

MINUTES
Casco Selectboard
November 9, 2010

Members Present:

Barbara York, Paul Edes, Mary Fernandes, Carroll Morton and Ray Grant

Staff Present:

David Morton and Lucille Griffin

Town Attorney Present:

Natalie Burns

Guests Present:

See List

The Selectboard approved bills and signed warrants.

Minutes:

The Selectboard moved (Edes), seconded (Fernandes) and unanimously voted to accept the minutes of August 31, 2010 as written.

The Selectboard moved (Edes), seconded (Fernandes) and unanimously voted to accept the minutes of September 28, 2010 as written.

Old Business:

- Appointment of Jensen, Baird, Gardner and Henry (JBGH) as the Town of Casco's legal counsel:

The Selectboard moved (York), seconded (Edes) and voted to appoint the firm of Jensen, Baird, Gardner and Henry as the Town of Casco's municipal legal counsel. The vote was 4-1-0; Carroll Morton opposed.

Mary Fernandes asked Natalie Burns if she would be representing the Town of Casco. Ms. Burns said, as indicated in the RFP response, she will be the lead counsel from JBGH. There may be other attorneys who do work for you, as JBGH indicated when we identified those attorneys but she will be the lead counsel.

Ray Grant had a question on the plowing of private roads that was taken up two meetings ago. He wanted to know if the town could legally plow those private roads until we receive the signed easements from the landowners and road associations. Ms. Burns said that the recommendation was just to have those to fill in any gaps that might exist. There were some prior permissions that were given and they suggested those should be updated and there should be easements or updated agreements. If there was a previously existing agreement for a road, they would take a

look at that to see if it was still valid if the new request has not come in. If there isn't one then, no, the town can't plow the road in the absence of any kind of agreement or easement.

Carroll Morton stated that the reason he was opposed to appointing JBGH as our municipal attorney was because a few months ago a different attorney advised the Town of Casco that they could not give away that money from Casco Helping Casco to anybody that didn't have the 501(c)(3). C. Morton asked how that the rules could change in just that short a time until two weeks ago.

Town Manager David Morton said he thought that C. Morton was mistaken. The attorney did not refer to an organization needing to qualify for a 501(c)(3). The attorney was referring to an organization that was legally incorporated under the laws of the State of Maine. The two can be similar or different but being legally incorporated as an organization under the laws of the State of Maine does not necessarily mean you have to have a 501(c)(3) approval from the Internal Revenue Service. Town Manager Morton said he believed our instructions were that it could only be given to an organization that was legally incorporated as a non-profit under the laws of the State of Maine.

C. Morton replied, okay, whatever you say.

- Discussion of items for a Special Town Meeting:

1. Adoption of the PACE Ordinance for home improvement loan opportunities.
2. Memorial School building roof improvements.
3. Town Meeting date.

- Peter Roehrig, with the Efficiency Maine Trust, gave a presentation on the Maine PACE Program. Efficiency Maine is the clean energy and energy efficiency program for the State of Maine. Following his presentation there was a brief question and answer period with questions and comments from both the Board and the audience. The Board then thanked Mr. Roehrig for his presentation.

- Memorial School building improvements:

Town Manager Morton noted that the Board seems to have come to a consensus that they wish to put the Memorial School building roof improvements on a Special Town Meeting Warrant. Morton said he had sent a memo to the Board a while back suggesting, as the contractor had indicated that they would rather address the roof in the springtime, that we might try and make repairs to the roof to get us through the winter and that we delay the Special Town Meeting until January 2011 when we would normally have a regular Special Town Meeting. However, if the Board wishes to move ahead Morton had prepared two different Special Town Meeting Warrants for the December 7, 2010 date that the Board had also discussed. Morton said, as he recalls, the Board never came to any conclusion. Morton said the reason he prepared two warrants was that there was also discussion among the Board on whether we would include the cost for addressing the environmental issues at the same time; one warrant is for just the roof and one warrant includes the roof and the environmental issues. Again, Morton's suggestion was, in lieu of the

contractor's preference for doing the roof job in the spring, that we delay the whole meeting process until January 2011 when we would normally schedule it. Morton said we do have money that Town Meeting set aside for the Memorial School property a couple of years back. We have used some of that money for the environmental study and to engage an architect to help us put together the request for proposals from the contracting companies. We have close to \$20,000 left. That certainly should be more than enough to make whatever short term repairs to the roof and, if the Board wishes to pull together more information, we could bring in an engineer and an architect. Morton said he would do that in expectation of the January 2011 meeting.

Ray Grant asked what the engineering would be for. Town Manager Morton said there seemed to be a lot of discussion at the last meeting on overall costs and where we are going. Morton said he did not know what the Board's pleasure is there or whether we are going to just take it one step at a time, look at the roof and then move forward from there. Morton said he is just laying out options. Grant asked if we didn't have a price from the contractor that built the Community Center to remodel and to be move into the Memorial School for under \$200,000. Town Manager Morton said the town did not solicit that price. That was solicited by others and Town Manager Morton never had the background or the understanding of what went into that price. Town Manager Morton said he did have an opportunity to meet with the contractor that looked at it. Morton said we know that there were some things that were left out of that and his price was not premised on everything that would eventually need to be done to the building. His price was premised on what the minimum amount would be to move in. Grant said that was correct. Town Manager Morton said if the Board is comfortable with that he suggests that we look at a vote in January 2011 and go forward from there. Again, Morton said he is laying out options. If the Board wants to do more investigation and have more information for people going into that Town Meeting that would give us more time.

Town Manager Morton said there is a time frame with the PACE Ordinance. We need to advertise and Morton said he is not sure we can meet the December 2010 deadline. Morton asked Natalie Burns if the deadline is thirty days prior to the meeting to hold a public hearing. Morton said he is not sure for this particular ordinance what the lead time is to have a public hearing. We will have to do that if the Board decides to go ahead with that. Natalie Burns said a public hearing has to be done ten days prior to the meeting.

Town Manager Morton reiterated that we have money to make short term patching of the roof, the contractor would prefer to do the roof in the spring and we normally have a Special Town Meeting in January. Morton said that the Board has several options but he thinks the January meeting will give the Board more flexibility and won't be pushing the envelope.

Barbara York asked if Morton had a price on the repairs or did the contractor give you an estimate to just patch the roof until spring. Town Manager Morton said he has not asked the contractor, Hardy Pond Construction, to come in. They indicated that they could do it but he does not have a price. Morton has not asked them to come in and look at the roof and give us that price.

Margaret Dilley said she had looked at the building at one point and said that there are a lot of broken windows there. If we are worried about water we should be looking at something to go over them, at least plastic or plywood, so that water damage can't come in from the broken windows.

Ray Grant asked Dilley when she was there. Grant said he was in there a month or two ago and he did not notice any broken windows. Dilley said that someone pointed it out to her.

Ted Ropple said, building on what went on last meeting, it seems like the decision has been made that the Town Office is going to move to the Memorial School. Barbara York noted that there has been no vote on that. Ropple said he would like to make a recommendation that if the town is going to go down the road of making repairs and putting capital money into a building like this you really should put a plan together for consideration at Town Meeting. You should spend a little time and get a solid plan that you can present so that people know what we are talking about and know what the bottom line is going to be, what is included and what is not included and then move on. Ropple said he would hate to go through what we went through on the Community Center again. Ropple said he would take the time, do it in January and put a full plan in front of everybody for them to vote on.

Barbara moved to ask Hardy Pond Construction to repair the roof enough to keep the building through the winter and go to the January Town Meeting with some ideas and some plans because we really don't know a whole lot of the costs or what is involved or what is needed. This will give us a little bit of time so that people will know what is in store for us.

Barbara York said her motion is to go ahead and repair the roof to make the building safe through the winter and check the water on it and do something at the Special Town Meeting in January 2011. Mary Fernandes seconded the motion. (Fernandes' second is located on Page 6, Paragraph 2.) Barbara York moved to amend the motion for the price not to exceed \$2,500. Ray Grant added that we ask Hardy Pond Construction and other contractors to look at it. Mary Fernandes seconded the amendment. The vote on the motion was 5-0-0. (The amendment and the vote are located on Page 11, Paragraph 5.)

Paul Edes said that before York's motion is seconded he would like to make a couple of statements or comments and ask questions. Edes said he went through the building last week and he found that there were four leaks on one side and one leak on the other side. There is one major leak. If we don't do anything until January we should at least put a kiddie pool underneath it to catch the water. The water is coming down bad in that one area. Secondly, when the school was turning the building over to us they gave us an estimate of what it would cost for the repairs. Edes said if he remembered right Sebago Technics was looking at another project and that Town Manager Morton had asked them to go through the building and see what they figured for an estimated price. Edes said if we are going in front of the January 2011 Special Town Meeting that we could use those two estimates to get an idea what the difference is between the two even though the figures are out of date. Just so people would know that repairing the building is a percentage higher than what the school had it estimated at so they would have an idea what the percentage of the difference would be. We do know that it is going to cost a little bit more to have it renovated than it would to have it replaced.

Ray Grant asked Edes if he said it is going to cost more to renovate than it is to replace.

Edes said that is the figures that we heard earlier that it was going to cost a little bit more to have it renovated. Edes said he would like to see it renovated.

Ray Grant said he was not under that conclusion. The other thing Grant wanted to say was this is the same path slippery slope we took down on this building. We kept hiring engineers and we threw a lot of money at this building and then we threw the engineers out and we went to a plan to build/design. We wasted thousands of dollars here by doing that plan and then we never used any of it. Grant thinks what we have already got for information should suffice to get a general... to finish this project it is going to be four or five years and the prices are all going to change; the price of new buildings and the price of remodeling. Grant said that there are pros and cons about the January Special Town Meeting but he thought they should not keep throwing money at this project. Grant said he thought there was enough engineering done to this building already to understand what it is going to need to fix it and he does not think we need to hire another engineer to tell us more on this.

Edes said he does not think we need to hire another engineer but he thinks that we do have some numbers. Grant agreed and said they could use the numbers we already have. Edes said that the public ought to see some numbers.

Ted Ropple said he guessed he wasn't clear last time. Ropple said the Board does not have any numbers because they can't give him any right now. You have some ideas and you have some estimates from people that may or may not have been qualified to make them. Again, Ropple said he is just going to suggest this because, just like Ray (Grant) said, you are heading right for the same thing that went on with this building (Community Center). Ropple said make the decision to move the Town Hall there and maybe that is where the start is for the Town Meeting, saying you are going to move the Town Hall there and we are going to fix the roof. The next step would be to hire somebody to design what you want it to look like and then put it out to bid and move forward. You are going to have to keep this really simple and you are going to have to deliver a price because if you don't people aren't going to want to sign on to it; Ropple said he wouldn't.

Barbara York said that until we know what we need and what we have and what the costs are going to be she did not see how we can make any decisions rather to remodel or tear down and rebuild. York said we have had everything out but we have never had any defined numbers, we have never had a defined amount of space, what is necessary, what isn't necessary, what we could use and how it could be. York said we need to be able to let the people know exactly what we have and what our needs are. York doesn't see that that has happened. Wayne Ward threw some numbers out there but it was just whatever he put out and there was never a figure there from any company. Plus there was never a design by Town Manager Morton and what the needs for the town were at the time. York said the Board has to do that step and that is why she is saying repair the roof to keep it from leaking more to prevent more damage, give a couple of months before the Special Town Meeting and do some work, get some figures and get it organized so people know what they are voting on.

Margaret Dilley said maybe the first thing we should do at the Town Meeting is have an up or down vote; do you want to rebuild the building or do you want to repair the building. Then go on with your other ordinances. Then you will know which direction. You already know the people want that to be the location. We don't know how much money they want to spend. York said we don't know the costs. Dilley said they are going to make the decision if they want an old building fixed or a new one built.

Mary Fernandes said she agrees with York, they can't make a decision without numbers. **Fernandes then seconded York's motion.**

Ray Grant said he is not saying that we don't come up with numbers; he is saying that we have the figures now with the engineering that has already been done. The school department told us what needed to be done, there would be repairs and you know how you want the building to be figured and how you want to lay it out. Grant said he did not think it was going to take long to come up with a figure. Grant asked Town Manager Morton if that was correct.

Town Manager David Morton said that when he mentioned engaging an engineer it wasn't so much to deal with structural issues. Morton said Grant is correct in that we are aware of all of the structural issues unless there is something that nobody has seen. The issue with the roof has been well engineered. We have the design work and we put that out to bid. We have had other engineers walk through the building and do just a visual inspection and have said that they believe the building is physically sound and can be renovated. We have had environmental specialists go through and identify environmental issues and give us some estimates for what those costs which are something in the range of \$25,000 to \$30,000. We have some layouts of the building and we can sit down, look and reconfigure the space to meet our needs but what we don't have are the abilities to realistically estimate what the cost is for making all the physical changes to the existing building. We can do what was done before. We can go to some local contractors and get some estimates or we can engage somebody, whether it is an engineer or an architect, somebody that is independent from potential bidders to come in and give us an estimate. The other possibility is we can do what we did with the Community Center which worked well but created a great deal of controversy when we did the design/build. We speeded out in general terms what we wanted, laid out a basic floor plan and said come back and tell us how you can do it and how you can do it better than anybody else. We left it pretty wide open and the contractor that won it said he could do it better by not renovating it and he could do it better by taking it down and building it new. That was a case where the contractor really thought outside the box and we got an extremely good product for it. Not without a lot of heartache and a lot of discussion. Again, Morton said there are a number of options and he is suggesting that somehow we need to think about how we are going to proceed. We have money available right now, if the Board felt comfortable, to authorize him (Town Manager Morton) up to a certain dollar amount to patch the roof so we stop the leaks. Take care of the water problem as it currently is to the best of our ability, maybe it is a big blue tarp over the building until that time, but whatever it takes at a marginal cost. Then we can approach Town Meeting in January and if the Board just wants to say we want to do it in steps, we want to do the roof first then study it and come back we will find out whether Town Meeting wants it to be done that way or they want to see the whole package before they approve the money for the roof. Either way we can plug the leaks now and then have voters decide in January. We can have a theoretical, proposed floor

plan ready by January. We have those sketches now so we could hold up a floor plan saying that this is what we would like to see or something close to what we would like to see. We can have that to show voters but what would be difficult, again without some professional assistance, is to say it is going to cost how many dollars to get from what is there now to this floor plan. Morton said he did not know if it was still in the neighborhood of \$200,000 or \$300,000. Morton said he would be guessing without somebody that is skilled at that to evaluate it.

Barbara York asked if we had enough time to put this out to the contractors as to whatever the needs are and then be able to put out a design/build before the January meeting. Town Manager Morton said we do not.

Ray Grant said that the only problem is that we are not going to put it out to bid so why would they be spending their time and giving us an estimate of what is going to cost when we are not going to put it out to bid because, as far as he knows, our plan is not to move into there until we retire the debt on the Community Center and that will be another four years out.

Town Manager Morton said he doesn't know if that has been a firm decision but Morton thinks it might be a wise one and he thinks that we have three more years, maybe four, before the Community Center debt is retired.

Grant said maybe we could get someone to come in and just look at that floor plan and give us a square footage estimate pretty easily.

Town Manager Morton said absolutely. We can bring in again the firm of Sebago Technics that we have been working with. They can walk through that building, look at what we would like to do for changes and give us a square foot estimate for both; what they think it would cost to get in initially and then what it would cost to for the improvements you would have to make to the building over time. That is what they (Sebago Technics) shared with us before. They thought the building was one that could be reused and repurposed and that their concern was based on what we spent here what the cost over time fixing the old building versus what we could do new but they agreed that either way would work well. Morton said the advantage of going with the repairs in the short term is that the town can invest money in steps over time and isn't looking at a larger sum all at once. You can argue back and forth and not be wrong on either side which is the better approach. That becomes a community decision. Both would work equally well. It depends on what folks decide they want to do.

Sam Brown said that his basic thought is what the town has said it wants is the Town Offices in this location (Memorial School). Brown thinks that the responsibility that we have is to deliver that function in as an efficient a way as possible. His fear is that we spend money to put a Bandaid over the roof to prevent water from getting in and we all drive by it and see a big blue tarp over the roof all winter long and a wind storm comes up and the tarp gets blown off or there is an ice storm. You don't actually prevent water from getting in, water gets in anyway, and he realizes, as David Morton said, that with this building there was a lot of discussion and a lot of pain but ultimately we ended up with a really good thing. Brown said he thinks that is a good thing and he thinks it is crazy not to learn from our lesson of exactly what happened before which is a request proposal. You have to determine what it is you need for a Town Office.

Brown said he does not know what the square footage is that we need but if that building is arbitrarily 10,000 square feet and we only need 4,000 square feet it does not make sense to repair the building no matter what cost it is because you are spending more than you need for more than you need. What we need is a Town Office. Brown said that Town Manager Morton knows what the demands of that Town Office are and what that space requirements are as he works there. Determine that. If that is the building for it or not let the contractors give you that. Don't tell them to tear it down or repair it. Let them come to you with a plan and say give me the best plan to deliver a Town Office with this square footage requirement. Brown said that is his opinion.

Paul Edes asked if the motion on the floor was to temporarily repair the roof until we get through the Special Town Meeting with the public's vote. Barbara York said that was right.

Ray Grant said before we vote on the motion he wanted to know what the dollar limit is to temporarily fix that roof. Town Manager David Morton said he did not know but he was thinking if the Board authorized \$5,000 to patch the roof and he will get two or three different contractors to look at it. He will ask Hardy Pond Construction, obviously, because they might be doing the roof for us if the money is approved in January but he will get two or three other contractors to come look at it as well.

Edes said he thought it could be well done underneath that because in the other three areas you see moisture on the ceiling tiles which is no bigger than a basketball but there is one area which he thinks they would have to shingle down as there is a flow of water coming through that one. It is hitting a desk and splashing up.

Tracy Kimball said she is going to stand up at this podium at every meeting until the Board can start making decisions because this has seriously gone on too long. Kimball asked who was leading. Who needs to lead this project? Is it the Board, is it Town Manager Morton, is it us? Who needs to lead? Kimball said she is not asking that hypothetically, she is hoping someone can give her an answer.

Barbara York responded that generally the Board will make the decision. We will put out to the public what choices they have. York said that was what she would see. Town Manager Morton would generally tell the Board the amount of space that we need, the design type of thing, and she would hope that we would have either some sort of thing to put out to the voters.

Kimball asked who was leading that. Who is leading what you need to decide on and what order you need to decide it and when those decisions are going to be made. Who is leading that?

York said that first we have to make sure the roof is safe. We need to protect the roof and that is the first article to do.

Kimball said that we are not going to have to worry about a roof if we keep waiting too much longer. You are not going to worry about winter and you are not going to have to worry spring and you are not going to worry about four years from now because the building is going to disintegrate if you don't do something.

York said that the contractor did say he could repair the roof because he would rather do it in the spring anyway. York said her thought behind this, is that we have something to put together a design/build, repair or remodel. York would have liked to have this for the January Town Meeting.

Kimball noted that at the last meeting the Board said they were going to have a December Town Meeting.

York continued, and then let the town body vote whichever choices there are.

Kimball asked who was leading the list of choices. Who is leading this project?

Ray Grant responded that the Selectboard are leading the project.

Kimball asked, of the Selectboard, there has to be a leader. Grant responded that it is a majority vote here. Kimball said that the Board was not doing it. Somebody has to start that process and write something down on a piece of paper that says this is where we start. Who is doing that? York said that is what the Board is trying to get done tonight so that the process starts tonight. Kimball asked what the next decision is that the Board has to make. York said this Board has to first decide if they want to repair the roof and have a Special Town Meeting in January. York said she asked Town Manager Morton if he thought we could get numbers before January.

Paul Edes said the word is to patch the roof not repair the roof. It is patch the roof until we get the citizens vote. Kimball said she gets the part that it is to prevent further damage. Edes said that is what we are deciding now to patch the roof until the Special Town Meeting. Kimball said that is decision number one. The Special Town Meeting is in January which is not that far away. Who is leading all the things that need to be presented to the town so the town can decide if they do or don't want to do this? Who is organizing those thoughts? Everybody has ideas. Kimball said she knew the Board all had ideas and we all have ideas. Who is organizing those thoughts?

Ray Grant responded that the Board had asked Town Manager Morton to look into getting us prices and stuff. Morton will be organizing that. Kimball said that prices are only on piece of that. Who is organizing the rest of the pieces? Grant said that after they get the prices they are going to a Town Meeting and they are going to authorize whether it is going to be done or not. Kimball asked how you know what prices you need if you don't know what you want yet? Grant said the Board does know what we want and Town Manager Morton has said he has a floor plan already. Kimball said, so, he has a floor plan and you are going to get prices on designs based on that floor plan. Grant asked Town Manager Morton if that was what he had said. Morton answered that is the best we can do at this point in time. Kimball said she is just trying to help the Board along in the decisions and making a list of decisions that need to be made.

Barbara York said that she thinks that the Board is trying to move it along so that it doesn't keep dragging out for years and years. We are now on our third year and each year the building deteriorates. It is at this point that we really need to get some numbers and be able to talk about it. Kimball agreed but said this is six months she is asking the same questions and we haven't got very far.

York then returned to the motion on the floor.

Ray Grant said he thought \$2,500 would be enough to patch the roof.

York asked Town Manager Morton if he thinks \$2,500 would be enough. Morton said he has not consulted with anybody about that. He just threw that number out there and Grant said he realized that. Morton said if Grant felt more comfortable with \$2,500 that would be fine. Grant said he would feel more comfortable with that and he was only speaking for himself. York asked what if it ends up \$3,000. Grant said that it would have to come back to the Board. York noted that the Board will be meeting in December.

Barbara York moved to amend the motion for the price not to exceed \$2,500. Ray Grant added that we ask Hardy Pond Construction and other contractors to look at it. Mary Fernandes seconded the amendment. The vote on the motion was 5-0-0. The original motion is located on Page 4, Paragraph 5.)

- Special Town Meeting Date:

York asked if the Special Town Meeting was going to be on December 7, 2010. Town Manager Morton said her motion was to go into January. Town Manager Morton said he needed to go back and check our Town Meeting minutes to see what was voted for the dates for Town Meetings. Lucille Griffin noted that the date set is the second Saturday in January at 9:00 a.m.

New Business:

- Update by the Casco Open Space Commission:

Eric Dibner and Grant Plummer did the presentation for the Open Space Commission. (See handouts and maps.) Dibner said he will give a brief presentation and then will respond to questions about what the Open Space Commission is doing, what they should be doing and what the town is interest is in preserving or protecting open space. There is an annual report that the Open Space Commission submitted that summarizes what happened in the first year of the Open Space Commission's existence after it was put in place by the ordinance passed a year ago June. Dibner noted that Barbara York's appointment by the Selectboard was for one year and, in terms of housekeeping, is something that we need to get taken care of by either reappointing York or appointing someone to fill that position. It would keep us up to date in our terms. Another housekeeping thing was that when the Open Space Commission issued their annual report it was after a year had gone by but it would make more sense if we coincided with the Town Report. A question and answer period followed the presentation.

The Board thanked Eric and Grant Plummer for coming to the meeting.

Barbara York said that at some point the Board has to appoint a person for a year term. York said she would like to stay on the Open Space Commission but she would have to be appointed by the Board. York said that she is not sure if there are other interested people that wish to serve on it.

The Selectboard moved (Grant), seconded (Fernandes) and voted to appoint Barbara York to the Open Space Commission for a year term. The vote was 4-0-1.

York thanked the Board for appointing her for another year.

- Request For Executive Session:

The Selectboard will consider whether to enter into executive session, pursuant to 1 M.R.S.A. §405(6)(E), to meet with the town attorney to discuss the Board's legal rights and responsibilities concerning the discipline, and/or removal of persons appointed by the Selectboard to serve on town committees created by the Board and the procedures for responses to complaints about such appointees. There will be no discussion in the executive session of specific appointees; discussion will be limited to the procedures required for discipline or removal and responses to complaints.

Barbara York said she has yet to figure out why the Board would have to have an executive session for our lawyer to talk to us.

Attorney Natalie Burns said that the Board does not have to have an executive session. Ms. Burns said the Board has three options:

1. This would be a consultation with the attorney about a legal matter, so if the Board wanted to do it in executive session they could. As we weren't completely clear exactly how to do this we put a suggested motion on if the Board was interested in doing it that way.
2. We can also do it in full public session.
3. If the Board is not interested in this topic we do not have to have the discussion at all.

Those are your three options. We just wanted to make sure the Board was ready for the most restrictive one as the executive session and that is the one with the rules so that is why that is here but you don't have to do it in executive session.

Barbara York said she is more comfortable if Ms. Burns explains what the process is and just let everybody else hear what the process is.

Ray Grant said he agreed and didn't see why we needed to go into executive session.

The Board agreed not to have an executive session.

Ms. Burns gave an outline to the Board for the process for dealing with complaints about committee members for discipline or removal and what the process is for dealing with those. Ms. Burns noted that she is specifically talking tonight about the committees that are created by the Selectboard and not necessarily for boards that are created by statute. For example, the Zoning Board of Appeals is not subject to this process because it has a special statutory provision that says those board members are subject to different legal requirements and one of those legal

requirements is that if the Selectboard wants to remove a member of the Board of Appeals it can only be for cause. The committees that the Board has created on their own and appoint are not subject to that same standard.

Ms. Burns said that the Board has a series of documents and there is one that is called *Appointment Policies For Non-Elected Town Committees* that was adopted in November 2003. That particular document is important because that tells us that the committees that the Board has created and appointed serve at the pleasure of the Selectboard. They are not subject to the same for cause standard. Ms. Burns said *cause* is a legal term that is not terribly well defined but it usually means there has to be some basis; there has to be some sort of action that somebody has done. They have violated the laws or they have done something that is inconsistent with their oath of office. These committees, on the other hand, simply serve at your pleasure. All of them serve one year terms and the appointments are renewed at the discretion of the Selectboard. The Board has the sole authority to appoint and remove those members.

If the Board is considering either hearing a complaint about someone or about taking its own disciplinary action which can include removal of somebody from a position that is subject to the Freedom of Access law, particularly the executive session provisions. In particular, Section 405, Section 6, §A of that statute talks about the discussion or consideration including appointment, assignment duties, etc. and it includes appointees of a body or agency. That includes these people who you appoint to these committees and there is a process that needs to be followed under the Freedom of Access law that is actually different from what you would expect. It says that if the Board thinks that there is a possibility that the public discussion could reasonably be expected to cause damage to the individual's reputation or the individual's right to privacy then you have to set up an executive session to meet with the person who is the subject of concern. If that person says they want to have an open session on this, then there will be an open session on it, but otherwise the Board should seriously consider when it has one of these issues that it wishes to discuss this important issue of whether it could reasonably be expected to cause damage to the individual's reputation or right to privacy. Ms. Burns said the Board would want to be careful with these things because, depending upon what the discussion is, the Board should almost always assume that it could be reasonably expected to cause damage if you are talking about removing someone from a position or some sort of other disciplinary action.

Again, Ms. Burns said you have to notify the person that you are going to have a meeting; that it may be held in executive session; and you have to notify the person that the person has the right to request in writing that it be held in open session. If someone outside of this Board has brought charges, complaints or allegations of misconduct against this person and you are having an executive session that person also has to be invited to attend the executive session. That is also required under the statute. Ms. Burns said that those are basically the provisions that you have to comply with if you are considering charges that someone else has brought or a complaint that someone else has brought or if the members want to initiate that type of a procedure. That is what you have to do. If there was some interest in doing that the Board would have to have a discussion at a meeting, would have to vote to set up something, have the person notified and then go through the steps from there.

Ms. Burns said that she wanted to remind the Board that under their processes each of those appointments of for a one-year term. There is no right to reappointment, the Board does not have to make any explanation of why it appoints or doesn't reappoint somebody. The failure to reappoint somebody does not have the same statutory requirements that are under the Freedom of Access law for a discipline or removal of someone before the end of their term.

Barbara York asked if that would go by the town's calendar year. Ms. Burns said it goes from the date of appointment. Town Manager David Morton said the Board normally appoints the committees every year in February or March. If the Board appoints them midway through the term, normally we will appoint them for the remainder of that year plus the next year. It is possible that somebody might be appointed for a year and a half just so you don't go through that appointment process shortly after you fill a position.

Ray Grant said that Ms. Burn did a great job.

Ted Ropple said that, first off, we reconstituted the Finance Committee in late June after the election. Ropple had a question on the removal of a person from a committee and asked if the Board has to have cause at all or announce cause.

Ms. Burns said no. Cause applies to some boards that are created by statute but for other committees that are created by this Board cause is not required. Ropple asked if you had to state a reason. Ms. Burns said if the Board is going to have a hearing or executive session and the Board is going to meet with somebody there is going to have to be some discussion about the charges or complaints and whether the complaints are generated by the Board or generated by a member of the public. Ms. Burns said it is not a fair statement to say that somebody can just be removed for no reason at all.

Ropple asked if somebody does not respond to the notice of the hearing what is the procedure then. Ms. Burns said if somebody is given notice in writing whether it is by e-mail or by letter, the statute requires that they have to be permitted to be present at an executive session if the person so desires. If the Board hadn't heard back from somebody within a certain period of time there would be a follow up communication sent saying that if we don't hear from you we are going to assume that you do not wish to be heard or attend. If somebody says they can't make that particular meeting date you may have an obligation to work with the person to schedule a meeting date when that person can attend.

Town Manager Morton asked if the Board were to entertain this and for whatever reason choose to talk with somebody about removal from a committee and they set up an executive session can that person bring others into the executive session with them and who might they be able to bring.

Ms. Burns said certainly if somebody wanted to bring a lawyer to an executive session about something like that they should be allowed to do so. If they want to bring in people as witnesses the Board has some latitude on that because it is the Board's executive session, although it is the person's right to be heard in that executive session. That raises a good point that you might want to say in the communication to the person that if they wish to bring people to the executive

session with you please let us know who those people might be in advance of the executive session. That way the Board can know when it is making its motion to go into executive session who will be invited to go into the executive session with them.

Ray Grant asked if the Board decided to bring somebody in would they have to go into executive session just to talk about this before we went into executive session to meet with that person. Ms. Burns said if the town's attorney was present that would be an appropriate executive session with your attorney to discuss legal rights, responsibilities and procedure.

- **Public Participation And Comment:**

There was no public participation or comment.

- **Other Business:**

- Town Manager David Morton noted to the Board that copies of the proposed carry forwards was in the Board's packets. Morton asked the Board to take a look at those and if there are any questions get back to him. This will be put on the December agenda.

- Ray Grant said he is wondering about the need to have the attorney present at every meeting now. That is costing us a lot of money. Grant said he thinks it is time to have the attorney come to the meetings on an as need basis. Barbara York said she still had concerns that we still have a lot of things that we use her for and does not think we are at that point. Grant said he has not seen the bills yet but it has got to be costing us \$400 to \$700 every two weeks and he thinks if the Board has a problem we need to call or stop the process. This is very expensive for the Town of Casco. York said she does not agree and we should have her attend until the end of the year. Paul Edes said he agrees with Grant. If we do need an attorney the agendas are put out early enough so we can decide whether we need the attorney or not. Edes said we should give her a break and give our budget a break. York asked who would make the decision to have her attend. Grant said we would leave that up to Town Manager Morton whether he thought he needed the attorney present. He is the one that is supposed to give us the advice if he thought he was not capable of or undecided on what the advice should be. Grant said he would think we would leave it up to him. Edes said if we do come up against something we could probably table it to another meeting and then bring in the legal counsel.

Town Manager Morton said he thought we do need a motion and an action by the Board at whatever point in time you would like to stop having Natalie join us at our meetings here. The Board voted to request the presence of an attorney and that was kind of an open ended vote. If the Board wants to stop that it is fine. Town Manager Morton suggested that if it makes the Board feel more comfortable he will continue to keep Natalie on the distribution list for our agendas. She can look at it and advise if she sees anything that is a red flag. Morton said he always calls legal counsel if there are issues that he is uncertain of to try and get schooled. As Paul suggested, if things come up that we are just uncertain about, that we just stop and defer that action until the next meeting. If the Board needs to move forward with something it would be a vote contingent on verification with legal counsel. There are a number of options that the Board can explore if the Board is comfortable with not having the attorney here. We have done it for years and not had them. It is right around \$400 a night to have Natalie here with us and certainly

it has been very helpful but it is the Board's choice. Morton said it would be helpful for him to know by December so he could plan for next year's budget. If we are going to continue this he has to carry different numbers.

The Selectboard moved (Grant), seconded (Edes) and voted to have the town attorney, Natalie Burns, attend the Selectboard meetings on an as need basis from now on. The vote was 4-1-0; York opposed.

- Ray Grant asked Town Manager Morton for an update on the MainGas bill. Morton said it is still being researched. The reason that we pay the higher amount, as you pointed out last meeting, is that we used zero pounds or gallons over the previous twelve month period. That was when we had the generator shut down and the building was being redone. We have a 500 gallon tank that belongs to the company and when they do come to fill it the amount of propane we use is so small that we pay their highest rate. We have their equipment sitting there and it is not getting anything. Morton said he would explore with some other companies to see if we can get a break on that or get a better deal. At the very least, we are asking MainGas if they can show an equipment rental and then the price of the gas differently that would be easier to explain. Morton said we have the 500 gallon tank because that was an estimated amount to carry the generator at full tilt for a period of seven days should we lose our power and not be able to get fuel up here to service it. The larger tanks are there as an emergency backup to allow us to run the facility. It really does not make sense for us to go to smaller tanks to save a few dollars. The intent was that we would be able to run the facility off the generator for seven full days. Morton said we are working on that but there is not a resolution to it.

- Ray Grant asked for an update on the Community Center kitchen project. Town Manager Morton said that the kitchen project has really come to a halt. We are having difficulties getting the contractor to move forward. The equipment for the kitchen is sitting with the supplier. Morton said this will probably be a discussion that he has shortly with Natalie Burns in terms of contacting the bonding company and seeing what our steps are there. We had agreed to an extended time frame and the contractor is beyond the time frame in which he said he would have the project done. The contractor has not been returning Morton's calls for the last several days.

- Carroll Morton said he has information on why the contractor has not been returning calls and he will meet with Town Manager Morton tomorrow to discuss this item.

- Ray Grant said he would like to see the following item on the December 7, 2010 agenda: Streetlights. Grant asked what happened to the discussion on the street lights. Town Manager Morton said that the Town Meeting never voted to do anything with them. The proposal by the Finance Committee was to reduce the cost of street lighting by 40%. Town Meeting did not vote that as part of their action. They voted to appropriate money for street lighting without adopting the Finance Committee's recommendation of reducing the amount. We have no plan. If the Board wants to set a goal or a plan, we can do that. In anticipation of that, Morton said he did begin driving through the town with a representative of Central Maine Power Company looking at all of our lighting and talking about lights that we could move or remove. The reason that it becomes important for Town Meeting to take some action is many of the lights were voted to be put there by Town Meeting. Morton said he is not sure he would feel comfortable arbitrarily

moving them or removing them without Town Meeting acknowledging that this is something we ought to be doing. Morton said he is sure that whoever is disgruntled about their light will say that Town Meeting voted to put that light there. Morton said it is important if we are going to do something, street lighting is a volatile subject, that we kind of follow the same idea that the Finance Committee had and that we set some goals. The thing that Morton did confirm with Central Maine Power Company is that the only way to reduce our street lighting costs by 40% is to remove 40% of the street lights. There are no efficiencies that we can take with the equipment and lighting we have to make any kind of significant change in our budget. If we are talking about reducing our street lighting costs it means removing lights.

- Ray Grant said he would like to talk about how we could put more of our bookkeeping online, like other towns, so we might not run into the same problems we have had over the past year. Everybody would know the process. You could look online and see what the budget is, see what the payrolls are, not looking at names, but you could see where all our money is being spent. The Town of Raymond is that way. Grant said if you want to know how much Raymond spent on General Assistance you can look it up. You don't have to come and file Freedom of Access requests and Grant thinks the Town of Casco should start to work that way to see how we can do that. Grant said we have more programs that you can count and he wants to see and talk about that in the process and how we could start that going. Grant said he thought that would save us a lot of time and be more transparent to the people so we would have fewer questions and people could look online and see what was going on.

- Ray Grant said that we appointed a Television Committee to look at televising and we need to do something there. We need to notify those people and see if they still want to do something or should we appoint another committee. Town Manager David Morton said that there is at least one member of the committee that asks him that question often. She asks me regularly if the committee has met, if he has heard anything and what is going on. Morton asked if the Board would like to have him send a letter to the committee and ask what is going on because he is not even sure if they even ever met and appointed a chair. Grant said he would like to have a letter sent.

Barbara York said a letter needs to go to each member of that committee and they need to notify the Town Manager if they are still interested. If they are still interested then set a date and get them moving; otherwise we will appoint new people.

- Margaret Dilley said that we should spend a little bit of money to update our cassette recording equipment to a digital recorder. We should update our recording secretary.

- Barbara York wanted to thank the Casco Showcase people. York said for those that don't know there were thirty-five businesses that showcased on voting day. The comments were very positive. We know we will do this at least annually on voting day. York thanked everybody who attended.

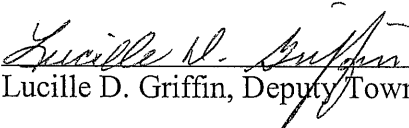
Paul Edes said that he knew of two businesses that had gone in to promote their product and did get some business out of the showcase.

York said she knows that several of the businesses actually did very well. For them to be able to communicate and for you as people who came to see them, a lot of people got business out of that.

Mary Fernandes asked Town Manager Morton if he could get the pictures from the showcase on line. Town Manager Morton said one of the businesses at the showcase is a photography business here in Casco and she was kind enough to take some pictures of the Business Showcase. Morton said we will try and include those on our website. We need to get some editing software to make that work better. We are getting a special link on our website that will list the businesses that were in the showcase, their contact information and include some pictures there as well.

There being no further business to come before this meeting, the Selectboard moved (Edes), seconded (Grant) and unanimously voted to adjourn at 8:55 p.m.

ATTEST:



Lucille D. Griffin, Deputy Town Clerk

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