

Standish Town Hall

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Town Council Meeting Minutes 5/12/2015

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**MINUTES
TOWN COUNCIL MEETING
STANDISH, MAINE
TUESDAY, MAY 12, 2015
STANDISH MUNICIPAL CENTER
7:00 PM**

CALL TO ORDER

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

ROLL CALL

Councilors present: Nesbitt, Olson, Pomerleau and Sargent.

Councilors excused: Blanck, Newbegin and Spencer.

MINUTES OF PREVIOUS MEETING (S)

The minutes from the April 14 meeting were accepted as presented by unanimous consent.

PETITIONS AND COMMUNICATIONS

Louis Stack of Whites Bridge Road thanked them for the opportunity for the American Legion Post 128 to hold a toll road event at the Transfer Station on May 2nd and 3rd. He thanked all that donated to the cause. He went on to say that the Route 113 Corridor Committee held their cleanup day on May 2nd. He thanked Donal, Martha and Jennifer Drew, Deborah Boxer, Marilyn and Jim Hult, Phil Pomerleau, Steve Nesbitt and Wilma Stack for assistance at this event. He continued to explain that the American Legion Post 128 would be holding an Armed Forces Day event on Saturday, May 16 at the Kiwanis Club, he encouraged the public to attend.

He noted a Memorial Day event will be held at the Municipal Offices on May 25 at 10 a.m. Mr. Stack announced that on May 30 the new bridge over the Saco River in Steep Falls will be dedicated at 10 a.m.

REPORT OF THE TOWN MANAGER

Mr. Billington spoke on the following items:

- The Recreation Department is holding a cleanup day at Johnson Field on May 30 beginning at 8 a.m.
- The state auditor reviewed our tax records and determined that the property valuations are close to 100% which means that valuations are close to the market value of the property.
- On Wednesday, May 27 from 8 a.m. to 9:30 a.m. the town's computers will be upgraded.
- Street sweeping process has started, it takes approximately 6 week to complete the process.

- Curfew signs have been erected in our town parks/facilities.
- National Public Works week is celebrated this week, our Public Works Department will hold an open house on Saturday, May 16 from 9 a.m. to 1 p.m. at our recently expanded Public Works Building.
- Public Works took delivery of a new truck equipped with a stainless steel body. The stainless steel body had been ordered by the state but not used so the town received a great deal on the body.
- The Code Enforcement Officer reports that building permit fees are souring in due to the surge in building activity.
- Cameras will be installed at the Mill Street Park due to the vandalism at the park.
- The Boat launch is up and running.
- There is emergency dispatch job opening. The position is first offered in-house, if needed, it will be posted to the general public.
- We are close to getting DEP approval for the beach project.
- The Limington Bridge has been renamed by the state legislature to the Veterans Memorial Bridge. The dedication ceremony will take place on May 30 at 10 a.m.
- On Thursday, May 21 the town offices will close at 3 p.m. for the annual insurance update for employees.

Summer Spectacular Committee Announcement of Parade Grand Marshal

Recreation Director, Linda Brooks announced that Dorothy "Dotty" Hulit, a long-time resident and educator in Standish was selected to be the Grand Marshal of this year's Summer Spectacular Parade.

Departmental Report – Mary Chapman

The Clerk provided a PowerPoint presentation that highlighted the office duties; and she showed samples of the various town books that contain town records.

PUBLIC HEARINGS

Information Hearing for upcoming June 9, 2015 Municipal Referendum Questions

Town Manager, Gordon Billington explained that the voters will be presented with five referendum questions. **Question 1** is for the Public Safety Department to acquire a new ambulance and replace a pick-up truck. The current vehicles that this vote would replace both need extensive repairs. It also provides for improvements to Fire Station 3 in Steep Falls to construct facilities for house live-in students who would then provide station coverage.

Question 2 provides for improvements to Standish Memorial Park to include engineering costs, parking lot expansion and egress from the facility off an adjacent road. The future envisions 2 to 3 dedicated baseball and 2 – 3 dedicated softball fields, soccer fields, a centrally located concession, playground equipment, and a dog friendly area. **Question 3** is for the acquisition of a lease for the Cargill Beach. He noted that Standish residents have long identified the desire for a beach on Sebago Lake, this would be dedicated to Standish residents and shared with the boating club. Ice fishing would be allowed at the facility in the winter. The National Guard has been asked to assist us with the labor involved in the construction of beach.

Question 4 is for pavement and maintenance of number of roads including Harmon's Beach Road which was last resurfaced in 1999; Saco Road will be done in the compact sections, it was last resurfaced in 1999; also the intersection of Route 35 and Ossipee Trail will be resurfaced to protect the wiring for the traffic lights.

There were no public comments.

Councilor Nesbitt said as a member of the Beach Committee he clarified that the town will be purchasing the right-of-way to get to the beach property. We will be leasing the Portland Water District property for 25-years, we are not buying the beach. He said that the beach will be coming off of Harmon's Beach Road, however, the paving and rehabilitation of the Harmon's Beach Road is a separate project which was brought up separately, they are not interlinked. He said the work on Harmon's' Beach Road is needed because it is in bad shape.

There was no additional public or Council discussion and the hearing was closed.

17-15 Amendment to Standish Town Code, Chapter 181, Land Use, Multiple Sections, Regarding the Regulation of Medical Marijuana Dispensaries and Cultivation Facilities [Blanck]

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

Councilor Nesbitt a member of the Ordinance Committee explained that this is a proactive measure to create a defined use for medical marijuana. He noted that this ordinance allows for this type of facility in industrial districts, including performance standards, how close it can be to certain other facilities such as schools and churches. In addition, the ordinance regulates the facilities security and hours of operation.

Alta Harding of Deer Hill North and a Planning Board member voiced her concerns relating to this ordinance. She announced that she is a member of the Green Independent Party, they are working towards legalizing the recreational use of marijuana. She stated in her opinion there were several red flags in document, including that it's only allowed in the industrial district. She went on to explain that she reviewed that state law regarding this which allow municipalities to adopt ordinances to deal with this matter, however, the local ordinance cannot be more restrictive than the state law. She cited the distance that a facility has to be from a daycare under the ordinance is 250 feet but the state law says it has to be 500 feet from a daycare. She asked where did they get this ordinance, from a lawyer or a dispensary. She compared the regulations regarding the facility to Hannaford's Drug Store who also dispenses drugs and has limited restrictions. She asked that this go back to committee for further review. She questioned the section that states there has to be a certain distance between facilities, but in another section it says that only one dispensary is allowed in town.

Town Manager, Gordon Billington explained that there may be a facility in a neighboring town that our town's facility would have to be a mile from.

Chair Sargent reminded the speakers of the 5-minute time limit per topic.

Alta Harding questioned that parking standards that the Planning Board would have to deal with, it was her opinion that the wording was 419973182vague419973182Mary Chapman and was overkill if it is only a grow facility. She said that it was her opinion that Standish doesn't need to have this ordinance since the state law is in place. Lester Ordway of Richville Road said that he has brought this up in the past, but he'd like to see the regulation of methadone clinics in our ordinances.

Councilor Nesbitt explained that they started with a model ordinance that the Ordinance

Committee reviewed and adapted to our needs. He said that he understands Alta Harding's concerns, but medical marijuana is still a controversial topic that the town needed to deal with proactively. He said that this has been through legal review and properly vetted.

Councilor Olson explained that any ordinance is subject to amendment, she said that this puts the subject down so there are guidelines in case an entity is considering bringing a dispensary to Standish. She said that this is a point to work from, is more prudent than having no guidelines. This is a good model that can be amended in the future if necessary.

Councilor Pomerleau noted that now we have a process in place, so we're not in a knee jerk reaction. All business in town have to meet certain criteria.

Alta Harding said that parking provisions are undefined.

Councilor Pomerleau noted all business have parking requirements.

Councilor Nesbitt recalled while on the Planning Board they often discussed parking requirements, he suggested that may be a topic for the Ordinance Committee to review. Chair Sargent mentioned that they needed four votes to pass this item this evening.

Councilor Nesbitt thanked Mr. Ordway for bringing up the topic of methadone clinics. Councilor Nesbitt said that our definition of medical clinic is very broad and can be interpreted in a number of ways. He said that he has done limited research on this matter and it should be further discussed by the Ordinance Committee.

Mary Hurley of Busque Blvd asked if someone has approached the town to open a facility.

Councilor Nesbitt said that about a year ago there was an inquiry about opening a growing facility, to his knowledge, that business never came to be.

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

The Clerk noted that the Planning Board held their required public hearing on this amendment earlier in the month.

VOTE: 4 Yeas

18-15 Amendment to Standish Town Code, Chapter 181, Land Use, Multiple Sections, Regarding Minimum Lot Size without Public Water [Blanck]

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

Councilor Nesbitt explained that this was brought forward by the town Planner to correct an inconsistency. This only applies to Steep Falls Village.

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

The Clerk noted that the Planning Board held their required public hearing on this amendment earlier in the month.

VOTE: 4 Yeas

COMMITTEE REPORTS

Councilor Nesbitt noted that the Beach Committee met last Thursday to get everyone up to speed. As mentioned earlier, this will be presented to the voters at referendum. He said that DEP is working with our consulting firm Gorrill-Palmer on a ground water plan. He continued to explain that a lease agreement with the Portland Water District is pending.

Town Manager, Gordon Billington said that we have a final lease that has been reviewed by both the Town's and the Water District's legal counsel, it has been forwarded to the PUC for review. He said that next step is that the PWD Trustees and Town Council will have to approve the lease.

Councilor Nesbitt said that the Army Corp of Engineers is looking into helping with this project. In addition, the management plan and lease with the boat club are documents that are under review. He mentioned that the owner of Family and Friends Campground attended a recent Beach Committee meeting and questioned if his customers would be allowed to utilize the beach, he currently sends his customers to Naples to use the beach. Further discussion regarding this question would be needed since the beach's intended use is for Standish residents and the boating club.

Councilor Nesbitt said that the Ordinance Committee continues to discuss the Steep Falls Village plan.

Councilor Nesbitt announced that from the Finance Committee revenues are on track, excise tax and state revenues are above the estimates. On the expenditure side, things are looking good, it appears that all departments are on budget. There are two items from Finance that will be discussed later on the agenda. The Committee has also started to look at which tax acquired properties will put out to bid.

Councilor Olson noted that the Economic Development Advisory Group has changed meetings to evening meetings. The next meeting will be held on May 13 at 5:30 p.m. at the law firm of Beagle Steeves and Ridge on Route 35.

Councilor Pomerleau announced that the Public Safety Committee met and discussed the flags hanging program for the villages. They also discussed the installation of a light at the boat launch for safety purposes.

Councilor Pomerleau noted that the Route 113 Corridor Committee conducted their annual clean-up day. He thanked all who participated in the annual event.

Chair Sargent mentioned that the Appointments Committee have a meeting next month. Chair Sargent said as a member of the BAC the schools budget is coming right along. He said that it's been a hard budget to put together not knowing about the funding coming from Augusta.

Councilor Olson said that the assessment for Standish for the school budget will increase 6.5%,

those who may be concerned should attend the meeting.

CONSENT CALENDAR

There were no there were no consent calendar items on this agenda.

UNFINISHED BUSINESS

35-15 Amendment to Town Council Rules of Procedure [Sargent]

Chair Sargent said that this was a housekeeping matter.

There were no additional comments on this order.

VOTE: 4 Yeas

NEW BUSINESS

37-15 Revise Outstanding Personal Property Tax Collection Policy [Spencer]

Councilor Olson suggested dispensing with the Clerk's reading of the order, but since they had just passed the amendment to the Rules of Procedure that require a minimum of five votes to dispense with the reading, would they be able to do so.

The Clerk noted that at any time they can suspend the rules of procedure.

Moved by Olson seconded by Nesbitt and voted to suspend the rules regarding dispensing the reading of orders. Councilor Pomerleau said that he had concerns about this order since it was very important. (Unanimous)

Town Manager, Gordon Billington explained that this policy only effects the Finance Director because it relates to the collection of personal property taxes. He said that the Assessor is here tonight to explain the laws regarding the assessment of personal property taxes.

Town Assessor, Peter Arnemann clarified that the law regarding personal property taxes is found in Title 36 of the Maine Statutes. He said that the general interpretation is that it is a tax on business property, items used in the business such as desk, chairs, computers and tools. He said it does not encompass registered vehicles or items that are for sale. He said that the state is currently working on getting out of personal property. He said that there are state run programs that reimburse or exempt items from this tax. He expounded that in Standish we have approximately a billion dollars in taxable valuation of that 5 million is in personal property which relates to one half of one percent of the total valuation. He said that it's a difficult program to administer, with limited town staff, and the bills tend to be small which people tend not to pay. He said that he devotes most of his time to real estate tax assessments.

Councilor Pomerleau said that he appreciated the information.

Gordon Billington explained that one of the administrative problems with this program is that businesses are not required to register with the town. He said that we have a list with approximately 150 known businesses which may not be all inclusive.

Peter Arnemann cited a scenario where a resident has a computer business in their home, however there is no signage to indicate that a business is located there. He noted that the town has asked the resident to provide the town with a list of the businesses' equipment, but at this time the list has not been submitted.

Councilor Pomerleau recalled at a public meeting he was called on the personal property taxes not being paid on a building that he leased to another individual. He said that right now it's the

honor system – a form is sent out and then returned to the town. He went on to say that the businesses that aren't in the system don't pay anything. He said that until we can find a way to tax every taxpayer fairly this should be tabled and the tax done away with. He said that many towns ignore this taxing requirement. He said that the council needs to look at this.

Peter Arnemann said that he doesn't agree with the process, however is required to enforce it by law.

Councilor Olson questioned how much is collected annual for the tax.

Peter Arnemann said that it is five-million dollars worth of valuation.

Finance Director, Scott Gesualdi explained that a policy was put in place a couple of years ago that allowed us to take the unpaid amount to a collection agency. Back in January at a Special Town Meeting the write-off of those taxes was defeated and what was brought forward from that was a meeting with our attorney to develop a policy to deal with the collection of personal property taxes. This policy is framed so the collection process is enforceable. Mr. Gesualdi explained the elements of the policy include reviewing the tax records in April, mailing a letter to the taxpayer, then a Council order listing the property owners, a subsequent letter to the taxpayer, finalizing in June with a Council vote after consultation with legal counsel, and finally the decision to take the taxpayer to small claims court.

Councilor Pomerleau said that he was concerned about listing the property owners name in the town report.

Gordon Billington explained that is required by law, we do it now.

Scott Gesualdi expounded that there is a fee for filling each claim at small claims court.

Councilor Pomerleau commented that the fee, coming to the Council and then going to court seems out of control. He said that this needs to go to workshop to find a solution for the matter.

Chair Sargent said that this is just a clarification on an existing policy, this gives a clear process for the department. In fairness to Councilor Pomerleau's concerns, in the past we've had uneven enforcement of the process.

Isabel Higgins of Bonny Eagle Road questioned if someone had looked into how much money is involved in this tax issue – how much is collected and the costs to go small claims court.

Scott Gesualdi said that he didn't do any number crunching, but in past review the collection agency route was cost effective. He explained that the agency would get 30% we would get 70% of the amount collected. Through this policy would be getting the full amount but paying the costs.

Gordon Billington said that the attorney's recommendation was to take a sampling of taxpayers to small claims court to send the message that you mean business.

Councilor Olson said that this is a lot of effort for \$60,000, this matter of collection should have further discussion. She said that the staff needs a policy in place for collection, another

discussion is needed for the assessment process.

Councilor Nesbitt recalled that in January we wanted to write off this bad debt, we needed to come up with a process to deal with the debt. Our attorney suggested that we regularize the process and this is the policy that was developed. He then question that Section A says that we'll all to small claims court.

Moved by Nesbitt seconded by Olson and voted to amend the policy as follows:

- A second council order will be generated and brought forth to the June Town Council meeting to authorize the Town Attorney to take all necessary actions, including filing civil lawsuits, to collect ~~any and all~~ as recommended by the Finance Committee delinquent personal property taxes, including interest and costs of suit, for the municipal tax years 20__ through 20__ against those named on the attached list.

VOTE ON AMENDMENT: 3 Yeas – 1 Nay, Pomerleau

Councilor Pomerleau said he was against the amendment, so it wasn't unanimous and it failed.

He said that this really needs to go to workshop for further discussion.

Chair Sargent said that one of the rules of collection is not to spend more money to collect than is owed. There has to be some guidelines and use of common sense.

Councilor Nesbitt said that this was brought forward through our auditors, so we need to have more discussion to bring this forward.

Councilor Pomerleau cited a number of businesses in town where it showed a huge discrepancy in their assessment even though they are a similar business.

Gordon Billington said that the collection of personal property taxes are governed by law and we are bound to collect them under law. He suggested that legal counsel attend the workshop for further discussion of this matter. He then suggest that more funds could be put into the Assessing Department for staff to do an inventory of the personal property.

Moved by Pomerleau seconded by Olson and voted to move this item to the May workshop. (Unanimous)

Peter Arnemann said that Scott has been put in a terrible position here. In January there was a public outcry not to do that and now he does not have the tools to go after the people or do away with the debt.

38-15 Revise Fund Balance Policy [Spencer]

Moved by Olson seconded Pomerleau and voted to waive the reading of the order. (Unanimous)

Finance Director, Scott Gesualdi explained that these amendments will make us compliance with our fund balance.

Councilor Olson said that was this does is set aside two months of funds of operating costs.

VOTE: 4 Yeas

39-15 Authorize Sale of Tax Acquired Property to Previous Owner and Authorize Finance Director to Issue Quit Claim Deeds on Previously Tax Acquired Property [Spencer]

Moved by Pomerleau seconded Nesbitt and voted to waive the reading of the order.
(Unanimous)

Chair Sargent explained that the property owner is re-acquiring their property that had become tax acquired.

Councilor Olson commended the Finance Director and staff for seeing that the taxes get collected.

VOTE: 4 Yeas

40-15 Change Date of Regular Council Meeting in June to June 2, 2015 [Sargent]

VOTE: 4 Yeas

41-15 Counter-sign the MSAD 6 Budget Validation Referendum Warrant and Notice of Election [Sargent]

The clerk noted that the warrant has not yet been delivered, after consultation with legal counsel, the order should be approved and the Councilors can sign the warrant once it's delivered.

Councilor Pomerleau asked if we know what they're coming in at.

Councilor Olson said that the increase will be 6.5%. She noted that the school is still waiting to hear what the state funding will be, the budget is on their web site.

Councilor Pomerleau said that when the school presented their budget last month he asked that they return to update the Council on the budget's status. That's never happened and now they want us to sign the warrant.

Councilor Olson said that this needs to be done for the vote.

Gordon Billington said that as awkward as it may seem the Council by law must counter-sign the school warrants.

Chair Sargent said that you can vote in down on Election Day, but we have to counter-sign it to bring it to the vote.

Councilor Pomerleau said that it was unbelievable that we have to move this forward even though we don't have the final numbers.

Chair Sargent said that we have to move this information forward, the town has one timeline and the school has a different timeline to follow. This has to move forward so the voters and vote in June on this matter.

Lester Ordway said that the budget for the school has been wide open, he noted that 1/3 of the BAC is comprised of Standish residents. He said that the problem with their budget is they have to live with what they bring forward not knowing what the state will provide. He said that much of the increase is because the state is cutting back what they are sending.

Chair Sargent said that the BAC spent many hours going over the budget, he said that they don't like the increase but with decreased funding from the state and increased mandates this is what we're got to pay. He said that the state is mandated to pay 55% to general aide to education, but no administration has ever paid it. He said that we're paying 51% so you can see who is picking up the slack. He said that people should voice their frustration to their legislators.

Councilor Nesbitt encouraged people to attend the budget hearing and then vote at referendum.

VOTE: 4 Yeas

42-15 Appointment of Ballot/Election Clerk [Sargent]

VOTE: 4 Yeas

PUBLIC ITEMS

There were no public items.

ANNOUNCEMENTS

Several upcoming meetings were announced.

Chair Sargent mention that Portland Water District will a Trail Day on May 16.

EXECUTIVE SESSION

An executive session was not needed at this meeting.

ADJOURN

Moved by Nesbitt seconded by Olson and voted to adjourn. The meeting adjourned at 9:07 p.m. by unanimous consent.

Submitted by: S/Mary Chapman
Clerk/secretary