

**MINUTES  
TOWN COUNCIL MEETING  
STANDISH, MAINE  
TUESDAY, MARCH 9, 2021  
STANDISH MUNICIPAL CENTER  
6:00 P.M.**

**CALL TO ORDER**

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

**ROLL CALL**

Councilors present: Butler, Delcourt, Gaba, Leclerc, Libby, Paul and Pomerleau.

**MINUTES OF PREVIOUS MEETING (S)**

Moved by Libby seconded by Leclerc and voted to approve minutes from the February 9<sup>th</sup> Standish Town Council meeting as presented. 7 Yeas

**PETITIONS AND COMMUNICATIONS**

There were no petitions or communications at this meeting.

**REPORT OF THE TOWN MANAGER**

Mr. Giroux announced that he would like to schedule a workshop on April 20. The ongoing plan is to move forward on the Community Center proposal which was slowed down due to the corona virus. The Town Council desires to send this proposal to the voters to have the voters decide to whether to construct the facility. He stated that he thought presenting this matter to the voters was a good idea due to the cost involved. He said that the project will be presented at the April 20 workshop, followed by additional meetings before August, when in theory a vote in November will be developed. A November vote on the Community Center would hinge on a state election being held, at this time the state is publishing there is only a possibility of state-wide referendum vote in November. Mr. Giroux said if there is not a state-wide vote in November that may want to consider waiting until June to present the Community Center plan to the voters in June 2022. He said that the clerk is monitoring the state's notices. It was his opinion that the Town should plan for a November vote. At the workshop two plans will be presented, one will cost approximately \$14 million providing the top-of-the-line facility. The second pared down plan will cost approximately \$8 million. He explained that the numbers may change, and they can change the numbers if they decide to. Mr. Giroux said that the two designs can be changed as well. He explained that the committee had disbanded so the consultant will present the plans, including conceptual photos, budget scenarios other items. He asked for approval to schedule the workshop on April 20 at 6 p.m. for this project. Chair Pomerleau agreed that a workshop will be held.

Councilor Delcourt asked for an update on the clear cutting on Moody Road.

Mr. Giroux noted that the Town is cutting the Town property on Moody Road and an abutting property is having trees cut, however there is no violation regarding the number of trees being removed.

Councilor Delcourt said that in the recent past he had inquired about taxes going up. He said that the senior citizens don't buy that anymore. He said that even with all the new homes, they still are presented with a budget that is going up.

Mr. Giroux said that you shouldn't believe what you are reading in the paper.

Councilor Delcourt said that he's not reading the paper, he's talking to people and referring to his own life expectancy.

Mr. Giroux asked that he wait until the budget is presented on Saturday, before it's assumed the rate is high, he said that the mil rate is going up 2/3's of 1%. He continued to explain that this is the lowest budget that we have had in a long time. He said that the Council and Town Meeting is how the budget is approved.

## **PUBLIC HEARINGS**

### **\*\* Moody Road Discontinuance/Middle Road**

Chair Pomerleau called for public discussion on this matter.

State Representative, Lester Ordway of Richville Road explained that he served two terms on the State and Local Government Committee. He noted that the committee constantly had issues with discontinued roads. He cited people in court cases, an instance where a person was beaten-up by a neighbor regarding a road matter, in a northern Maine town a road was discontinued because a person that lived on the road recorded town meetings. He said in the 128 Maine State Legislature he and John Martin co-chaired a sub-committee in the State and Local Government Committee, they spent three months with all the stakeholders to come up with something to eliminate all the issues. He said when you discontinue a road all the property owners have to maintain the road, assume the liability and everyone gets to use the road. He said what they came up with is LD 1588, it passed the house and senate unanimously and was signed by the governor. What law says is from October of 2018 if a town wants to discontinue a road, they have to notify the landowners on the road that they have the right to take ownership of the road, form a road association and then eliminate the public easement on the road. This action must be done within a year from receiving the notice of potential discontinuance from the town. Representative Ordway reiterated that the property owners have to receive the notification of the potential road discontinuance. He said that he was familiar with it, he said that Roger and Bill say that the road will continue to be graded, and he believes them because they are men of their words, but what's the next Public Works Director going to do? He said this is putting this back to landowners to take care. He questioned if the letter that went to the landowners informed them that they had the right to take over the road? He said that he knew that legal counsel is here and may have a different opinion. He said that was the intent of the legislation to end these problems with discontinued roads. He said that it's not right to the people on these roads to put that back to them to maintain a town road that everyone gets to use. He said – full disclosure, he owns a home on a private road in another town where he has to maintain the road at a cost of approximately \$1,000 a year. He said that many use his road and that was the point of the legislation. He offered to answer any questions that they might have.

Councilor LeClerc questioned if this proposed legislation would transfer ownership?

Representative Ordway said that it is not proposed legislation. The town gives up all rights if the landowners choose to take over the ownership of the road if they want it, if they don't the town can do what they want.

Councilor Butler questioned if there were three landowners, one wants to take the road and the others don't what happens?

Representative Ordway said they have a year to work it, out if they can't it goes to the town.

Councilor LeClerc said wouldn't it make more for potential litigation if sections of the road were not under the same agreement.

Representative Ordway explained that the landowners would have to form a road association, on a discontinued road not all the members of the road association have to agree, however majority rules.

Town attorney, Sally Daggett she explained that this is the fourth meeting on this topic. She said that what the legislature did do is make this a much lengthener process. She said that she'd walk them through that process and through the difference in owning the roadbed versus having a maintenance obligation, she noted that they are two different things, and it is important for purposes of the public hearing tonight. There is a statutory provision that allows a municipality to discontinue a town way. In respect to Maine law owning the roadbed is different than a municipality maintenance obligation on a road. She cited an example of the City of Portland in regard to Congress Street, saying that she bet that Portland did not have a deed in the roadbed, but it is a local road, and the city has a maintenance obligation to maintain Congress Street. She said that for an example, the status of Congress Street is a *town way*. Under Maine law the meaning of town way, a municipality not only has the right to maintain the road, they have the obligation to maintain the road. What this means is the City of Portland has the right and obligation to maintain Congress Street in the summer and during the winter to make it safe and convenient for motor vehicles. She said that the City of Portland's maintenance obligation could be what's called a *public easement*. A *public easement* is slightly different from a *town way*, in a *public easement* road the city has the right to maintain the road but not the obligation. She noted that the third type of road in Maine from a maintenance perspective is a *private road*. On a *private road* the municipality has no right or obligation to maintain the road. She cited a decision from the Maine Supreme Court that says for *private roads* it is a violation of the Maine Constitution to spend public money on private road maintenance. She reiterated that for road maintenance purposes there are three types of roads: a *town way* on which the town has the right and obligation to maintain the road; there is a *public easement* where the municipality has the right but not the obligation to maintain the road; and the *private way* where it is unlawful for the municipality to maintain the road. When a municipality wants to discontinue a *town way* there is a statutory process that the municipality has to go through. She continued to explain with the changes that were put into place in 2018 it's a multi-step process. She said the first question that a municipality has to ask is, are there properties abutting the that are on a town way that is proposed to be discontinued, are they accessible from another public way? If the answer to that is yes, then there is a shorter process to go through because the theory is that the abutting landowners have another source of access on another *public way*. Here in Standish, there portion of Moody Road and Middle Road that are being considered for discontinuance are not accessible by another public way, so there is a longer process. She explained the chronology – in December of 2019 the Town Council decided that they wanted to discontinue a portion of the Moody and Middle Roads, this action started the statutory process. Notices were sent to all of the abutters on the sections that they were considering discontinuing, the letter explained the process and complied with the statute. She announced that the notice specifically stated that abutting property owners have the right to establish private easements. She noted that the notice was written in such a way that the average property owner could understand it. Also, the property owner was invited contact the Town if they needed to do so. She noted that the Town Manager has fielded question regarding this matter. She said that once this first notice is sent the municipality must wait a year before the next steps of the process can take place. She said that in January the Town Council met and approved the sending of the second notice to all the abutters on the sections of Moody and Middle Roads informing them that the matter will be discussed at their February meeting. Attorney Daggett explained that both Moody and Middle Roads are *town ways*, with the right and obligation to maintain the roads. She noted that

the Town has been maintaining these roads in the summer for many years. The sections in question on both of these roads have fallen under a different statutory process, the sections have been closed to winter maintenance. She said that for at least the last 20-years the sections in question on these roads were closed subject to a winter closure order. The sections of these roads that are being discussed are only maintained by the Town in the summer, reiterating these sections of road are not maintained in the winter. She explained that on a *town way* the municipality has the right to maintain the road. She announced that private landowners do not have the right to maintain the road. She said that there have been inquiries from property owners along these sections of the roads regarding building permits, noting that they can't get to the property in the winter months due to the winter closure, noting that's what precipitated this process to start in 2019. Their thoughts were how do we solve this problem ... what is the way to allow folks to maintain these roads if they want to access their property in the winter. In the notice that was sent in 2019, and the notice that was sent in January of 2021 the proposal is for the town is for the Town Council to discontinue the two sections of road as *town ways*, but retain a public easement. She explained that a *public easement* allows the public to travel over the road just as they are today, but the public will have the right to maintain the sections of the roads. The proposal is to discontinue the described sections of Moody and Middle Road as *town ways* but retain the *public easement*. She noted that this will allow the public to legally maintain the described sections of the two roads. She said that this would put the abutters in a better situation than they are today, they're not getting maintenance from the Town of Standish, but on the other hand at this time they can't maintain the road themselves. She said the process continued and in January the notice was sent to the abutters putting them on notice that in February the Council was going to consider an order of discontinuance, that order was adopted in February, that then triggered a third notice that went out in February notifying everybody about tonight's public hearing. She assured them that all of the statutory requirements have been followed to a T. The notices included everything that is required by the state statute. She said that tonight is the opportunity for the public to comment on the proposed discontinuance of the described section of the roads with the Town retaining a public easement. The next step will take place at the April Town Council meeting, the Council would reaffirm the discontinuance and authorize the Clerk to file a certificate at the Registry of Deeds putting everybody on notice that the Town of Standish has discontinued the described section of these two roads. She said that she was uncertain as to what Mr. Ordway was getting at because no one has come forward regarding this proposed discontinuance, she said that no one has come forward to say that they want the discontinuance without a public easement. She said that she wasn't sure why the abutters would not want a public easement. She said that she wasn't sure of what his concern was, the Town has followed the statutory procedure. She said that by retaining a public easement town can continue to maintain those sections of road as may the abutters. She said that the statute is very clear whether there is a public easement or not the abutters own to the centerline of the road. She said that ownership of the road doesn't speak to maintenance, she said as an abutting landowner that's probably the thing that they care about the most ... who has the ability to maintain the road. She said that this process is almost done, at the April Council meeting the Town Council will reaffirm the order to discontinue the described sections of the Moody and Middle Roads, assuming that's how the Council votes, then a certificate will be recorded at the Registry of Deeds. Once the discontinuance is final, the Town will continue doing what they've been doing, however the abutters if they so desire. She said that the abutters will be better off when the process is over, than have been in 20 years.

Chair Pomerleau called for public discussion.

Representative Lester Ordway, said that if the landowners received the proper notice and they chose not to form an association, he was good with it. He said that he didn't get that impression when they were here at the last meeting which he watched on television. He said he didn't get the impression that they knew about the association option. That's why he's here.

Town Manager, Bill Giroux explained that staff brought this forward, noting that every year there are property owners that come forward to do something with their property, but they can't because of the winter maintenance order. He said the those who have come forward in the past year or so are all for having the right to maintain but not obligation to maintain the road.

Representative Ordway said if they chose not to, he was fine. He said that in the legislature now there is a bill that would allow plowing into their property that this is trying to avoid.

Chair Pomerleau called for Council discussion. There was no Council discussion. Chair Pomerleau questioned the Manager if all owners had received the letters and we've heard from a few?

Bill Giroux said that all received their letters, and the few that had spoke at the last meeting are not anyone he had met before, he didn't think that they were looking to build. The landowners with concerns are the ones that want to build, and in fact, one person came before the Council a few years ago.

Councilor Delcourt voiced his opinion that this is a fairness thing, he said that if he bought land on a road he would assume that they would build the road.

Bill Giroux said that towns generally don't build roads, these days developers do. He said that the taxpayers don't build the road, so what you're discussing is that all the other taxpayers should pay the costs of millions of dollars.

Councilor Delcourt said that's not what he's saying, these are established road in the town and should be responsible to fix them.

Bill Giroux explained that he owns property on a road similar to this, when you buy property on a road like this it's generally less expensive then if it was on a tarred road. He said the buyer understands that they are not getting property on a paved town toad. He said that he understood what the Councilor Delcourt was saying, but the property owner will be better off since they will be able to fill a pothole or grade it in an area. He said that the general public will still be able to travel over the roads.

Chair Pomerleau said that we've discussed both the discontinuation of Moody and Middle Roads, she called for additional information on these roads, hearing no comments she closed the public hearings on the proposed discontinuance of the Moody Road and the Middle Road.

## **\*\* FY 2021 Fiscal Year Budget**

Mr. Giroux noted that the budget was posted on the website a few weeks ago. He explained that there was a recent newspaper article in which the reporter did not look at the correct lines and provided misinformation the article. The article led people to believe that there would be a 14% to 15% increase in the Town's budget. That was an unfortunate mishap that stressed some out. He said that he brought forward a solid budget which includes the county. He said that it does not include the school budget noting that they will make a presentation next month at the April meeting. He said this entire budget which includes the town and county will increase the mil rate less than 1%. He explained that this Saturday will be the workshop where the Council and Budget Committee review the budget with department heads present. He said that this is the lowest budget that has been presented in sometime. He said that it includes a new Transfer Station employee, but the Public Works employee that was approved in last year's budget was cut, it was never filled due to the Covid-19 outbreak. He

said in the Administrative Offices there is a vacancy, the job description has changed to work on grants, sustainability, broadband and economic development matters. It's a little more than the position that was eliminated but Tax Increment Finance (TIF) money was used to fund the rest of it so it doesn't hit the property tax. The only thing on property taxes is the old position. He explained in capital the paving program moves forward, it adds a replacement rescue unit, two new plow trucks, it includes the final piece of Memorial Field project, it funds the upcoming re-valuation which is overdue. He said those are the big items, but more will be discussed on Saturday.

Councilor LeClerc said that he hoped that while reviewing the budget on Saturday that there is a full decision on the reassessment. He said that during his review of the budget that item stood out due to the costs related to the Covid situation and may lead to a lot of people's taxes going up. He said that may lead to people being even more stressed. He said that on Saturday he will make a motion to move that to another year. He noted that there are other items such as new rugs at a cost of \$10,000 he will make a motion to set that cost aside too.

Bill Giroux said that he will make sure that the Assessor is at the Saturday to answer questions. He said that the revaluation has been a discussion topic for the past few years.

Councilor LeClerc said that he has been trying to do research on revaluations in other towns and what they mean to everyone. He said that he understands that a revalue in theory does provide more equity in terms of values. He said that in light of the Covid situation this might not be the best time. He said that even if it raises one person's taxes the perception will be that they're being kicked while they're down. He said that people are just regaining their bearing from the last year and that this might be the wrong time.

Bill Giroux said that probably half of the people will pay less taxes after a revalue.

Councilor LeClerc said that may be the case but he still wants sure that this is the best time.

Mr. Giroux said that ultimately, it is the Town Council and Annual Town Meeting that makes the decision.

Councilor Delcourt said that he did not see the article, because it's fake news, he wondered where the reporter got the information that was reported?

Bill Giroux explained that the reporter took numbers from the wrong lines and didn't realize that some of the funding was coming from the TIF. He said that it's complicated and not worth asking for a correction. He said that we're doing a responsible budget and Town Meeting will vote on it in June.

Councilor Delcourt said that in response to the Councilor that doesn't want the revaluation, he himself pays more in taxes than some that live on the lake. He said that's not right, and he's a senior citizen and times are tough.

Chair Pomerleau said that is what the workshop is for on Saturday.

Councilor LeClerc said that he would like to have the discussion of issues just like that. He just doesn't want the situation where we're hurting more people.

Chair Pomerleau called for public comments.

Todd Delaney – Spear Road – announced that he is also the Budget Advisory Committee (BAC) Chair for MSAD #6 school budget. He noted that he forwards the BAC minutes to the town. He explained that MSAD #6 is unusual in the state because their budget is based on property valuations. He said that although he can understand concerns, he would strongly recommend that the revaluation is done. He said that part of the funding matrix is based on property values, it would be helpful to have one that is up to date. He let them know that the MSAD #6 will attend the Council meeting in April to present an overview of the school budget. He explained that the BAC is close to completing their budget review but may not be able to present a flat-funded budget. He noted that he had a number of calls regarding the newspaper article, he told all that he spoke with that the reporter had made a number of mistakes in the article. On Saturday, he will speak to the importance of a revaluation.

Chair Pomerleau called for additional public comments. Hearing none, she closed the Public Hearing.

**15-21 Application Submitted by Michael Baptista and Elaine Burnham dba Acres of Wildlife Campground Located at 60 Acres of Wildlife Road for Renewal of a Malt, Spirituous and Vinous Campground License [Pomerleau]**

Chair Pomerleau noted that this is an annual application.

Chair Pomerleau called for public comments, hearing none she called for Council comments, hearing none she called for the roll call vote and the hearing was closed.

ORDERED that the application submitted by Michael Baptista and Elaine Burnham dba Acres of Wildlife Campground located at 60 Acres of Wildlife Road for renewal of malt, spirituous and vinous campground license is approved by Council to expire as determined by Department of Public Safety.

**VOTE: 7 Yeas**

**96-20 Amendments to Standish Town Code, Chapter 181 (Land Use) and Chapter 252 (Streets and Side Walks), Regarding Performance Guarantees [Leclerc]**

Moved by Libby seconded Leclerc and voted to dispense with the Clerks reading of ordinance. **Vote: 7 Yeas**

Moved by Leclerc seconded by Libby and voted to amend the ordinance as shown below:

"In lieu of a performance guaranty for the construction of the project improvements, no lot or parcel of land may be conveyed, and no building permit for any building or any portion of the development shall be issued by the Code Enforcement Officer, until the completion of all streets, utilities and other essential improvements ~~for public benefit or use~~ in accordance with this plan and all applicable laws, ordinances and standards. If the applicant wishes to convey a lot prior to all project improvements being completed in accordance with this plan and all applicable laws, ordinances and standards, a performance guaranty equal to the cost of the remaining improvements shall first be approved by the Director of Public Works, in consultation with the Town Planner, and submitted to the Finance Director."

**VOTE ON AMENDMENT: 7 Yes**

Councilor Leclerc explained that this ordinance was sent back to the Ordinance Committee, this ordinance clarifies what is expected in regards to performance guarantees. Councilor Leclerc read the following memo into the record:

**Town Council Memo**

To: Standish Town Council  
From: Town Staff  
Re: Performance Guarantee Amendments in Chapter 181 and Chapter 252  
Date: October 13, 2020

Earlier this year, staff discussed changes to the performance guaranty sections in both Chapter 181 and Chapter 252 that would provide greater clarity concerning the installation of infrastructure improvements required by the Town of Standish. Performance guaranties are used to secure the proper completion of all installation and maintenance related to road construction, storm drainage, utilities, fire ponds, monumentation, street trees, and other landscaping.

The purpose of the amendments is to specify exactly what infrastructure improvements are required and provides the Town greater authority to require these improvements whether the infrastructure remains private or is accepted by Town and become public.

Amendments from Chapter 181 and Chapter 252 are included as both chapters deal with performance guaranties and therefore it is necessary to bring both sections in conformity.

Chair Pomerleau called for public comments, hearing none she called for Council comments.

Councilor Delcourt questioned what this mean? Does this mean the sidewalks to nowhere, are gone?

Councilor Leclerc said that hopefully the sidewalk matter will be brought forward next month, this is regarding if someone is going to develop land in town, this lays out what is expected from a performance guaranty standpoint.

Chair Pomerleau called for additional Council comments, hearing none she called for the roll call vote and the hearing was closed.

**CHAPTER 181 – LAND USE**

**PART 2**

**ite Plan Review**

**ARTICLE XI**

**Review Required; Procedure**

**§ 181-71.3. Performance guaranty.**

A performance guaranty shall be provided to insure the completion, proper installation and maintenance of all improvements, facilities and services necessary to provide transportation, drainage, utilities or similar essential services and facilities to a project, including, but not limited to, road construction~~street grading, paving, storm drainage, utilities, fire ponds, roadway monumentation, street trees and any required landscaping and other improvements for public benefit or use~~ in accordance with § 252-22 of Chapter 252, Streets and Sidewalks. The applicant shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of said improvements by the legislative body.



## PART 3

### Subdivision Regulations

## ARTICLE XVI

### Final Plan

#### § 181-83. Performance guaranty.

A performance guaranty shall be provided to insure the completion, proper installation and maintenance of all improvements, facilities and services necessary to provide transportation, drainage, utilities or similar essential services and facilities to a project, including, but not limited to, road construction, street grading, paving, storm drainage, utilities, fire ponds, roadway monumentation, street trees and any required landscaping and other improvements for public benefit or use in accordance with § 252-22 of Chapter 252, Streets and Sidewalks. Where the Planning Board has approved a phased development, public improvements both on- and off-site shall be assigned to a phase of the development as part of the Planning Board's approval of the subdivision. The applicant shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of said improvements by the legislative body.

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## CHAPTER 252 – STREETS AND SIDEWALKS

## ARTICLE III

### Construction and Acceptance

#### § 252-22. Performance guaranty.

- A. Purpose. A performance guaranty shall be provided to insure the completion, proper installation and maintenance of all improvements, facilities and services necessary to provide transportation, drainage, utilities or similar essential services and facilities to a project, including, but not limited to, road construction, street grading, paving, storm drainage, utilities, fire ponds, roadway monumentation, street trees and any required landscaping (hereinafter "Essential and other improvements") for public benefit or use.
- B. Form of performance guaranty.
- (1) Before the releasing or recording of the final plan, the applicant shall furnish to the Finance Director one of the following forms of performance guaranty:
    - (a) Certified check made payable solely to the Town of Standish; or
    - (b) Savings account passbook issued solely in the name of the Town of Standish.
  - (2) With respect to subdivision projects only, in lieu of the furnishing of a performance guaranty before the recording of the final plan, the Planning Board may accept the agreement of the subdivider that no lot or parcel of land may be conveyed, and no building permit for any building or portion of the development shall be issued by the Code Enforcement Officer, until the completion of all Essential Improvements ~~street grading, paving, storm drainage, utilities and other improvements for public benefit or use.~~ Such agreement shall be acknowledged by a note on the final subdivision plan that provides as follows:

"In lieu of a performance guaranty for the construction of the project improvements, no lot o

parcel of land may be conveyed, and no building permit for any building or any portion of the development shall be issued by the Code Enforcement Officer, until the completion of all streets, utilities and other essential improvements for public benefit or use in accordance with this plan and all applicable laws, ordinances and standards. If the applicant wishes to convey a lot prior to all project improvements being completed in accordance with this plan and all applicable laws, ordinances and standards, a performance guaranty equal to the cost of the remaining improvements shall first be approved by the Director of Public Works, in consultation with the Town Planner, and submitted to the Finance Director."

- (3) The Finance Director shall be responsible for monitoring the performance guaranty to insure that it does not expire or is not released without review by the proper officials.
- C. Amount of performance guaranty. The amount of such performance guaranty (the "stated amount") shall be approved by the Director of Public Works, in consultation with the Town Planner, and shall be in an amount at least equal to the total cost of furnishing, installing, connecting and completing all of the ~~street grading, paving, storm drainage, utilities and other~~ Essential Improvements for public benefit or use specified in the final plan and shall be conditioned on the completion of all such Essential Improvements within two years of the date of such certified check or savings account passbook.
- D. Application. The applicant shall submit a detailed construction cost estimate, with quantities and unit costs, of the proposed Essential Improvements prepared by a Maine licensed professional engineer to the Director of Public Works. The Director of Public Works shall, in consultation with the Town Planner, review the construction cost estimate and establish the amount of the performance guaranty and approve the type of performance guaranty offered. The Director of Public Works may, at his discretion, submit the construction cost estimate to a Maine licensed professional engineer for peer review at the applicant's sole expense. If such peer review is obtained by the Director of Public Works, no approval of the performance guaranty shall be granted until payment for the peer reviewer's services is made by the applicant and such amount shall be payable by the applicant without regard to the peer review results or the outcome of the application.
- E. Phasing of development. At the time of approval of the final plan, the Planning Board may approve the construction of a subdivision in specifically identified phases and allow the applicant to furnish separate performance guaranties for each phase and any associated off-site improvements prior to the commencement of construction of each phase, provided that the performance guaranty furnished for any individual phase must secure the construction of all required improvements within such phase and any associated off-site improvements, plus any improvements located in other phases that are necessary in order for the phase being constructed to comply with the requirements of this article or Chapter 181, Land Use, should subsequent phases not be constructed. The applicant must furnish a performance guaranty for specific phases in accordance with this article. All improvements within the first phase must be completed within two years of the date of the certified check or savings account passbook. Each subsequent phase must be completed within subsequent two-year periods of the certified check or savings account passbook furnished to cover that phase.
- F. Partial releases. The Director of Public Works, in consultation with the Town Manager, may allow periodic reductions of the stated amount as portions of specified improvements are determined by the Director of Public Works or his designee to be complete, provided that each such reduction shall be limited to 85% of the cost of the improvements for which the reduction is allowed. In no event shall the performance guaranty be reduced to less than 15% of the stated amount until all of the specified improvements have been completed and inspected and all inspection fees due under Subsection I below or pursuant to any conditions of approval have been paid in full.
- G. Final release. Before an applicant may be released from any obligation required by his performance guaranty, the Finance Director shall require certification from the various departments and agencies concerned, including, without limitation, the Director of Public Works, the Town Manager, the Code Enforcement Officer and the Director of Public Safety, that all improvements have been satisfactorily completed in accordance with the final plan and all applicable laws, ordinances and standards. In addition, before an applicant may be released from any obligation required by his performance guaranty, he shall furnish, at his own expense, the following:
- (1) The signed certification by a Maine licensed surveyor or professional engineer that all permanent bounds or monuments have been installed and are accurately in place in the locations designated in the final plan;
  - (2) "As built" record construction drawings prepared by a Maine licensed professional engineer.
  - (3) All fees must be paid in full.
- H. Extension of performance guaranty. The Director of Public Works may grant one extension of up to two years beyond the guaranteed performance period when the applicant can demonstrate, to the satisfaction of the Director of Public Works, good cause for such extension; provided, however, that the performance guaranty shall remain in full force and effect during any such extension period. The Director of Public Works may not grant an extension if

the applicant or an affiliate of the applicant is in default on any performance guaranty on any development within the Town or is in arrears on any fees owed the Town in connection with any other development within the Town.

- I. Construction inspection fee. Prior to the release of the final plan to the applicant for recording or any site construction, the applicant shall pay to the Town a construction inspection fee. Said fee shall be computed as follows:
  - (1) The amount of the fee shall be determined by the Director of Public Works or his designee and shall include the estimated cost to the Town of retaining a Maine licensed professional engineer to observe and monitor construction of required improvements. In fixing the amount, the Director of Public Works or his designee may consider the complexity of the improvements, the overall cost of the project, the anticipated construction schedule, and any other factors relevant to estimating the cost of monitoring.
  - (2) If, upon completion of the required improvements, the actual cost of monitoring and inspection exceeds the amount paid at the time of submission of the final plan or the issuance of a building permit, the applicant shall pay the additional amount to the Town before the applicant shall be released from his obligations under the performance guaranty, such additional amount being deemed a required improvement under the performance guaranty. If, upon completion of the required improvements, the actual cost of monitoring and inspection is less than the amount paid at the time of submission of the final plan or the issuance of a building permit, the Town shall return the unused portion to the applicant.
- J. Inspection of required improvements.
  - (1) Prior to the start of construction, the applicant shall conduct an on-site preconstruction meeting. This meeting shall, at a minimum, be attended by the Director of Public Works, the engineer performing construction monitoring, the general contractor and the applicant or his agent.
  - (2) If the Director of Public Works or his designee shall find, upon inspection of the Essential improvements described by the performance guaranty, that any of the required improvements have not been constructed in accordance with the final plan and specifications filed by the applicant and all applicable laws, ordinances and standards, the Director of Public Works shall notify the Town Planner and the Finance Director, who shall take all necessary steps to preserve the municipality's rights under the performance guaranty. The Town Planner shall then notify the applicant and the Planning Board. The Planning Board shall have the authority to declare default.
  - (3) Minor modifications. If at any time before or during the construction of the required improvements the applicant demonstrates to the satisfaction of the Code Enforcement Officer, the Director of Public Works and/or the Director of Public Safety, as appropriate, that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Code Enforcement Officer, the Director of Public Works and/or the Director of Public Safety, as appropriate, may authorize modifications, provided that these modifications are within the spirit and intent of the Planning Board's approval, that they do not materially affect the criteria and standards employed by the Planning Board during its review, and that they do not substantially alter the function of any improvements required by the Planning Board. The Code Enforcement Officer, the Director of Public Works and/or the Director of Public Safety, as appropriate, shall issue any authorization under this subsection in writing and shall transmit a copy of such authorization to the Town Planner and the Planning Board. All other modifications of the required improvements shall first require Planning Board review and approval.
- K. Responsibility for improvements prior to street acceptance. The applicant shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of said improvements by the legislative body.
- L. Street acceptance guaranty. No proposed street shall be accepted until the Town has been furnished with a performance guaranty providing that the developer, or other persons petitioning for acceptance of the street, will be responsible for a period of two years from the date of acceptance for repair of any defects or conditions of said street that are determined by the Director of Public Works to be unsatisfactory to the Town and which arise out of failure of the developer or said petitioners to design and construct said street to the specifications provided for in this article. Said guaranty shall be in the amount of 1% of the construction cost or \$5,000 plus \$1 per linear foot of said street, whichever amount is greater. This guaranty shall be in addition to and independent from any performance guaranty furnished to the Town prior to the construction of the required improvements.

**VOTE ON ORDER AS AMENDED: 7 Yeas**

## **COMMITTEE REPORTS**

Councilor Paul – Personnel Committee – No report.

Councilor Delcourt – Appointments Committee – No report.

Councilor Libby – Finance Committee – met yesterday, revenues and expenditures are right on target.

Councilor Gaba – PWD Steering Committee – No report.

Councilor Buter – Economic Development Committee – No report.

Councilor Leclerc – Ordinance Committee – met, a member of the community attended the meeting and expressed their opinion regarding caregiver provisions of medical marijuana. The Committee discussed setbacks and the sidewalks to nowhere.

Councilor Pomerleau – Capital Improvements – No report

### **CONSENT CALENDAR**

The clerk explained that Consent Calendar items are typically read by title only and voted on collectively.

Councilor LeClerc expressed his concerns regarding the voter registration hours.

The Clerk explained that this establishes additional hours for voter registration and absentee voting the during the week prior to the election. Regular absentee voting stops the Thursday prior to Election Day, residents can register on the day before and on Election Day.

### **16-21 Establish Voter Registration Hours prior to the June 8, 2021 Elections [Pomerleau]\\**

ORDERED that the Registrar of Voters will hold office hours from 7:30 a.m. to 4:30 p.m. at the Town Clerk's Office from June 1, 2021 through June 3, 2021, and

FURTHER ORDERED that the voter registration enrollment period prior to the June 8, 2021 elections will be Monday, June 7, 2021 at 4:30 p.m., and

FURTHER ORDERED that the Town Clerk's Office will remain open until 7:00 pm on Thursday, June 3, 2021 for absentee voting and voter registration prior to the June 8, 2021 elections.

### **17-21 Appointment of Ballot Clerks, Warden, and Clerk for the June 8, 2021 Elections [Delcourt]**

#### **Democratic Ballot Clerk**

Joanne Beaudoin

#### **Republican Ballot Clerk**

Glenna Jamison

ORDERED that Sandra Osterrieder is appointed to serve as warden, and

ORDERED that Mary Chapman is appointed to serve as clerk at the election, and

FURTHER ORDERED that the Town Clerk is authorized to select additional ballot clerks as necessary to provide adequate staffing.

### **18-21 Countersign the Maine School District # 6 Warrants for the Upcoming June 8, 2021 Elections [Pomerleau]**

WHEREAS MSAD 6 has notified the Town of Standish that the warrants and other election materials will be delivered to the Town Clerk's Office after the April Town Council meeting, and

WHEREAS by law the warrants must be countersigned by the municipal officers where the election is held, now be it

## **VOTE ON CONSENT CALENDAR ITEMS: 7 Yeas**

### **UNFINISHED BUSINESS**

There were no items of unfinished business on this agenda.

### **NEW BUSINESS**

#### **19-21 Amendments to Standish Town Code, Chapter 146 Floodplain Management (Introduction) [Leclerc]**

Councilor Leclerc explained that this is a housekeeping measure to update our ordinance to current standards.

Chair Pomerleau called for public comments, hearing none she called for Council comments, hearing none she called for the roll call vote to move this item to first reading at the April Town Council meeting.

## **VOTE TO MOVE THIS ITEM TO FIRST READING: 7 Yeas**

#### **20-21 Authorize Town Manager to Execute a Release Deed to Teresa Lynn Hill for Hammerhead Turnaround Adjacent to Lot 21-4 as Shown on Final Plan of Josie's Brook Subdivision [Pomerleau]**

Chair Pomerleau called for public discussion.

Mr. Giroux explained that this hammerhead was built in the first phase of the subdivision and the agreement was when the final phase was constructed the hammerhead would revert to the owner of the property.

Chair Pomerleau called for Council comments, hearing none she called for the roll call vote.

WHEREAS, the Planning Board approved a subdivision plan entitled "Final Subdivision Plan of Josie's Brook Subdivision, Cape Road (Rte. 35A), Standish, Maine" for Tompson Development, Inc. prepared by Sebago Technics, Inc., last revised June 4, 2007 (the Plan") and recorded in the Cumberland County Registry of Deeds in Plan Book 207, Pages 329 and 330;

WHEREAS, Tompson Development, Inc., the developer of Josie's Brook Subdivision, conveyed title to the Lindsey Drive right of way and the hammerhead turnaround that is adjacent to Lot 21-4 shown on the Plan to the Town by deed dated April 21, 2010 and recorded in the Registry of Deeds in Book 28540, Page 303; and

WHEREAS, Note 23 of the Plan provides that upon completion of the Phase 2 roadway improvements for the Josie's Brook Subdivision, the 2,734 s.f. hammerhead turnaround that is adjacent to Lot 21-4 shown on the Plan is to be conveyed to the then-current owner of Lot 21-4.

NOW, THEREFORE, in consideration of the above set of facts, the Town Council acts as follows:

ORDERED, that the Town Manager is hereby authorized and directed to execute and deliver a quitclaim deed with covenant for the hammerhead turnaround that is adjacent to Lot 21-4 shown on the Plan to Teresa Lynn Hill in substantially the same form as shown on the attached.

## **VOTE: 7 Yeas**

21-21 Town of Standish Town Council Orders Authorizing Tax Anticipation Borrowing [Libby]

Moved by Libby seconded Leclerc and voted to dispense with the Clerks reading of ordinance. **Vote: 7 Yeas**

Councilor Libby explained that this is an order that is done annually, he asked that the Finance Director provides and explanation of the order.

Finance Director, Scott Gesualdi explained that this order is done annually to hold the town over financially until tax revenues start coming in.

Chair Pomerleau called for public comments, hearing none she called for Council comments, hearing none she called for the roll call vote.

Ordered that, pursuant to Section 5771 of Title 30-A of the Maine Revised Statutes, as amended, the Treasurer of the Town is hereby authorized and empowered to borrow money from time to time during the fiscal year ending June 30, 2021 in the principal amount or amounts not exceeding \$2,338,000 at any one time outstanding, in anticipation of the collections or receipts from taxes, by the issuance of tax anticipation notes of the Town, each of which notes shall be designated "Town of Standish Spring 2021 Tax Anticipation Notes." All of such tax anticipation notes, and any extensions, renewals or replacements thereof, shall be signed by the Town Treasurer and countersigned by the Chair or the Vice Chair of the Town Council, shall be payable on such date as determined by the Town Treasurer, out of money raised by taxation during the fiscal year ending June 30, 2021, shall bear interest payable at maturity at a rate determined in the manner as approved by the Treasurer, and shall contain such other terms and provisions, not inconsistent herewith, and be in such form, as shall be approved by the officers signing the same, whose approval shall be conclusively evidenced by their execution thereof, and

Be It Further Ordered that the Treasurer of the Town is hereby authorized to award the notes to such person or entity as he deems appropriate, and

Be It Further Ordered that the notes authorized by the foregoing are hereby designated as qualified tax exempt obligations for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended, and

Be It Further Ordered that the Treasurer of the Town be authorized to covenant with the purchasers of the notes on behalf of the Town and for the benefit of the holders of the notes, that the Town will take whatever steps, and refrain from taking any action, as may be necessary or appropriate to ensure that interest on the notes will remain free from federal income taxes, including without limitation, the filing of information returns and reports with the Internal Revenue Service and the payment of any rebate due to the United States of America.

Adopted this 9<sup>th</sup> day of March, 2021 by the Municipal Officers of Standish, Maine:

/s/ \_\_\_\_\_  
Kimberly Pomerleau, Chair

/s/ \_\_\_\_\_  
Brian Libby, Vice Chair

/s/ \_\_\_\_\_  
Michael Delcourt

/s/ \_\_\_\_\_  
Sarah Gaba

/s/ \_\_\_\_\_  
Greg LeClerc

/s/ \_\_\_\_\_  
Walter Butler

/s/ \_\_\_\_\_  
Joseph Paul

**VOTE: 7 Yeas**

22-21 Change date of Regular Town Council meeting in April to April 6, 2021 [Pomerleau]

Chair Pomerleau noted that this order is to change the date of the April Town Council Meeting.

Bill Giroux, the Town Manager said that the meeting will be a week early due to the timeline for the budget process.

Chair Pomerleau called for public comments, hearing none she called for Council comments, hearing none she called for the roll call vote.

WHEREAS the regular meeting of the Standish Town Council in April is scheduled to be *held on April 13, 2021, and*

WHEREAS the FY 22 Budget timeline requires a change in the meeting date to approve the warrant for the June municipal referendum election, and

WHEREAS the Council *Rules of Procedure* allow for the date of the meeting to be changed upon vote of the Council, now be it

ORDERED that the regular meeting of the Standish Town Council be changed to Tuesday, April 6, 2021 to be held at Council Chambers at the Standish Municipal Center beginning at 6:00 p.m.

### **VOTE: 7 Yeas**

### **23-21 Application Submitted by Brianna Sears for a New Massage Therapist License at Kosmetikos Skin Care located at 15 Ossipee Trail West, Suite 2 [Pomerleau]**

Chair Pomerleau called for public comments, hearing none she called for Council comments, hearing none she called for the roll call vote.

ORDERED that the application submitted by Brianna Sears for a new Massage Therapist License for employment at Kosmetikos Skin Care located at 15 Ossipee Trail West, Suite 2, upon the recommendation of the Code Enforcement Officer, Fire Chief, Health Officer and Town Manager, is approved by Council, to expire December 31, 2021.

### **VOTE: 7 Yeas**

### **PUBLIC ITEMS**

There were no public items at this meeting.

### **ANNOUNCEMENTS**

Upcoming meetings were announced.

### **EXECUTIVE SESSION**

An Executive Session was not needed at this meeting.

### **ADJOURN**

Moved Pomerleau seconded by Libby and voted to adjourn. The meeting adjourned at 7:25 p.m. by unanimous consent.

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

*Mary Chapin*