

**Special Selectmen's Meeting Minutes**  
**May 9, 2018, 4pm**  
**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:** Kristi Eiane, 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 4pm. [The meeting was broadcast live on Harpswell Community television and streamed live over the internet].

Chairman Daniel noted that the Town Attorney is present to assist the Board with its findings of fact and decision concerning the petition regarding the Mitchell Field water tower.

Amy Tchao, Town Attorney, stated the Board has draft findings of fact for review in relation to the Board's meeting last week when the Board voted by 2-1 to decline to advance the petition to the voters, which was essentially a reconsideration vote. Attorney Tchao stated the state statute does use the word "shall" for when the municipal officers have a valid petition, they shall put the question to the voters. But there is a provision in the statute that allows the Board to reasonably refuse to bring a petition forward to the voters under certain circumstances as discussed last week involving case law. Attorney Tchao summarized the case law dealing with a situation where there was a valid vote on a matter and a petition came in later seeking a reconsideration or a repeal of a vote that had already been voted on. In discussing why the Board voted the way that it did last week, Attorney Tchao took some notes and from those notes and the draft minutes of the 5/2 meeting, Attorney Tchao drafted the findings of fact. The Findings incorporate the May 2 minutes and referenced documents.

Selectman Chipman moved, seconded by Selectman Johnson to approve the May 2 minutes; motion passed 3-0.

The Selectmen reviewed the draft findings of fact. Selectman Chipman asked if he signs the Findings, does that change his opposition vote; Attorney Tchao responded no and that she could clarify what specifically the vote was. Attorney Tchao reviewed the draft document. There was a discussion, including comments by Robert McIntyre and Dorothy Rosenberg, regarding the details and some changes were made. Gary Vincent commented that the comments from Dorothy Rosenberg and Robert McIntire are moot since the article voted on had nothing to do with the lead test, costs etc. Selectman Chipman noted one person at Town Meeting did mention costs to rehabilitate the tower. Ms. Rosenberg stated the statute the Town Attorney advised the Board on mentions in the absence of allegations of improprieties and she believes there have been a number of improprieties. She states they have consulted with an attorney and she suggested the Town Attorney meet with the Friends' attorney to review the matter. Attorney Tchao stated she did not advise the Board that there were no improprieties but simply advised the Board that the standard by which you determine whether or not to reasonably refuse to put before voters depends on a number of factors including – is there an absence of misinformation, is there an absence of natural disaster, is there an absence of impropriety. The determination on whether there is an impropriety sufficient to require or

warrant a reconsideration vote is the Board's decision. Attorney Tchao stated she asked the Board to make findings as to whether misinformation rising to the level warranted reconsideration and the majority of the Board said the allegations of misinformation were unfounded.

Chairman Daniel asked Ms. Rosenberg if she and her group would give up trying to over throw the Town Meeting decision and join the Town and the Energy and Technology Committee with her wealth of knowledge in trying to get cell service around the Town as well as having her group continue on to help with Mitchell Field matters in the future. Ms. Rosenberg responded she prefers the Board to proceed with her proposal of having the Town Attorney speak with their attorney.

There was a recess to allow the Town Attorney to amend the Findings of Fact.

Attorney Tchao reviewed the suggested amendments.

Robert McIntyre suggested further amendments and made additional comments. Gary Vincent reviewed the warrant articles that were voted on.

Chairman Daniel read the proposal submitted by the Friends of Mitchell Field – “We propose that the Town lawyer meet with our designated legal representative to go over the evidence of impropriety and misconduct and to reconsider her advice to the Selectboard. That advice having been that Vassalboro provides justification for rejection of a properly submitted and valid petition because there were no allegations of impropriety or misconduct in that case”. It was signed Robert McIntyre for Friends of Mitchell Field dated May 9, 2018. Attorney Tchao noted again that as Town Attorney, she did not make any judgements whether there were allegations of improprieties or lack of allegations of improprieties sufficient to influence the Board in its decision. Robert McIntyre made several comments including suggesting that a November vote about this matter should take place.

Selectman Johnson moved to accept the final Findings of Fact for the decision concerning the citizens' petition regarding the Mitchell Field water tower. The motion was seconded by Chairman Daniel. The motion passed 3-0.

The Board discussed the proposal from the Friends of Mitchell Field. Attorney Tchao stated if an attorney calls her up to discuss litigation with the Town, she obviously would listen and pass the information on to the Town Administrator and then if needed, an executive session could be held. Chairman Daniel acknowledged receipt of the written request noting that it may come back in the future.

The meeting was adjourned by unanimous consent at 5:15pm.

Respectfully submitted,

Terri Sawyer  
Deputy Town Administrator

Attachments: Findings of Fact