

## MINUTES OF SELECT BOARD MEETING

### Hope Select Board

Tuesday, February 9, 2021

6:30 PM

Via Zoom

*View the meeting in its entirety at*

[https://townhallstreams.com/towns/hope\\_me](https://townhallstreams.com/towns/hope_me)

#### **Board Members Present:**

- Sarah Ann Smith, Brian Powers Jr., Thom Ingraham, Bruce Haffner, and Amy Gertner

#### **Others Present:**

- Samantha Mank, Catrina Murray, Robert Menas, Kathryn Clark, Paul Smith, Margaret Morse, Ellie Goldberg, Dick Crabtree, Molly Luce, Rick Bresnahan, Harold Mosher, Dan Dunkle, Betty Ingraham, Nancy Ford, Juanita Hunt, Elsie Pinchbeck, John Monroe, David Hall, and Sali

#### **Call to Order:**

- The meeting was called to order at 6:01 PM by Sarah.

#### **Agenda Adjustments/Approval:**

- Samantha asked to have the Summit Natural Gas discussion removed from the agenda. Sarah said to add the letter from attorney, Joseph Baldacci to the agenda Brian made a motion to adjust the agenda as requested. It was seconded by Amy.

**Motion passed 4-0**

#### **Public Comment:**

- None

#### **Minutes:**

- January 26, 2021: Brian made a motion to approve the January 12, 2021 minutes as written. It was seconded by Amy.

**Motion passed 4-0-1 (Thom)**

- February 4, 2021: Brian made a motion to approve the February 4, 2021 minutes as written. It was seconded by Thom.

**Motion passed 4-0-1 (Bruce)**

#### **Town Administrator Report:**

- Several people from the community participated on interview panels for the Town Clerk and Bookkeeper. Paula Emerson and Jodi Davis were a part of the final bookkeeper interviews. Nancy Ford and Peggy Ludwig were a part of the Town Clerk interview

process. Once all of the interviews were completed there was a time of consultation and weighing the pros and cons of each candidate. The finalists have joined us tonight and hopefully will be confirmed by the Select Board later in the agenda.

- There is only 1 real estate 2019 account totaling \$1,022.86 that is still outstanding. I have made contact with the property owner representative, who assured me that the account would be paid on or before Feb. 15<sup>th</sup>. The automatic foreclosure date is Feb. 16<sup>th</sup>.
- There are 18 real estate 2020 accounts totaling \$33,494.85. Unpaid 2020 real estate taxes will automatically foreclose on February 10, 2022 if the accounts are not paid in full.
- There are 1001 RE accounts for 2021, totaling \$1,515,156.69. The second half of taxes are due on April 30, 2021.

### **New Business:**

- Confirmation of New Employees: The Town Administrator made introductions of the two employees looking at being confirmed tonight. If confirmed by the Select Board tonight, Robert “Bob” Menas will be the new Town Clerk and would begin tomorrow. Catrina “Tina” Murray will be the new Bookkeeper and her first day would be next Wednesday, February 17<sup>th</sup>.
  - Town Clerk: Thom made a motion to confirm Robert Menas as Hope’s new Town Clerk. It was seconded by Amy.  
**Motion passed 5-0**
  - Bookkeeper: Bruce made a motion to confirm Catrina Murray as Hope’s new Bookkeeper. It was seconded by Thom.  
**Motion passed 5-0**
- Meet & Greet Discussion with SU69 Superintendent – Kathryn Clark: Kate has been on the job since July 1, 2020. It has been a tough year, and she said she is glad to finally be meeting everyone.

Sarah said it was also nice to be finally meeting her as well. Sarah also gave Kate some history of a tense relationship between the school and the town especially surrounding budgets and signing warrants in a timely manner. Ultimately, though, she expressed to Kate if there is anything she needs, to please come to the Select Board and encouraged open communication.

Thom introduced himself and personally welcome her. He told Kate that he is a former school principal and school committee member. He went on to let her know that that the principal and teachers at HES are excellent.

Brian added that it is nice to meet Kate as well and wanted to know if she had been apprised of the budget schedule.

Amy extended Kate a very warm welcome.

Bruce introduced himself and told her that he teaches chess at HES as well as some other schools.

Kate said that the school has already started on the budget for the upcoming budget cycle. She did say that there may be a little wrinkle as this also a teacher negotiation year so, the exact figure may not be known in time for the budget presentations. She aware of the presentation and budget schedules. Kate explained that right now the finance clerks are having to work on the weekends in order to have warrants available in time for Select Board meetings. She apologized about things being out of sync but hopes that things will smooth out very soon.

- ~~Discussion – Summit Natural Gas – Chace Jackson~~: Removed from agenda
- Roads Advisory Committee Questions: Rick B. said that he sent some additional for the roads in Hope.

- End Product: The Select Board would like to have a written narrative to be included in the Town Report.

Collectively, they want the RAC to come up with what is the best to give to the Town of Hope.

- Outside the Scope: The Select Board agreed to have the RAC look at everything and to see what is or is not working and to see if there is anything we can be doing better.
- 2011 Road Commissioner Policy – Are Things Operating Consistently Within the Scope of the Policy: Thom thought maybe Brian or Rick would have a better intuitional knowledge on this. He went on and stated that perhaps the Town Administrator and the Road Commissioner should sit down together and go over the policy and see what is still accurate and add or delete items that need to be reviewed.

Brian agreed that the Samantha and John would be a good start and then forward those items to the Roads Committee.

Sarah said as she did a brief overview that she was wondering if #5 of the Road Commissioner Policy is being a little too “micro-managey”.

There was also some discussion about the Road Commissioner job description. It doesn't appear that it was ever formally adopted or approved. Thom agreed that it doesn't look like this is an actually approved job description.

Brian commented that since the Road Commissioner is an elected position, he believes it should be similar to any other expectation for elected official.

- Expenditures – Over Budget: There was some discussion about how the Road Commissioner gets expenditures approved and whether or not those expenditures are subject to the Town Purchasing Policy. Typically, the Road Commissioner will submit a very detailed budget proposal in which he details all of the planned work that includes supplies and equipment. Expenditures do not adhere to the Purchasing Policy because of the extensive and detailed budget.

Bruce said he thought the Road Commissioner should be paid a larger stipend to over see the road work being put out to bid.

The Road Commissioner said that it would not be worth his time to be the Road

Commissioner if he wasn't also doing the majority of the work. He also said that he meets with the Town Administrator and the Select Board when issues or items that are not budgeted come up.

- Model: Thom said that we should get as much information as possible including talking with neighboring Towns. We can look other models or better and/or different ways of doing things if our current model is satisfactory, maybe we could be better.

Brian said we may need to take a closer look at how it is decided on which roads get paved, is it based on need rather than time.

Sarah said that we don't want to defer the paving or maintenance and she would like the RAC to make recommendations that considers our budget and keeps roads in good shape. She said the charge of the RAC is absolutely not specific to snowplowing. All of the other Select Board members agreed.

Rick told the Select Board that the RAC needs to come up with a quantifiable way of measuring the condition of the roads. Also, the Town could consider getting a bond to pay for getting all of the roads caught up on the road work that is needed.

Sarah commented that interest rates are low. She's not sure if she likes the idea of bonds and debt but, if it is needed, then we should look into it.

Brian asked the Road Commissioner for a snowplowing update and how things were going with the new contractor.

John said that all things considered, it has been a light winter. So far, there haven't been too many complaints. Things seem to be running smoothly. Since we haven't really had a big storm yet, it is giving the new contractor a chance to get broke in and get familiar with the Town's roads.

- Town Policies: Since the Feb. 4<sup>th</sup> meeting was just a workshop, the Select Board could not take any votes or actions. Brian made a motion to have the Town Administrator draft the following policies for the Select Board to review, approve, and adopt. It was seconded by Amy.

**Motion passed 5-0**

- Whistleblower Policy
- Wage, Hour, and Accurate Reporting Policy
- Removal of Town Property Policy
- Employee's Serving on Town Boards/Committees Policy
- Workplace Harassment Policy

**Old Business:**

- Discussion Planning Board Chair – Langley Willauer: Sarah posed the question to the Select Board if the expectations of behavior should be extended to members serving on boards and committees. She said that she has had conversations and that some residents are not happy. She went on to say that people serving should not be obstructionists.

Amy said that she is the newest member on the Select Board and that she is open to learning.

Thom thanked Sarah for the timing and for adding this to the agenda. He said that he is opposed to removing Langley Willauer from the Planning Board. He then read this prepared statement:

“I thank the Chair for scheduling this discussion so that I could speak about Langley Willauer’s position on the town Planning Board.

I am opposed to removing Mr. Willauer from the Board. In fact, if anything I want to thank him for his excellent leadership, his attention to detail and the many hours he obviously dedicates to making sure that all development in Hope is done in accordance with the laws and regulations and that growth is appropriately planned. Mr. Willauer is widely respected for his work and provides this service to the town for the princely sum of zero dollars. We are considering removing him from the Planning Board not because of his exemplary service on the Board but because of his former employment with the Town of Hope. It is ironic that one of the factors that led to the entire Select Board enthusiastically confirming his nomination as the town bookkeeper was due to his universally recognized exemplary work on the Planning Board.

As they say, that was then. Clearly things did not work out. In the end, Mr. Willauer and our Town Administrator could not find a way to trust each other or work together and he was summarily terminated. Except for one member of the Select Board, everyone had been told, and we did believe, that everything was going very well. His termination was shocking and Mr. Willauer, a resident of Hope for over 20 years, did not take his firing lightly. In fact as many would know he publicly and energetically defended himself and in detail criticized the management of Town Administrator Samantha Mank.

I know that some have said that Mr. Willauer has cost the town thousands of dollars. This is not correct. The Select Board hired attorney Maria Fox to clear up the confusion created by a rancorous budget process, a badly mismanaged election, and the stunning termination of a long-time resident who most of the Select Board believed was doing good work as a town employee. The Select Board authorized the expenditure, not Langley Willauer.

It is telling that many recommendations from the Fox report are in fact things that Mr. Willauer questioned. It was, for example, Mr. Willauer who challenged the wisdom of the Town Administrator also being the Code Enforcement Officer. The Select Board is currently working to change this.

The Fox report did not recommend that Langley Willauer be reinstated, but neither did it advocate that he be summarily removed from the Planning Board.

Mr. Willauer is presently employed by a neighboring town doing work very similar to his duties in Hope. I'd hazard a guess that he has zero interest in ever again working in the Hope Town Office.

This evening, the Town Administrator has nominated people to fill the town's two long-open positions. The Select Board is presently finalizing a new contract with Samantha Mank. I was heartened to read that Ms. Mank and Mr. Willauer recently held an extended meeting to plan work on a number of issues coming before the Planning Board. That's good.

No one is 100% pure in this, no one has been completely exonerated, and no one is completely condemned. We are all of us caught in a very difficult and trying time and yet I trust we are trying to do our best.

To remove Langley Willauer from the Planning Board – something I strenuously object to – would in fact be a perfect illustration of the old adage about “cutting off your nose to spite your face.”

Bruce said that he has known Langley for 16 years and he is one of the smartest, most loyal, most honest people he has ever met, and he echoes Thom's statement. Bruce said he had a few statements from other folks who could not attend the meeting tonight. The first one is from Frank Simon, they [Langley and Frank] did Outward Bound together many years ago. Bruce read Frank Simon's prepared statement:

“Sorry to hear Langley's position on the planning board is in question. I have known Langley almost since he was born. I know him to have great integrity, a very solid head on his shoulders, and a great personality. I should think these are all attributes that would make him good fit for the planning board.”

Brian said that he has sort of a mixed take on the Langley situation. He thinks that all of the Select Board members would not disagree that there was some lax in judgement by the Chair of the Planning Board and he was not referring to any ongoing dispute or disagreement with Samantha. He said that he was talking about a major issue. We had a major complaint of things that Langley Willauer did on behalf of the people in the Town of Hope that he had no business doing and he said he has a real issue with someone who does that sort of thing. And he said he couldn't believe that Thom doesn't have an issue or that Bruce doesn't have an issue with the Chairman of the Planning Board who could do what he did with a couple in the Town of Hope unbeknownst to them, that's a problem. It shows a true lack of judgement. People who are going to be the Chairman of the Planning Board, he would think would be the last person to do something like that.

Bruce responded by reading a prepared statement from his wife, Mary Moran:

“Langley Willauer is a man I have known for 40 years. I know him to be a man of outstanding character with an equal moral compass that steers straight north. He has an organized and logical mind. These qualities combined with superb

mathematical and engineering skills are well-suited to the task of the planning board. The town of Hope is very fortunate to have a person of Langley's skills and character to lead the planning board."

Bruce continued by saying that Brian's comment about what Langley did to that couple, He acknowledged that Langley acted out of order but intended to do so in the couple's best interest. He said, compare that to the mangled election we just ran, and what have we done about that?

Sarah responded to Bruce and said that when acting on someone's behalf, they need to be asked first and he didn't do that.

Harold commented that he didn't know what Brian was talking about. "But as Vice Chair of the Planning Board, I really do not look forward to stepping into Langley's shoes, he's a real hard act to follow. I think that if the Board feels the need to purge someone from town government, they need to give better reasons than I've heard."

Sarah responded to Thom's written statement saying Langley's removal was being considered because of his employment and not because of his performance on the Planning Board, in fact she said, "my feelings about his role on the Planning Board are that he has spent many many hours of devoted service to the Town of Hope and I appreciate that. It is hard and thankless work. But he also made some critical errors in judgement and behavior. When I started this discussion, I said my belief is that every town employee, elected official, or volunteer on a committee is here to help the citizens of Hope. Instead, I keep receiving reports that the Planning Board is basically trying to throw up roadblocks and is not treating people with courtesy and respect and that bothers me".

Harold said "There are people that don't like to run into rules, I guess. I don't know who you are talking about, but I have seen people in the three years that I've been on the Planning Board that roll their eyes during a meeting and just don't have a good attitude. Ok? Langley handles them well as far as I've seen. I might also point out, that months before the list came out for recommendations of what the town should do to move forward, Langley had generated a list and most of his points were on the list you paid a whole lot of money for months before and at no charge."

Sarah made some clarifications that the Select Board made the recommendations other Langley brought up needing a CEO as a separate position. She went on to say that the current CEO and Plumbing Inspector is only in the position because it was something the Select Board required. So, we can't blame the incumbent for doing what the Town has asked of her. The Town Administrator is working many hours even with a full staff. I would like to get to a point where we can retrain ourselves and Samantha to recognize that weekends are not workdays.

Harold said that he did not want to give the impression that he has any complaints with Samantha, “I know she has been up against it. It’s just that what I’ve seen of Langley on the Planning Board, I don’t have any complaints about him. I think he has done an incredibly good job and I think it would be a crime to let him go.”

Sarah said that Langley had written a letter to the Select Board and someone who was also involved was upset by the tone that came across in that letter. Sarah said she wanted to suggest that Langley be cognizant of what he writes and says and how he presents it and perhaps be aware that he may not be coming across the way he thinks he is or in the way he intends to come across. Sarah also acknowledged that Langley’s friends would see a different side of Langley. But there are more than a couple of instances of people who are upset by the way they have been treated by Langley. There is something in his demeanor that comes across in a negative way and what I am asking is that everyone that works for the Town in one way or another capacity, works to the highest standards of courtesy and cooperation on behalf of all people.

Amy said that in a boiled down version, people need to be given the chance to redirect their behavior and we are reassessing our standards and how we conduct our behavior. We can use this as an opportunity as a restorative practice.

Juanita hunt said that she was not aware of the issue that the Select Board was discussing and wanted to know if it was something that only Langley could know about. She went on to say that she thought that Langley was doing a superb job on the Planning Board and as the Chair.

Ultimately, the Select Board decided to meet with the entire Planning Board, likely during their April meeting to discuss expectations and see how things are going.

#### **Other Business:**

- Response Letter to Bruce from Attorney Joseph Baldacci: Bruce provided a letter from an attorney, Joseph Baldacci before tonight’s meeting. Bruce said that he thought rather than getting advice from a paralegal that we should have advice from an attorney. So, he sent three simple questions and got back this letter which says we can open the ballot box. The attorney’ letter read:

February 9th, 2021

**RE: HOPE SELECT BOARD/ REQUEST TO INSPECT BALLOTS**

Dear Mr. Haffner,

This letter is given to you in response to your inquiry concerning whether the town selectmen have the authority, on their own, and concurrent with state law to allow an inspection of the ballots as you have requested be done.

1. ***Are the ballots “public records” under the Maine FOIAA Statute?***



It is pretty clear that the well settled law in Maine is that the ballots are” public records.” “Such indorsement shall be signed by the ward, town or plantation clerk and by the wardens in cities or voting precincts, or by a majority of the selectmen of towns and of the assessors of plantations. The ballots, check lists and signed statements of officials returned to the city clerk after any city election and all other ballots returned to him shall be preserved by him as a public record for 6 months. The provisions of this section shall apply to all elections, including primary elections and elections for determining initiated and referendum questions.”

***Opinion of Justices, 130 A.2d 526, 532 (Me. 1956)***

***2. Does the Maine FOIAA Statute clearly apply to municipalities?***

The short answer is clearly Yes.

“ Public records. The term "public records" means any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, or is in the possession or custody of an association, the membership of which is composed exclusively of one or more of any of these entities, and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business...”

Me. Stat. tit. 1 § 402

***3. Mr. Haffner is a proper party to request such a public inspection.***

“ Except as otherwise provided by statute, every person shall have the right to inspect and copy any public record during the regular business hours of the custodian or location of such record. . . .”

***Bangor Pub. Co. v. City of Bangor, 544 A.2d 733, 735 (Me. 1988)***

***4. The Town Select Board has a duty to comply with requests regarding public records and has the authority to do under the clear dictates of Maine’s Home Rule Statute:***

Article VIII, part second, section 1 of the Maine Constitution, provides:

“The inhabitants of any municipality shall have the power to alter and amend their charters on all matters, not prohibited by the Constitution or general law, which are local and municipal in character. The Legislature shall prescribe the procedure by which the municipality may so act. Pursuant to section 1, the Legislature enacted the home rule law permitting municipalities to exercise only those powers or functions that the Legislature has the power to grant and has not denied "either expressly or by clear implication.”

In summary it is legal and appropriate for the Town to honor this freedom of

information request by Mr. Haffner with appropriate safeguards for having it done in public, during regular business hours and at his expense if necessary.

Sincerely,

/s/ JOSEPH M. BALDACCI

Joseph M. Baldacci, Esq.

Baldacci, Sullivan & Baldacci

6 State St. Suite 605

Bangor ME 04401 “

Sarah commented that Mr. Baldacci’s firm does not list municipal law as one of its specialties. They don’t deal with municipal government.

Bruce told the Select Board that title 21-A doesn’t apply to us.

Thom said that Mr. Baldacci is one of the best known lawyers in the state and that he was involved in municipal government in Bangor. Thom also referred to his conversation with the Town Clerk in Hudson who said we can look at the ballots.

Sarah told them that our town attorney warns against it.

Brian said that the letter from Baldacci’s firm seems pretty benign. There are no time frames or boundaries surrounding the ballots. He went on to say that at a previous meeting he made a motion and it passed that whatever Kristen Collins found or advised was going to be final. At some point we need to bring this “horse home”. He asked, can I just go and get a different attorney tomorrow? This needs to end.

Sarah asked if Bruce would enter the letter into the record, and she will send it to Kristen Collins.

Bruce and Sarah had some back-and-forth comments. Much discussion ensued.

The Select Board will wait to hear what attorney Kristen Collins recommends in regard to the Baldacci letter.

**Warrants #'s 60, 61, 62 & 63:**

- The Select Board reviewed the warrants. Brian made a motion to approve warrant #'s 60, 61, 62, and 63. It was seconded by Bruce. Discussion followed about some invoices from the Fire Chief making purchases over \$1,000 from his employer. The Town Administrator was instructed to review the Town’s Purchasing Policy with the Fire Chief.

**Motion passed 4-0-1 (Thom)**

**Adjournment:**

- Brian made a motion to adjourn at 8:45 pm. It was seconded by Amy.

**Motion passed 5-0**

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