

KNOX COUNTY COMMISSION

Regular Meeting

Tuesday – June 11, 2013 – 2:00 p.m.

The regular monthly meeting of the Knox County Commission was held on Tuesday, June 11, 2013, at 2:00 p.m., at the county courthouse, 62 Union Street, Rockland, Maine.

Commission members present were: Carol L. Maines, Commissioner District #1, Richard L. Parent, Jr., Commissioner District #2, and Roger A. Moody, Commissioner District #3.

County staff present included: County Administrator Andrew Hart, Administrative Assistant Candice Richards, Finance Director Kathy Robinson, Airport Manager Jeff Northgraves, Chief Deputy Tim Carroll (*left at 2:15 p.m.*), and Sheriff Donna Dennison.

Others in attendance: Knox County Attorney James Katsiaficas; Kenneth D. Williams, South Thomaston property owner; Steve Betts of the *Bangor Daily News* (*left at 2:56 p.m.*); and Juliette Laaka of the *Courier-Gazette* (*left at 3:01 p.m.*).

Regular Meeting – Agenda

AMENDED

Tuesday – June 11, 2013 – 2:00 p.m.

- I. 2:00 Meeting Called To Order**
- II. 2:01 Public Comment** - Public Comment during other portions of the meeting will only be granted by permission of the chair.
- III. 2:25 Consent Items**
 1. Approve Consent Items as Presented:
 - i. Agenda - Non Agenda Items Only Permitted if Emergency in Nature.
 - ii. Minutes of Regular Commission Meeting of May 14, 2013.
 - iii. Minutes of Special Commission Meeting of May 20, 2013.
 - iv. Monthly Written Departmental Reports.
 - v. Reserve Withdrawals.
 - vi. Budget Line Transfers.
- IV. 2:30 Action Items**
 1. Act to Award Bid for One Used Vehicle for Use by the Sheriff's Department.
 2. Act to Approve a Contract Between Knox County and the Town of Vinalhaven for Sheriff's Deputy Services for the Contract Year July 1, 2013 to June 30, 2014.
 3. Act on the Petition by Jeffrey Northgraves and William E. O'Brien for Property Acquisition by Eminent Domain dated June 6, 2013, Which Prays that Avigation Easements be Taken over the Properties Owned by:
 - David C. Pollard and Carol A. Pollard (South Thomaston Tax Map 18, Lot 19)
 - Jason L. Benner and Michelle C. Benner (South Thomaston Tax Map 18, Lot 12-1); and
 - Kenneth D. Williams and Glennice E. Williams (South Thomaston Tax Map 18, Lot 26).
 4. Act to Schedule a Public Hearing and View on July __, 2013 at 10 a.m. Beginning at the Knox County Courthouse and Adjourning to the Vicinity of the Affected Properties With Appropriate Notice of the Date, Time and Place of Hearing in Accordance With Law, all as Stated on the Proposed "Order on Petition for Property Acquisition by Eminent Domain and Setting of Public Hearing Thereon."
 5. Act to Authorize the Chair to Terminate the Concessionaire's Agreement with the Aviary Café.
 6. Act to Award Bid for Knox County Courthouse Cupola Repairs.
 7. Act to Appoint Two (2) Knox County Representatives to the Mid-Coast Economic Development District (MCEDD) General Assembly.
- V. 3:00 Other Business**
- VI. 3:01 Executive Session**
 1. Convene in Executive Session to discuss a Personnel Matter pursuant to 1 M.R.S.A. §405(6)(A).
- VII. Adjourn**

I. Meeting Called to Order

Commission Chair Carol Maines called the regular meeting of the Knox County Commission to order at 2:04 p.m.

II. Public Comment

Commissioner Carol Maines asked for public comment. There was none.

III. Consent Items

1. Approve Consent Items as Presented:

- i. Agenda - Non Agenda Items Only Permitted if Emergency in Nature.
- ii. Minutes of Regular Commission Meeting of May 14, 2013.
- iii. Minutes of Special Commission Meeting of May 20, 2013.
- iv. Monthly Written Departmental Reports.
- v. Reserve Withdrawals

- A motion was made by Commissioner Roger Moody to approve the consent items as presented. The motion was seconded by Commissioner Richard Parent.

Administrator Hart commented that the agenda had been amended to include an executive session at the end and to move the two Sheriff’s department action items (used vehicle bid and contract for Vinalhaven deputy services) to be first on the agenda.

Commissioner Moody asked what the Federal Forfeiture funds were being withdrawn for. Finance Director Robinson explained that all money withdrawn from Federal Forfeiture has been related to the Sheriff’s Department’s move into their new offices at 301 Park Street.

- A vote was taken with all in favor.

2013 Reserve Withdrawals:

Courthouse Computer	200008-12660	\$505.23
DARE	300008-10070	\$775.40
Forfeiture Money – Federal	200008-12860	\$1,302.50
Legal Expense	200008-12650	\$2,883.90
	Total	\$5,467.03

2012 Budget Line Transfers:

FROM:

TO:

Building Maintenance

Ground Maintenance	006004-54590	\$1,117	Water	006004-54565	\$123
			Elevator Repairs	006004-54605	\$994

District Attorney

Victim & Witness	003003-53032	\$88	Telephone	003004-54315	\$88
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Jail

Inmate Medical Services	818004-4017	\$832	Inmate Medical	818004-4018	\$832
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Probate

Probate Clerk	010003-53083	\$112	Attorneys – Appt Guard	010004-54680	\$112
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Total:	\$2,149
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IV. Action Items

1. Act to Award Bid for One Used Vehicle for Use by the Sheriff's Department.

The Administrative Office sent out a Request for Proposals on May 17th for one used program vehicle to be used by the Patrol division of the Sheriff's Department as a replacement for one detective vehicle that had been totaled. The RFP was sent to seven dealerships and the County received eleven bids from four dealerships by the deadline of May 24th. Shepard's had the lowest bid but by the time they were contacted after the bid opening, the two vehicles had been sold. Shepard's had another vehicle in the same price range that was still lower than all the other bids. The vehicle is a Chevy Impala with about 26,000 miles on it.

 - A motion was made by Commissioner Roger Moody to award the bid for one used vehicle to Shepard with a bid total of \$14,595. The motion was seconded by Commissioner Richard Parent. A vote was taken with all in favor.
2. Act to Approve a Contract Between Knox County and the Town of Vinalhaven for Sheriff's Deputy Services for the Contract Year July 1, 2013 to June 30, 2014.

This is a renewal of the existing contract between the County and the Town of Vinalhaven for Sheriff's Deputy Services. Changes were made to make it more consistent with the North Haven Deputy Services Contract. Administrator Hart explained that he and Chief Deputy Carroll had gone to Vinalhaven on June 4th to meet with Town Manager Marjorie Stratton. They reviewed the contract and toured the island. He felt that it was a very productive visit.

 - A motion was made by Commissioner Roger Moody to approve the contract between the County and the Town of Vinalhaven for the contract year July 1, 2013 to June 30, 2014. The motion was seconded by Commissioner Richard Parent. A vote was taken with all in favor.
3. Act on the Petition by Jeffrey Northgraves and William E. O'Brien for Property Acquisition by Eminent Domain dated June 6, 2013, Which Prays that Avigation Easements be Taken over the Properties Owned by:
 - David C. Pollard and Carol A. Pollard (South Thomaston Tax Map 18, Lot 19)
 - Jason L. Benner and Michelle C. Benner (South Thomaston Tax Map 18, Lot 12-1)
 - Kenneth D. Williams and Glennice E. Williams (South Thomaston Tax Map 18, Lot 26)

Airport Manager Northgraves explained that the Airport had begun this process in 2009 by identifying trees for potentially blocking sight access for incoming flights. The FAA already owns the airspace and the Airport has been doing ILS (Instrument Landing System) approaches since 1992. He explained that it was not claiming airspace like it was stated in the local newspaper – the FAA already owns the airspace. The County is doing easements to trim the trees to clear the approach, which is a project based on safety. There were 15 property owners that the County started negotiating with in 2011. Twelve of those 15 have already agreed to sign purchase and sales agreements but there are still three property owners that the County has not been able to settle an agreement with, which is why the County is proceeding with the Eminent Domain project. The trees present a hazard to landing and departing aircraft. The easements are very specific on the Mean Sea Level and how tall the trees can be. Every year airport staff does a sighting and if it looks like there might be trees that are too tall, they do a more involved/accurate evaluation. The County has cut trees in the past (in 2007) on the other runway but this is the first extensive tree-cutting project that the County has done since 2004.

Commissioner Moody asked if the easements are permanent. Manager Northgraves responded that the easements were permanent and if the person sells the property, the easement is still in force. There could be more easements needed in the future if at some point the trees on a property grow above a specific height. The easements are filed with the Registry of Deeds.

Mr. Kenneth Williams, one of the three property owners that had not signed an agreement yet noted that he'd seen statements in the newspaper about Airport "negotiations" with him but he said that was false. He said that he was offered money from Stantec and he had presented a counter-offer but was denied. He added that it didn't bother him if his three trees get cut, but rather what bothers him was the fact that the easement was permanent. He felt that he had worked hard for his property and didn't like the fact that if he left the property to his kids or sells it, the easement goes with the property. He asked if it was too late for the Commission to approve his counter-offer. He explained that he had initially received an offer of about \$5,400-\$5,600 but then received a second offer of \$8,000.

Manager Northgraves commented that it wasn't the Commission that had turned down his counter-offer – it was the FAA. Property owners had to accept or provide a counter-offer by a certain date; after that, it became a decision of the Commission. He added that a property owner can't just say what they think the value of the property is; evidence has to be presented to back it up. When the County received counter offers from some of the other property owners, the County re-evaluated all of the offers and made all the owners a better offer. 90% of the money paying for the project (which includes the funds being paid to the property owners) is paid for by the FAA, so unless the FAA has been presented with proof by the property owner of why they should get more money for the easement, the FAA won't pay more than the offer the County already made. If the County agrees to the higher amount but the FAA does not, the County must cover the difference.

It was explained to Mr. Williams that the best way to provide proof to the FAA that a property is worth more than the County's appraisers said it was, is for Mr. Williams to hire his own appraiser and get his property appraised. There is still time for property owners to make a case for a higher amount of money for their property but they cannot avoid having an easement because it's required for the safety of the airport.

Attorney Katsiaticas explained that property owners would have the right to appeal on two issues: 1) the taking of the property and 2) damages. The appeal would go to Superior Court. He noted that property owners could still cash the check even if they don't accept the amount offered.

Airport Manager Northgraves explained that the larger offer made to Mr. Williams wasn't because the County suddenly had more money and raised the offer amounts. The County had an appraiser come in and appraise all of the properties. After that, some individuals came back with substantiated counter offers, so the County hired a second appraiser to do it again. The second appraiser's numbers were validated by a third appraiser and that's what the FAA approved. If a landowner brought in an appraisal of their own that was different and the FAA approved that instead, that's what the landowner ended up with for an offer. He noted that it would behoove property owners that if they're going to claim that the County's appraisers didn't do it right, that they should get an appraiser who has the ability to do Avigation easements appraisals.

It was noted that the easement gives the County the right to enter the property and cut the trees if need be. The County may not need to cut them but might be able to just top them instead.

Commissioner Maines suggested to Mr. Williams that he needed to get his appraisal in to Stantec to be turned in to the FAA before the Commission makes its decision at the hearing in July.

- A motion was made by Commissioner Richard Parent that on the Petition by Jeffrey Northgraves and William E. O'Brien for Property Acquisition by Eminent Domain dated June 6, 2013, the Commissioners are satisfied that the Petitioners who are praying that avigation easements be taken over the properties owned by: David C. Pollard and Carol A. Pollard (South Thomaston Tax Map 18, Lot 19), Jason L. Benner and Michelle C. Benner (South Thomaston Tax Map 18, Lot 12-1); and Kenneth D. Williams and Glennice E. Williams (South Thomaston Tax Map 18, Lot 26), are responsible and that an inquiry into the merits of the Petition is expedient. The motion was seconded by Commissioner Roger Moody. A vote was taken with all in favor.

4. Act to Schedule a Public Hearing and View on July __, 2013 at 10 a.m. Beginning at the Knox County Courthouse and Adjourning to the Vicinity of the Affected Properties With Appropriate Notice of the Date, Time and Place of Hearing in Accordance With Law, all as Stated on the Proposed “Order on Petition for Property Acquisition by Eminent Domain and Setting of Public Hearing Thereon.”.

It was explained that if the Commission accepted the Petition, then they should schedule the date, time and place, and order that notice be given of a public hearing into the merits of the Petition. The date chosen must allow for 30 days’ posted, mailed and published notice.

There was a discussion about how many newspapers the notice should be placed in. Attorney Katsiaticas felt that the *Courier-Gazette* was sufficient but Administrator Hart noted that he would be more comfortable if the notice was also published in the *Bangor Daily News* and the *Portland Press Herald*. Attorney Katsiaticas noted that the cost of the advertisement would be large because of the sheer size of the notice. The FAA would pay for 90% of the cost but it was unknown if the FAA would cap the amount it would pay towards advertising costs. Airport Manager Northgraves said he would check with the FAA about that.

- A motion was made by Commissioner Roger Moody to schedule a public hearing and view on July 25, 2013 at 9:00 a.m. beginning at the Knox County Courthouse and adjourning to the vicinity of the affected properties with appropriate notice of the date, time and place of hearing appearing in accordance with law, all as stated on the proposed “Order on Petition for Property Acquisition by Eminent Domain and Setting of Public Hearing Thereon,” which the Commissioners hereby approve. The motion was seconded by Commissioner Richard Parent. A vote was taken with all in favor.

5. Act to Authorize the Chair to Terminate the Concessionaire’s Agreement with the Aviary Café.

At the Regular Commission meeting on March 14, 2012, the Commission had voted to award the vacant space in the Airport to the Craigs to run the Aviary Café. The agreement was for three years (May 1, 2012 - Apr 30, 2015). There is an "out" clause each October. At the end of the first year, the Craigs asked to be released from the second two years of the agreement. They have offered to leave the kitchen equipment (range, hood, fire suppression system and sinks: worth about \$8,000) “until a new lessee is obtained.” The County can also keep and continue to use the name "Aviary Cafe". The Craigs’ purchase of the Owls Head General Store has put more of a demand on their time and resources than they had anticipated and they felt it would be 3-5 years before they would even be able to consider operating both. Airport Manager Northgraves explained that he would prefer to wait until the agreement with the Craigs has been terminated before he advertises for a new lessee. He felt that having the equipment in place will help “sell” the space since when it’s empty it’s hard for prospective businesses to picture the space in use.

- A motion was made by Commissioner Richard Parent to authorize the Chair to terminate the Concessionaire’s Agreement with the Aviary Café as of April 30, 2013. The motion was seconded by Commissioner Roger Moody. A vote was taken with all in favor.

Commissioner Moody asked if the County needed to do anything to reserve the name Aviary Café, such as registering it somewhere. Manager Northgraves said that he would look into it.

6. Act to Award Bid for Knox County Courthouse Cupola Repairs.

The Administrative Office sent out a Request for Proposals on May 22nd to four vendors. The County received two bids by the deadline of June 7th. The County had also done an addendum because all four vendors that attended the pre-bid meeting recommended doing aluminum wrap on the existing rail, rather than painting it.

- A motion was made by Commissioner Richard Parent to award the bid to McCormick & Associates for a bid total \$11,595. The motion was seconded by Commissioner Roger Moody. A vote was taken with all in favor.

7. Act to Appoint Two (2) Knox County Representatives to the Mid-Coast Economic Development District (MCEDD) General Assembly.

Currently, Eric Belley and Commissioner Roger Moody are the representatives for Knox County. Commissioner Moody wanted to continue to serve as a representative but Eric Belley has declined to serve again. As Mr. Belley is a banker, MCEDD hopes that the County will replace him with another banker. It was noted that the subject would be brought back up next month since none of the commissioners had any suggestions for someone to appoint to the second seat. The General Assembly meets once a year in June to prepare a budget and work on any bylaws changes.

- A motion was made by Commissioner Richard Parent to appoint Commissioner Roger Moody. The motion was seconded by Commissioner Roger Moody. A vote was taken with all in favor.

V. Other Business

301 Park Street Project - Punch list

Administrator Hart explained that the County was continuing to work on the punch list but the rain and cold weather was holding things up some. The paving has been rescheduled six times. Seeding of the lawn has been put off too. The wooden fence has been straightened. The concrete bollards out front and the rusted pipe out back have been painted. The parking lot will be striped once the paving has been fixed. Commissioner Parent commented that the sign for the facility is difficult to see and doesn't stand out to drivers when you're driving down the road looking for the entrance. Administrator Hart said that he would talk to the Sheriff about perhaps having the paint on the sign darkened or do something else to make the sign stand out more.

VI. Executive Session

1. Convene in Executive Session to Discuss a Personnel Matter pursuant to 1 M.R.S.A. §405(6)(A).

- A motion was made by Commissioner Roger Moody to go into executive session pursuant to 1 M.R.S.A. §405(6)(A) to discuss a personnel matter. The motion was seconded by Commissioner Richard Parent. A vote was taken with all in favor.

The executive session convened at 3:18 p.m.

The executive session concluded at 3:52 p.m.

VII. Adjourn

- A motion was made by Commissioner Roger Moody to adjourn the meeting. The motion was seconded by Commissioner Richard Parent. A vote was taken with all in favor.

The meeting adjourned at 3:53 p.m.

Respectfully submitted,

Candice Richards
Administrative Assistant

The Knox County Commission approved these minutes at their regular meeting held on July 9, 2012.