

**MINUTES
TOWN COUNCIL MEETING
STANDISH, MAINE
TUESDAY, OCTOBER 10, 2017
STANDISH MUNICIPAL CENTER
7:00 PM**

CALL TO ORDER

Chair Pomerleau called the meeting to order and the Pledge of Allegiance was recited.

ROLL CALL

Councilor present: Delcourt, Higgins, Libby, Nesbitt, Pomerleau, Sirpis and Starostecki.

MINUTES OF PREVIOUS MEETING (S)

The minutes from the September 5th, 12th and October 4 Town Council Meeting minutes were approved by unanimous consent after the following corrections:

Moved by Sirpis seconded Libby and voted to amend the September 12 minutes on page 3 to delete the reference to Mr. Sirpis' employer.

Moved by Higgins seconded by Libby and voted to amend the September 12 minutes on page 11 to change the word revues to revenues.

PETITIONS AND COMMUNICATIONS

Both the Town Manager and Town Clerk reported that neither had received any petitions or communications.

REPORT OF THE TOWN MANAGER

Mr. Billington announced that the annual *Spooktacular* Halloween event held by the Recreation Department will be held on October 28 at the George E. Jack School. An evening of food and fun starting at 7 pm is planned, attendees are encouraged to wear their Halloween costume.

Mr. Billington brought to their attention to what he thought was a real success story of an entrepreneur here in Standish. He explained that for the past 30-years this individual has cast concrete architectural products that are used to replace old building facades. Recently, this individual and his son, a chemist, have developed a new product. They've developed a product that lightens the concrete casts thus reducing the weight of the product. In addition, the product when formed into thin sheets and made into a box has properties to provide heat reduction. He said that the FAA and airlines believe that this will be beneficial in their industry. He noted that there has also been discussion regarding lining the entire cargo hold with material to contain a fire. They are also developing a carry-on bag using this product.

The Town Clerk provided a report that included an update to the recent change in the law regarding nomination paper filing deadline and its impact on the Town's budget process. The Clerk also reminded them of the change in procedure regarding the election of MSAD 6 Director seats.

Councilor Nesbitt commented that the MSAD 6 Director's under this new procedure will no longer fall under the Town of Standish's term-limit requirements. He noted that the Town will have a vote to change our town charter next fall.

PUBLIC HEARINGS

79-17 Extension of Town of Standish Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Social Clubs [Higgins]

Moved by Libby seconded by Sirpis and voted to dispense with the Clerk's reading of the order. (Unanimous)

Councilor Higgins explained that this is an extension to the ordinance to allow time for the state to develop and approve the state requirements. She noted that the Ordinance Committee is in the early stages of looking at local ordinance requirements.

Chair Pomerleau called for public discussion. There was none.

Chair Pomerleau called for council discussion.

Councilor Starostecki said that when the referendum was presented to the voters last year there was 30-pages of regulations. The state committee added 62-pages of regulations, so nearly 100-pages of regulations govern this topic. It is his opinion that that this is well regulated, and town needs to be prepared to offer this in our town, so the business isn't taken elsewhere. He said that he has had ordinances drafted for the past 45-days regarding this issue and would like to hear from other Councilors on how to implement the ordinance. Councilor Starostecki thought that continuing the Mortarium Ordinance would be a detriment to the Town.

Councilor Higgins said that since the state legislation as not been approved, and it could face a veto by the governor, there's no way of knowing how long this may take.

Councilor Starostecki recalled that 54% of the voters of Standish voted in favor of this matter and there is nothing that he would want to add to the regulations.

Chair Pomerleau noted that a resident dropped off some reading materials related to medical marijuana that may be beneficial to the Ordinance Committee, she'll forward them on to her.

Councilor Starostecki said that in terms of job creation, he's been approached by at least five potential businesses that could bring a number of jobs to Standish.

Councilor Higgins said that she wished that there had been more public input.

Chair Pomerleau called for additional council discussion, hearing none she called for the roll.

After a public hearing without additional Council or public discussion the Council, the hearing was closed and then the Council voted on the Moratorium Ordinance

VOTE: 6 Yeas – 1 Nay, Starostecki

COMMITTEE REPORTS

Councilor Nesbitt explained that the Finance Committee will meet next Monday due to the Columbus Day holiday. There is a quit claim deed on the agenda tonight from the Finance Committee.

Councilor Starostecki noted that there was not a PWD Steering Committee report this evening.

Councilor Libby announced that the Capital Improvements Committee met last week. He advised that the firetruck purchase that was approved by the voters last fall is almost built and will be inspected by the Fire Chief. In addition, architectural prints have been received so the bid process can move forward on the Steep Falls Fire Station improvements. The Capital Improvements Committee has a few agenda items this evening.

Councilor Delcourt reported that the Personnel Committee will hold a meeting to discuss personnel matters, the meeting date/time is to be determined.

Councilor Higgins recounted that the Ordinance Committee met last month with Carol Wilbur who is an expert on Form Based Code. Councilor Higgins said that the committee continues to strive to simplify and make the Form Based Code more user friendly. She noted that Mr. Starostecki did have some draft ordinances to review regarding the marijuana issue.

Councilor Higgins said that recycling and solid waste numbers are down. The Recycling Committee will host a table at the Public Safety Fair to promote recycling and composting. Again, this year, the committee will create a recycling calendar using art work from students in Standish schools. The timeline for this program has been updated to ensure that the calendars are available at the beginning of the year.

Councilor Sirpis noted that the Economic Development Committee will meet on October 19 at 8:30 a.m. to discuss how to prioritize how to get businesses to get involved with the group. He asked that interested persons contact him by email.

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

Chair Pomerleau noted that the Public Safety Committee met to prepare the gift bags and discuss the last-minute details of the fair which will be held this Saturday.

CONSENT CALENDAR

104-17 Waive No-Parking Restriction on Saco Road for the Annual Craft Fair held by the Trustees of the Old Red Church [Pomerleau]

As provided by the *Rule of Procedure* this item was read by title only then voted on.

VOTE: 7 Yeas

UNFINISHED BUSINESS

Orders 74-17 – 77-17 remained postponed pending the receipt of additional information.

74-17 Road Acceptance Request Submitted by Shadow Woods, LLC for a Portion of Woodrow Drive [Pomerleau] (Postponed at the July 2017 meeting pending additional information)

75-17 Road Acceptance Request Submitted by Tompson Development, Inc. for a Portion of Lindsey Drive [Pomerleau] (Postponed at the July 2017 meeting pending additional information)

76-17 Road Acceptance Request Submitted by JoJo's LLC for a Portion of Nature's Way [Pomerleau] (Postponed at the July 2017 meeting pending additional information)

77-17 Road Acceptance Request Submitted by Cummings Acquisitions for a Portion of Rose Lane [Pomerleau] (Postponed at the July 2017 meeting pending additional information)

93-17 Fish and Game Conceptual Plan (Postponed at the September 2017 meeting pending additional information) [Pomerleau]

Moved by Sirpis seconded by Libby and voted to dispense with the Clerk's reading of the order. (Unanimous)

Councilor Sirpis noted that this order was discussed at last month's meeting, where a lot of questions came forward. He said that he will make a motion to withdraw the order so that they can start over with the process. He said that he will meet with the Fish and Game Club in order to get the information for the next Council order.

Moved by Nesbitt seconded by Higgins and voted to remove this item from the agenda. (5 Yeas – 2 Abstain, Libby and Sirpis)

100-17 Amendment to the Standish Town Code, Chapter 151, General Assistance Ordinance, Adopt Updated Ordinance and Tables for the Maximum Levels of Assistance as provided as Provided by the Maine Municipal Association (First Reading) [Pomerleau]

Chair Pomerleau called for public discussion. There was none.

Chair Pomerleau called for council discussion.

Councilor Higgins explained that these amendments keep us in-line with the state's requirements.

Mr. Billington explained that we have to adopt these guidelines. The new regulations were reviewed by our General Assistance Administrator, who thought that the dollar values were better in keeping the level needed.

Chair Pomerleau called for additional Council discussion, hearing none she called for the roll.

Moved seconded and voted to move this ordinance amendment to Public Hearing at the November Council meeting. (Unanimous)

NEW BUSINESS

105-17 Authorize Enforcement Action – Land Use Ordinance Violation – 583 Ossipee Trail – Tammy Demeritt - Map 27 Lot 36 [Pomerleau]

Chair Pomerleau called for public discussion.

Christopher Henderson of 532 Ossipee Trail West an abutter of the property in question explained that the condition of this property devalues his property which he just recently has done improvements to. He cited a number of conditions of the property and noted the sheriff's department has been to that address on a number of calls. On another matter, an adjacent property that had a fire last August still has not been cleaned up. He said that these properties need to be cleaned up.

Chair Pomerleau called for additional public discussion, hearing none she called for council discussion.

Councilor Starostecki questioned if the legal references in the order refer to Standish ordinances?

Mr. Billington noted that the references are to state statutes.

Daniel Hill the Code Enforcement Officer (CEO) explained that the resident at 538 Ossipee Trail West moved a mobile home onto the property without a permit and there are a number of violations related to the state junkyard statutes. The mobile home is a violation of town ordinances, the condition of the property falls under the state junkyard laws.

Councilor Nesbitt said that residents that feel they have a similar circumstances as this need to make an appointment with the CEO to lodge a complaint. The CEO then will inspect the property in question.

Councilor Sirpis asked what the enforcement would be and when will it take place?

Mr. Hill said what they will be approving tonight is allowing him to move forward to seek legal counsel to rectify this matter.

Councilor Sirpis asked if he has made contact with property owner in question?

Mr. Hill said that he had spoken with both the husband and wife regarding this property.

Councilor Sirpis asked when had he made the contact?

Mr. Hill said that on September 21 he spoke with the husband and with the wife on August 14.

Councilor Higgins asked if there was any help available to help the resident with the cleanup.

Councilor Starostecki asked if the mobile home was part of the cleanup?

Mr. Hill said that they were two separate issues, but they'll be brought to court at the same time. Chair Pomerleau called for additional Council discussion, hearing none she called for the roll.

VOTE: 7 Yeas

106-17 Authorize Use of Street Light Impact Fees for Installation Street Lights [Libby]

Moved by Libby seconded by Nesbitt and voted to dispense with the Clerk's reading of the order. (Unanimous)

Councilor Libby explained that this is relating to the St. Joseph's College projects.

Chair Pomerleau called for public discussion. There was none.

Chair Pomerleau called for council discussion. There was none.

VOTE: 7 Yeas

107-17 Award Bid and Authorize Contract for Purchase of Winter Sand [Libby]

Councilor Libby noted that there were four bidders, the lowest was Gorham Sand and Gravel at \$7.49 per cubic yard.

Moved by Libby seconded by Higgins and voted to amend the order by adding the name Gorham Sand and Gravel at a cost of \$7.49 per cubic yard. (Unanimous)

ORDERED that the bid from Gorham Sand and Gravel in the amount not to exceed \$7.49 per cubic yard as recommended by the Capital Improvements Committee for the procurement of winter sand is hereby accepted, and

Chair Pomerleau called for public discussion. There was none.

Chair Pomerleau called for council discussion. Hearing none she called the roll

VOTE ON ORDER AS AMENDED: 7 Yeas

108-17 Authorize Finance Director to Issue Municipal Quit Claim Deed to Russell Ridlon [Nesbitt]

Moved by Nesbitt seconded by Sirpis and voted to dispense with the Clerk's reading of the order. (Unanimous)

Councilor Nesbitt noted that this person had fallen behind in paying their taxes, however they've paid the back taxes by working with the Finance Director and finance team.

Chair Pomerleau called for public discussion. There was none.

Chair Pomerleau called for council discussion. Hearing none she called the roll

VOTE: 7 Yeas

109-17 Receive Request Regarding Municipal Action on Cram and Cabbage Yard Roads [Starostecki]

Chair Pomerleau called for public discussion.

Leith Smith and Holly Dickinson the prospective buyers of 6 and 10 Cabbage Yard Road were joined by Roberta Manter an expert on Maine Roads. Mr. Smith thanked the Council for placing the item on

the docket, so the status of the road could be addressed. He suggested that the timeline established in the two affidavits establishes that the end of Cram Road and Cabbage Yard Road were town ways because they were maintained by the town until 1971. He said that the affidavits also establish the timeline for abandonment, since after 1979 these roads were not maintained by the town. He said that with the affidavits the roads fit the criteria for statutory abandonment. He then read an email from Sally Daggett to Gordy Billington regarding the statutory abandonment. He said that their purpose of coming before them tonight was to request that the Council accepts the affidavits of the former road commissioners and that the status be submitted to the Cumberland County Registry of Deeds, so legal access to 6 and 10 Cabbage Yard Road can be established.

Roberta Manter the founder of Maine Roadways stated that the mission of the organization is to assist owners on abandoned and discontinued ways. She explained that she'd been involved with this cause for 40-years, noting that approximately 174 towns are or have dealt with these types road issues. She said the best outcomes are when the town's legislative body and the people work out what will work for both parties. She said that ones that go bad are the ones where the town won't listen to the people and a lawsuit is filed. She said in this instance the buyers are only asking for the legal status of the road to be determined. She cited the various options under law that were available in this circumstance to obtain access for the buyers.

Councilor Starostecki asked what would it take to make this road passible?

Holly Dickinson said at the least tree trimming so that traveling vehicles are not scratched. After, some general discussion of the road condition, Holly Dickinson continued to explain that there is a deeded easement down the Cram Road to the Gavenda's.

Councilor Higgins said that in the September packet there was memo from Roberta Manter explaining the options. She voiced her concerns regarding additional development on that road.

Holly Dickinson said that they want to retain area undeveloped as it is, noting the simplest solution would be to get an easement from the abutters.

Councilor Higgins questioned who had done the work on the property so far?

Leith Smith said that the Gavenda's had given them permission to work on the property.

Councilor Higgins asked for clarification regarding the affidavits, she noted that both refer to maintaining Cabbage Yard Road and the section of Cram Road between Dow Road (Route 35) and Cabbage Yard Road.

Leith Smith said at one time the Cabbage Yard Road went to Route 35.

Clifton Marean of Dow Road said that he had given the prospective buyers permission to use the road. Mr. Marean said that although he had not seen the Richardson's affidavits, it was his opinion that they were talking about plowing the Route 25 end of Cram Road. He said that all the culverts and work done the portion of road in question has been done by he and his wife. His father acquired the property in 1956 and it was deeded to him in the 1960's. Mr. Marean read from a letter he received from his brother who plowed for the town from 1948 to 1952 and during that time his brother recalled that the area had not been plowed by the town.

Councilor Starostecki asked him when the property in question was last occupied.

Mr. Marean said that it was vacant when they first built their home in 1970. He said that David Gavenda bought the house later on.

Councilor Starostecki said that you said that you're not stopping this couple.

Mr. Marean said that can pass anytime they want he just wouldn't put anything in writing.

Linda Griffin the real estate broker representing both the buyer and seller said that the buyer needs legal access to the property to obtain a mortgage.

Holly Dickinson said that Mr. Marean has told them verbally that they can pass onto the property, but they need that in writing to obtain a mortgage.

Richard Brown of Bonny Eagle Road an abutter of the property said that they can use his portion of the road, he continued to say that the only one that ever has worked on the road is Mr. Marean. He suggested that they buyer talks to the people that own the horse farm.

Leith Smith said that they have not pursued using that road because of the wetlands.

Roberta Manter suggested that if it is unclear who owns the road there is a legal document that can be drawn up where all parties quit whatever rights they might have. She said that they need something in writing to obtain a mortgage.

Neal Dow of Cape Road said to his knowledge no one has ever maintained the road.

Chair Pomerleau called for additional public comment, hearing none closed the public discussion.

Chair Pomerleau called for Council discussion.

Councilor Starostecki said that he has reviewed the ordinances and sees both sides of the matter. He suggested that the parties get together, review the deeds and try to come to a plan that works for all parties. With permission of the Council Chair, he asked the parties if they would be interested in doing that.

Mr. Marean said that he would not be interested in doing that.

Councilor Delcourt said that it's private property.

Councilor Nesbitt said that this was first brought up a year ago where there were public hearings where testimony was presented. At that time, based on the information brought forward, there was not enough evidence to answer the questions that the Council had. He said that the newly presented affidavits counter what was previously said by persons at the meeting, so where do they go from here? He suggested that a workshop be held to get more information regarding the legal aspects to this matter.

Mr. Billington explained that our legal counsel has told him that the affidavits presented here are not sufficient to assist the Council in making their decision. If it was re-opened, the testimony would have to take place here to determine the credibility of the information.

Councilor Nesbitt explained that at one time he lived on the other end of the Cram Road, the town plows the tarred portion, then onto the gravel section to the last house. He questioned if plowing is considered maintenance?

Chair Pomerleau said that she notes there is a conflict with the dates presented, the Gavenda's said that there was never maintenance provided, they purchased the property in 1973. Yet, in an affidavit it is stated that the road was maintained and plowed till 1979.

Councilor Sirpis said that he sees several issues here. The original owner purchased it in 1973 fully knowing what they had purchased. They've owned the property for 43-years and this is the first time this has come up. He was not sure why this is an issue now. He recalled that Roger Mosley the Public Works Director had said that in the 40 plus years that he's worked for the town the road had never plowed. He said that when the Council dealt with this last year we received the advice of our legal counsel. He said to his knowledge that since receiving this last month nothing has changed regarding the legal advice that we received. He said that this is an issue between abutters that needs to be negotiated between those parties noting that the Town has no jurisdiction in the matter.

Councilor Higgins said that she reviewed Roberta Manter's information and it seems that there is a lot of wiggle room for something to be worked out. She said that she understands the need for something to be writing, but she also understands the property owners not wanting to put something in writing. She said that it seems that there are issues that need to be workout between the parties.

Roberta Manter said that it was her understanding that the abutters won't sign an easement because there is some question as to whether the town owns it. In her opinion, the town and all other abutters need to quit whatever claim that they have.

Councilor Nesbitt said that all the order is doing is asking us to receive the information, we're not making a determination on the affidavits, he noted that the last sentence of the order asked that the request regarding these road is recorded at the Registry of Deeds.

Councilor Starostecki said that this is a request to determine that the roads have been statutorily abandoned.

Councilor Nesbitt said that he could move forward to receive the information, but not to declare the roads abandoned.

Councilor Libby said that he didn't think that there was enough new information to make a decision and he could not support this order.

Councilor Sirpis said that the reason that he doesn't want to receive this information is that somehow in the future this may be perceived that the information was accepted. He too believes that the town has not received enough information to change the decision that was previously made.

Councilor Nesbitt agreed that the order was worded in a way that the document would be recorded. He said that he would not support that action.

Chair Pomerleau called for additional council discussion. Hearing none she called the roll

VOTE: 7 Nays - Delcourt, Higgins, Libby, Nesbitt, Pomerleau, Sirpis and Starostecki.

110-17 Authorize Bid Process to be Waived to Replace/Repair the Malfunctioning Waste Water Disposal System at 33 Richville Road and Authorize the Use of Town Council Contingency to the Fund the Replacement/Repair of the Malfunctioning Waste Water Disposal System at 33 Richville Road [Pomerleau]

Moved by Libby seconded by Sirpis and voted to dispense with the Clerk's reading of the order.
(Unanimous)

Chair Pomerleau explained that this order is to replace the failed septic system at 33 Richville Road. She explained that we voted last month to take care of this, this order is to award the bid.

Moved by Libby seconded by Higgins to amend the order by adding the name of Morrell's Excavating & Septic Services at a cost not to exceed \$8,500.00.

Chair Pomerleau called for public discussion. There was none.

Chair Pomerleau called for council discussion.

Councilor Sirpis urged the Councilor to move forward on this it is a nuisance and a public health issue.

Councilor Higgins questioned if there was only one bid?

Councilor Libby explained that it wasn't put out to bid because it was an emergency situation.

Councilor Higgins asked if this was for the tank and septic field.

The Code Enforcement Office said it was for the septic field only.

Councilor Sirpis said that he thought that the entire system needed to be replaced.

Mr. Billington said just the field it was determined that the tank was serviceable.

Moved by Libby seconded by Higgins and voted to amend the order by adding the name of Morrell's Excavating & Septic Services at a cost not to exceed \$8,500.00.

ORDERED that the bidding requirement regarding to repair or replace this malfunctioning waste water disposal system is hereby waived; and the bid will be awarded to Morrell's Excavating & Septic Services at a cost not to exceed \$8,500.00, said funds to be taken from the Town Council Contingency Account. (Unanimous)

VOTE ON ORDER AS AMENDED: 6 Yeas – 1 Abstain, Delcourt

PUBLIC ITEMS

There were no public items.

ANNOUNCEMENTS

Upcoming meetings were announced.

Mr. Billington brought forward as a point of interest that next week a meeting will be held with MDOT, the Portland Water District and Town to discuss the Route 35 proposed scenic outlook to view the Sebago Lake shore front. He noted that town staff have reviewed the redesign of the overlook which is relocated further away from the road, he voiced concerns of the visibility from that location. The staff level meeting will be held Thursday and may include a site walk. He mentioned that another matter of concern is whether the land for the scenic outlook will be leased or sold to MDOT.

Councilors Starostecki added that the MDOT is not interested in taking over the property. Through communications with Bill Lunt of PWD who expressed their concerns regarding selling the land verses leasing the land. Mr. Lunt explained that MDOT would not negotiate a lease they will only take ownership of land that they improve.

Mr. Billington noted that the plans indicate that MDOT would be the property owner. He said that he was concerned investing \$50,000 in improvements to the scenic outlook on leased land that could be taken back on short notice.

Councilor Starostecki said that was his concern too, he continued by saying that there are things that will need to be worked out.

Mr. Billington said that the upcoming meeting will be to discuss the area being pushed too far back from the road, not lowering the fence as was anticipate, and a pool/tree that will obstruct the view. He said that a site walk is anticipated to inspect the scenic outlook.

EXECUTIVE SESSION

An executive session was not needed at this meeting.

ADJOURN

Moved by Sirpis seconded and voted to adjourn. The meeting adjourned at 8:57 p.m. by unanimous consent.

Submitted by: _____

Clerk/Secretary