

Special Selectmen's Meeting Minutes
July 24, 2018, 9am
Harpswell Town Office, 263 Mountain Road
Approved September 6, 2018

Selectmen Present: Richard A. Daniel, Chair; Kevin E. Johnson, and David I. Chipman

Staff Present: Terri Sawyer, Deputy Town Administrator; Rosalind Knight, Town Clerk; and Marguerite Kelly, Town Treasurer

Town Legal Counsel Present: Amy Tchao of Drummond Woodsum

Chairman Daniel called the meeting to order at 9:07am. [The meeting was videotaped for later broadcast on Harpswell Community].

Chairman Daniel noted the meeting today is being held as a result of receiving a letter from an attorney. Attorney Tchao stated she received an email from the Friends of Mitchell Field's attorney regarding contemplated litigation against the Town and she recommended an executive session with the Board to discuss the matter.

Chairman Daniel stated the Board should first discuss the possible recusal of Selectman Chipman. Selectman Chipman stated he has had nothing to do with the Friends for a long time and a difference of opinion does not require him having to be recused. Chairman Daniel responded to Selectman Chipman that he took paint chips and gave them to the Friends which portrays that he is working with them. Chairman Daniel stated if Selectman Chipman recused himself, he could gain the trust of his colleagues by assuring that no information is given to the Friends of Mitchell Field. There was further discussion regarding the paint chips that Selectman Chipman took from the tower without talking about it with the Board. The Board recessed at 9:15.

The meeting resumed at 9:20. Attorney Tchao stated there is an email from Attorney Chris Neagle indicating that he has begun work on legal papers to sue the Town, including seeking a temporary restraining order, declaratory judgement and a hearing. Mr. Neagle requests the Town table the contract with the contractor for the water tower demolition until the public has had a chance to review information and vote on the matter. Attorney Tchao suggested the Board meet in executive session but stated it could be open session and it's up to the Board to decide. Chairman Daniel asked if it was to be open session, is public comment allowed. Attorney Tchao responded public comment could be at the discretion of the Board. Selectman Chipman stated legal strategy should be discussed in executive session. At 9:25am, Chairman Daniel moved, seconded by Selectman Chipman to enter executive session pursuant to 1 MRS §405(6)(e) to consult with the Town Attorney regarding pending litigation; motion 3-0.

At 10:25am, the Board returned to open session.

Chairman Daniel reported there is nothing of substantive value in the email from Attorney Neagle and he stated he is inclined to sign a contract with the contractor for the water tower demolition on Thursday night if one is available. Chairman Daniel expressed his appreciation to staff for their sincere efforts during this difficult situation.

Chairman Daniel read a paragraph from Attorney Neagle's email: "Robert Daniel, as a member of the Select Board, appointed himself to the Water Tower Task Force, then appointed himself chairperson of the Task Force with no vote of its members, and refused to entertain any discussion other than demolition of the water tower. He had a report printed in the Annual Report that was never adopted by the Task Force itself." Chairman Daniel stated members of the Task Force should know how the previous chair came to be and how he became chair. He read from the Selectmen's minutes of March 15, 2017: "**14. Committee Appointments:** Chairman Daniel stated the Board could appoint an associate as a full member to the Water Tower Task Force but he expressed an interest in joining the Committee as Chair in place of Ellie Multer. Selectman Johnson moved, seconded by Selectman Chipman to appoint Chairman Daniel to the Water Tower Task Force as Chair; motion passed 3-0."

Chairman Daniel stated a contract will be signed on Thursday if one is available. Attorney Tchao asked if the Board wanted to discuss that matter and then make a motion since the Board has been asked to delay the process or be faced with a lawsuit. Selectman Johnson moved to decline to delay action and proceed with signing a contract at Thursday's meeting if one is available. Selectman Chipman stated he cannot agree as this could get expensive if the Board is not careful. Chairman Daniel responded he is not worried about the costs as much as he is about getting it right. Selectman Chipman stated he prefers a full discussion Thursday night and he may go along with it at that time. Chairman Daniel stated Selectman Chipman has been stating there are attorneys waiting to take this case so it's been planned. Selectman Chipman stated he did say that a long time ago but since then he has removed himself from the Friends. Chairman Daniel responded but yet Selectman Chipman took paint chips and gave them to the Friends. The motion was seconded by Chairman Daniel and it passed 2-1 (Selectman Chipman opposed).

Attorney Tchao stated as the Board is aware; she issued an opinion letter on July 12 regarding the June 14 warrant submitted by the Friends of Mitchell Field that was addressed to James Henderson to put by secret ballot the question to repeal the March 10 decision before voters. She will not rehash her opinion letter as it is available but noted her conclusion was that the warrant was not valid and any public hearing (planned for July 28) called by the Friends was also invalid and an illegal process as well as any scheduled election. The original warrant scheduled an election on August 11 and then the second warrant, dated July 13, scheduled an election on August 10. Attorney Tchao stated her opinion dated July 12 remains unchanged concerning this revised July 13 warrant. The warrant is still invalid and any election held would be illegal.

Selectman Johnson stated there was an ad taken out in the Times Record and the top of the ad says Town of Harpswell which is misleading as the Town is not supporting the hearing or election. The public needs to know that this ad is misleading and the Town is not involved in it.

The meeting was adjourned by unanimous consent at 10:37am.

Respectfully submitted,

Terri Sawyer
Deputy Town Administrator