

Selectmen's Meeting Minutes
August 2, 2018
Harpswell Town Office
Approved October 4, 2018

At 4:05 pm, the Board called the special meeting to order. **Selectman Johnson moved to recuse Selectman Chipman from the executive session due to his participation with the Friends of Mitchell Field (FMF).** Chairman Daniel stated he had asked Selectman Chipman if he founded the FMF, which Selectman Chipman skirted around the question. Selectman Chipman stated he is not an official founder. There was a discussion regarding Selectman Chipman's actions against the Town as a Selectman. Selectman Chipman stated he was personally attacked at the last meeting and his colleagues let it happen. Chairman Daniel stated he has been the subject of many attacks that were allowed. Chairman Daniel stated Selectman Chipman asked for a chance to save the tower and the Chairman worked hard toward obtaining a consensus with the Water Tower Task Force for that very reason. **Chairman Daniel seconded the motion.** Chairman Daniel asked what exactly recusal means and which parts Selectman Chipman would be excluded from. Amy Tchao, Town Attorney, stated she understands the motion to be related to pending litigation. Chairman Daniel asked if the recusal means from everything relating to the water tower. Selectman Chipman stated there is no reason to be recused. Chairman Daniel acknowledged that selectmen have a right to their opinion and asked Selectman Chipman if he would have concerns if the situation was flipped; Selectman Chipman responded he would have heartburn. Selectman Johnson said to Selectman Chipman that you called us unlawful. Selectman Chipman responded that he did and Attorney Tchao is trying to prove you are not. Chairman Daniel asked Attorney Tchao if the recusal could just be for the judicial process or is it for everything relating to the tower. Attorney Tchao stated she agrees selectmen have a right to believe and express themselves. It gets murky when the Board has to advise legal counsel on which direction it wants to go. There was a discussion regarding the Selectmen's differing thoughts. Chairman Daniel stated if he had to choose, he believes recusal would be best in relation to the judicial process so that information is not relayed to the other side. Selectman Chipman stated he has not done so from the last executive session. Attorney Tchao stated she could describe where we are at and it could be done publicly or in executive session with Selectman Chipman. There was a discussion regarding Selectman Chipman's involvement. Selectman Chipman stated his colleagues are putting a lot of effort in protecting the Town Meeting vote but it is appealable. He continued to stated that he wanted this on the ballot and takes part of the fault as he voted to place it on the floor. Chairman Daniel and Selectman Johnson responded that Selectman Chipman is now trying to rescind that vote. They agreed to let the Attorney speak. [The motion was never acted on].

Attorney Tchao stated that last week the Friends of Mitchell Field (FMF) filed a complaint and motion for injunction for an expedited hearing before Thursday night when the Board may consider entering a contract for demolition of the water tower. FMF also requested a date before the planned public hearing the FMF organized for July 28. The hearing was July 26 and due to the time restraints, there was no testimonial. The Judge ordered that the temporary restraining order was denied on facts alleged in likelihood of merits and the FMF have a high burden. The Judge was not prepared to prevent the contract. Attorney Tchao argued if the demolition was delayed, there were repairs that needed to be done. An affidavit by Administrator Eiane and the Woodard and Curran Report were submitted. The Court denied the temporary restraining order and recommended the FMF not proceed with the hearing and Special Town Meeting as the Court agreed with the Town's position that any secret ballot vote meeting needed to be run in part by the Town and not the FMF. The election laws are specific. The Judge recommended the FMF not proceed and the court will take evidence and hear the matter on whether the Board's refusal to take the FMF petition to voters was unreasonable. The Judge understood there were factual differences. There will be an evidentiary hearing on August 28. The Judge knows the contract cannot start before September 1 and will rule timely. Attorney Tchao stated whether the FMF needed to submit a new petition to a notary will be discussed; she issued a legal letter on July 12 stating that one reason for denial was that FMF should have submitted a new petition to a notary signed by the required number of voters. The Judge stated that he doubted the warrant complied with the statutes. The judge could allow oral arguments at the hearing and then rule at the bench or allow post evidence and look to the staff and contractor for dates that impact the decision. Chairman Daniel asked if during the trial if both sides will be closed. Attorney Tchao responded the witnesses will be sworn in and likely will be sequestered. Administrator Eiane stated that documents will be

provided and the Attorney may need to meet with each Selectman individually and staff to prepare. Attorney Tchao agreed.

Attorney Tchao added the Judge in the case disclosed he was a former partner with Verril and Dana and as such worked with Attorney Chris Neagle. The Judge wanted to disclose that and reports he sees no reason why he cannot be impartial. The Board of Selectmen expressed no objection.

The Board of Selectmen recessed at 4:41pm.

Call to Order and Pledge of Allegiance: The meeting was called to order at 6:00 p.m.

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

Staff Present: Kristi Eiane, Town Administrator; Terri Sawyer, Deputy Town Administrator; and Debbie Turner, Assessing Agent

1. Adoption of the Agenda: Chairman Daniel moved, seconded by Selectman Johnson to approve the agenda as printed; passed 3-0.

2. Public Comment: None.

3. Set 2018 Mil Rate: Debbie Turner, Assessing Agent, reviewed the different mil rate options ranging from \$6.44 to \$6.50. Staff recommends \$6.48 which results in \$112,065.34 in overlay and a tax commitment of \$11,999,339.35. Selectman Chipman moved, seconded by Selectman Johnson to set the 2018 mil rate at \$6.48; motion passed 3-0.

4. Town Office Drainage Project Alternate Items: Administrator Eiane reported that phase 1 and 2 of the drainage project have been completed and have greatly improved the situation. There are two alternatives for consideration – one for the sidewalk at \$1,850 and the walkway to the Recycling Center for \$16,400. Selectman Johnson stated the \$1,850 for the sidewalk is reasonable and the rest can wait until after winter for reevaluation. Chairman Daniel moved, seconded by Selectman Chipman to approve the sidewalk alternate; motion passed 3-0.

5. Other Business: Deputy Administrator Sawyer stated the Board previously approved sole sourcing with Ray Labbe & Sons for the Mackerel Cove boat launch replacement project with the contractor's final cost coming back to the Board for review. The proposal is for \$79,600, which is less than estimated by the engineer. Selectman Chipman moved, seconded by Selectman Johnson to proceed with Labbe; motion passed 3-0.

Deputy Administrator Sawyer stated the Town sought two estimates for engineering work, including permitting, at the Tide Mill Cove Town property. Baker Design Consultants estimated the work up to \$7,849, which is less than the other estimate. Staff recommends proceeding. Chairman Daniel moved, seconded by Selectman Chipman to approve proceeding with Baker Design; motion passed 3-0.

Chairman Daniel commented on how nice the causeway at Mitchell Field looks now. Selectman Chipman commented on the bollards planned to be placed at the end.

6. Adjournment: At 6:12 p.m. the Chair adjourned the meeting without objection.

Respectfully Submitted,

Terri-Lynn Sawyer
Deputy Town Administrator