Introduction) [Stack]

Moved by Blanck seconded by Sargent and voted to dispense with the Clerk's reading of the ordinance.
(Unanimous)

Moved by Blanck seconded by Spencer and by voted to amend the emergency ordinance as follows:

[5] (e) as soon as the shared access is to serve more than the Pioneer Lot, the entire width and length of the allowable SCD street frontage type shall be built to the allowable SCD street frontage type on the Pioneer Lot.
(Unanimous)

Moved seconded and voted to move this item to First Reading at the regular meeting of the Council in March.
(Unanimous)

15-14 Disburse Funds from the Gertrude M. Hasty Fund to the Trustees of the Old Red Church [Blanck]

Chair Blanck read the letter from the trustees and explained that this order is needed to disburse the funds.

VOTE: 7 yeas

16-14 Town of Standish Town Council Orders Authorizing Tax Anticipation Borrowing [Spencer]

Councilor Spencer noted that the funds will only be used if necessary, it is thought the funds will be paid back the end of May.

VOTE: 7 Yeas

17-14 Annual Recommendation to Adopt 10-Year Capital Plan [Pomerleau]

Councilor Pomerleau said that every year the Capital Improvements Committee reviews the 10-year plan. He said that it's a wish list of the departments, he explained that many times items are moved out a few years. He said that this year they added a salt storage shed for 2017 FY. This year it \$7,000 is earmarked for a new traffic van. He said that he didn't think that was enough and would like to see it bumped up to \$10,000. He said that he had questioned the life expectancy on the Jaws of Life, and it was confirmed that it passed its 10-year life expectancy. He highlighted a number of items to include the upgrades to the dispatch radio system and municipal beach estimates.

Gordon Billington noted that the National Guard has been contacted to see if they can help with the construction of the road. If they can, the earliest that they can assist us would be 2016. More information relating to that will be at the discussed at the February 25 workshop.

Councilor Pomerleau continued reviewing the 10-year plan, by noting that Public Works is cut and dry, \$200,000 is needed for a replacement for our 2001 wheeler truck. He said that he'd like to see us try to chase down a used vehicle. He said that road maintenance and paving is cut and dry every year. He then asked Gordon Billington to expand on the Municipal Center's parking lot improvements.

Gordon Billington explained that the lower lot needs to be rehabilitated, especially to repair the depressions near the walkway and in front of the Fire Department bay doors.

Councilor Pomerleau asked Mr. Billington to explain the emergency need to replace the air system for the firefighters.

Gordon Billington explained that we refill our self-contained breathing apparatus here with a compressor. That compressor has failed, and the cost to repair the system would have been more than a new system. He said that the Fire Chief has been authorized to purchase the compressor for this necessity.

Fire Chief, Brent Libby explained that it is a specialize piece of equipment to replacing breathing air into the SCBA tanks for use during fires or dangerous conditions. The compressor is what refills those bottles.

Moved by Pomerleau seconded by Sargent and voted to amend the 10-year Capital Plan by increasing the Traffic 8 cargo van from \$7,000 to \$10,000. (Unanimous)

Daniel Kasprzyk noted that there may be federal grants available for the radios.

Chief Libby said that they have submitted grants in the past.

Daniel Kasprzyk noted that the school recently purchased a used truck from the state, he offered to forward that information on to the town. He then questioned if the sidewalk plan would be brought back to the voters.

Gordon Billington said that the sidewalks would be presented to the voters.

Daniel Kasprzyk questioned why the field maintenance and hydrant fees were in the capital plan.

Gordon Billington said that it is for improvements to the capital that is there at the field and new dry hydrants in various locations.

VOTE ON ORDER AS AMENDED: 7 Yeas

18-14 Call for Public Hearing for FY 2015 Municipal Budget [Blanck]

VOTE ON ORDER: 7 Yeas

19-14 Authorize Standish Memorial Post 128 of the American Legion to Hold a Charity Toll on Moody Road [Stack]

Councilor Stack stated that this is an annual fundraiser for Post 128. The proceeds support the American Legion baseball team and other community efforts.

VOTE ON ORDER: 7 Yeas

PUBLIC ITEMS

Daniel Kasprzyk announced that Councilor Sargent has joined the SAD 6 Budget Advisory Board and everyone is pleased.

Councilor Sargent noted that residents need to be ~~aware~~ aware the Portland Water District has added a number of new trails to the area from the ball field to Route 237. He announced that the Sebago Lake Ice Fishing Derby is the weekend.

Chair Blanck said that on February 14 an ice skating party will be held at the rink in Steep Falls.

Councilor Stack explained that at Thanksgiving a family in North Gorham lost their small dog. Since that time there were sighting of the dog and many were looking out for the dog. Our Animal Control Officer baited have-a-heart traps to try to capture the dog. Finally, at the end of January the dog was caught and returned to the family, and is doing well.

ANNOUNCEMENTS

Several upcoming meetings were announced.

EXECUTIVE SESSION

Moved seconded and voted to move into an Executive Session on the following matter (Unanimous), no business will be taken up after the executive session:

Personnel matters pursuant to 1 M.R.S.A. §405(6) (A)

ADJOURN

Moved seconded and voted to arise from the Executive Session. The Council arose from the Executive Session at 10:00 p.m. by unanimous consent the meeting adjourned.

Submitted by: S/Mary Chapman
Clerk/Secretary

PLEASE NOTE: THESE MINUTES ARE NOT VERBATIM. A VIDEO RECORDING OF THE MEETING IS AVAILABLE AT THE TOWN CLERK'S OFFICE DURING REGULAR BUSINESS HOURS