

**TOWN OF SANGERVILLE  
BOARD OF SELECTMEN  
MEETING AGENDA MINUTES  
Beginning @ 5:00 p.m.  
March 21, 2018**

**Item 1. Open Meeting: (Pledge).** Chairman Mike Wark called meeting to order at 4:00 PM, followed by the Pledge of Allegiance.

- a. **Selectmen Present:** Michael Wark, Joanne Cabot, Dale Gray
- b. **Employees Present:** Lois Jones
- c. **Residents Present:** George Nuite, Terri Wark, Steve DeGoosh, Brooke Isham

**Item 2. Approval of Minutes:**

**A. March 7, 2018.**

Selectman Gray made a motion and Selectman Cabot 2<sup>nd</sup> to approve the minutes, as read. All in favor.

**Item 3. Review of the Treasurer's Warrants:**

**A. Payroll #31, 33.**

**B. Accounts Payable #29, 30, 32, 34.**

Selectman Cabot made a motion and Selectman Gray 2<sup>nd</sup> to approve all warrants. All in favor.

**Item 4. Open Session: Limited to 2 Minutes – Extension per Chairman.** None.

**Item 5: Selectmen Concerns:**

Selectman Gray mentioned he was asked about postponing lunch until the meeting was done. However, the discussion was that it could be really short or really late. Perhaps it would be best to see how things went, perhaps let the Moderator decide.

**Item 6. Committee Reports:**

- A. Rec Committee.** The Rec Committee is looking for ways to raise funds for their fencing – they are looking at two other donations from Bangor Savings Bank and Camden National. They have three concerts lined up for the summer – Craig Stutzman and the Honkytonkers, Ray Stafford, and Josh Guthery; all multigenre bands. They are also sending out request letters for donation – besides the fencing for the new field, the gazebo needs a handicap accessible ramp added.

**Item 7. New Business:**

- A. Food Sovereignty.** Town Manager did some research regarding withdrawing a petition. Once a petition is submitted, it cannot be withdrawn. The Board of Selectmen can deny a petition for three reasons – one being that if enacted, petitioned ordinance would be invalid. Board recommended residents to work with the Board, a Committee, and the Planning Board to generate an ordinance that will be valid. Town Manager will ask other towns if they will share info, etc. Selectman Cabot made a motion to advance the petition. No second. Selectman Cabot withdrew motion.

Selectman Gray made a motion and Selectman Cabot 2<sup>nd</sup> to reject the petition because of MMA Legal's opinion that the ordinance is legally ambiguous. All in favor.

**B. April meeting schedule.** Town Manager will be going on vacation in April for the third week; therefore, when would the Board like to schedule their meetings in April? It was decided to hold Selectmen's meetings on the 1<sup>st</sup> and 4<sup>th</sup> Wednesdays – April 4<sup>th</sup> & April 25<sup>th</sup>, 2018 at 5PM.

**C. Haley estimate on demolition of Abbie Fowler.** Mr. Haley submitted a verbal estimate on demolition of the Abbie Fowler building and the removal of the underground tank. This will include filling and grading of the area where the tank and slab were removed. It does NOT include loaming and seeding. It does NOT include the removal of the pavement. It does NOT include any environmental cleanup if the underground tank is damaged or leaking. Estimate price is \$123,824 for green space. Selectman Gray also had the Town Manager research town property and supplied a spreadsheet that showed all town lots with acreage. His thought is that the Town doesn't realize how much green space already exists for the Town, and would like to sell the Abbie Fowler building and not convert it to green space.

**D. Knowlton Mills Cemetery Deeds.**

**1. Charles & Peggy Cleaves – Section C, Plot 16, Road 16.**

**2. Tobey Cleaves – Section C Plot 17, Road 16.**

Selectman Cabot made a motion and Selectman Gray 2<sup>nd</sup> to approve the cemetery deeds, as written, in Knowlton Mills Cemetery. All in favor.

**Item 8. Old Business:**

**A. Town Warrant.** Selectman Gray made a motion and Selectman Cabot 2<sup>nd</sup> to withdraw approval of the Town Warrant that occurred on March 7, 2018, Item 7C(1) and to replace with the amended Town Warrant, to include Article 47. All in favor.

**B. Mowing.** Town Manager was concerned about awarding the mowing bids due to wording in the Competitive Bid Policy, last sentence in the first paragraph, that states awards will be made by the Board of Selectmen when the Town Manager direct contacts contractors. Board was unanimous in their interpretation that if mowing bids are under the \$10,000 limit set by the policy, the Town Manager has the right to award. No further discussion.

**Item 9. Correspondence.** None.

**Item 10. Request for Additional Agenda Items.** None.

**Item 11. Executive Session.** None.

**Item 12: Adjourn. (NEXT MEETING APRIL 4, 2018, 5PM).** Selectman Cabot made a motion and Selectman Gray 2<sup>nd</sup> to adjourn. All in favor.

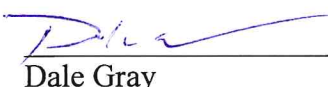
Respectfully submitted,



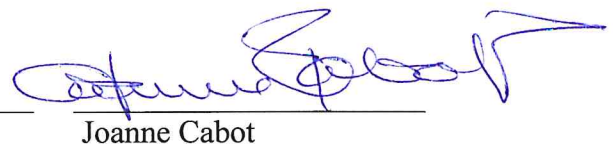
Lois A. Jones



Michael Wark



Dale Gray



Joanne Cabot

## **Withdrawal of Petition**

As with withdrawal of a signature after filing, there can be no withdrawal of a petition or any portion thereof after filing. Neither the petition nor any part of it should be returned to a circulator. The underlying theory here is that once individual voters have signed a petition and it has been filed, they have acquired some right to consideration (if the petition is otherwise valid), which cannot be withdrawn or canceled by the circulators. *LaFleur, Atty. Gen., ex rel. Anderson v. Frost*, 146 Me. 270 (Me. 1951).

A deeper question is whether any action at all can be taken that will destroy the legal vitality of a petition once filed, such that its merits cannot be considered by the municipal officers. The answer to this is also in the negative, with one exception, suggested by *LaFleur*: if *all* of the voters who signed a petition filed affidavits (sworn statements) requesting withdrawal or inaction on the petition, then perhaps the municipal officers could choose to honor the affidavits and not consider the merits of the petition.

## **Consideration of Merits of Petition by the Municipal Officers**

### **Introduction**

The municipal officers can refuse to put a petitioned article on a warrant if it would be reasonable for them to do so.

No definition of a “reasonable refusal” appears in the statutes. Our knowledge of this concept comes from case law. Before reviewing in detail what the decided cases teach us, it is very important to understand that the municipal officers may not refuse a petition merely because, from their political or personal perspective on what is appropriate for the municipality, they believe the petition is unreasonable. Their denial must be *objectively* reasonable as a matter of law, not merely subjectively reasonable in the view of the municipal officers.

### **Necessity for Petition to be Presented**

For there to be a refusal to act, a petition must first be presented to the municipal officers. Without a request, there can be no refusal, reasonable or unreasonable. *Allen v. Hackett*, 123 Me. 106 (1923).



## **Request for Illegal Action**

Another situation in which courts have upheld the refusal of a petition as reasonable is where the petition requested an action that would be illegal if passed. Examples follow:

**EXAMPLE 1—Even if enacted, petitioned ordinance would be invalid.** In a case decided by the Maine Supreme Judicial Court, it was held that the municipal officers of Portland could not be compelled by the court to submit to the voters an ordinance that, if ratified, would be invalid. It would be a useless act on the part of the municipal officers, declared the Court, which then said that a court will not compel the performance of a useless act. *LaFleur, Atty. Gen. v. Frost*, 146 Me. 270, 290 (1951).

**EXAMPLE 2— Article granting a tax exemption not authorized by state law.**

See Legal Note entitled “Voting a Tax Exemption” in the Appendix.

**EXAMPLE 3—Article for plowing private driveways at public expense.** A petition to use public funds to pay the winter maintenance crew or a private contractor to keep everyone’s driveway clear of snow would run afoul of the constitutional law doctrine that public funds cannot be devoted to essentially private purposes. See, *Opinion of the Justices*, 560 A.2d 552 (Me. 1989). Such a petition could be dismissed as asking for something not within the power of the voters to direct, or of the municipal officers of the town to accomplish.

## **Vested Rights; Intervening Rights of Third Parties**

Once a contract has been signed, or bonds have been sold, pursuant to an authorizing town meeting vote, it is too late for that vote to be reconsidered or rescinded. Our courts have repeatedly so held, as long ago as 1889 and as recently as the 1991 case of *Dunston v. Town of York*, 590 A.2d 526 (Me. 1991), which involved an action to compel the selectmen to call a town meeting.

## **Petition to Reconsider Action After Formal Adjournment**

Sometimes, voters will seek to reverse the outcome of an open town meeting vote or secret ballot referendum by petitioning for a new meeting or election to consider the same question previously acted on (whether passed or defeated). A 1990 Maine Superior Court case is worth discussing at some length.

The case dealt with a secret ballot referendum on a school construction issue, and held that it was not unreasonable for the municipal officers to refuse to put an issue to a second

Owner	Description	Building	Land	Acres	Map
TOWN OF SANGERVILLE	Abbie Fowler	\$ 188,600	\$ 26,660	1.93	023-028
TOWN OF SANGERVILLE	TOWN HALL/OFFICE	\$ 70,000	\$ 7,200	0.2	023-032
TOWN OF SANGERVILLE	Town office Parking lot		\$ 18,740	0.41	023-033
TOWN OF SANGERVILLE	FIRE DEPT.	\$ 107,670	\$ 6,240	0.15	023-030
TOWN OF SANGERVILLE	MAIN ST. PARKING LOT		\$ 3,600	0.22	023-017
TOWN OF SANGERVILLE	Lot fair point box on by bridge		\$ 3,120	0.15	023-082-001
TOWN OF SANGERVILLE	VILLAGE CEMETERY		\$ 14,230	4.5	023-048
TOWN OF SANGERVILLE	Route 23, Carlton stream Pie		\$ 710	0.4	019-001
TOWN OF SANGERVILLE	Rec field (wells property)		\$ 19,520	2.98	019-013
TOWN OF SANGERVILLE	Rec field (original)	\$ 2,330	\$ 96,300	10.6	019-012
TOWN OF SANGERVILLE	Town Garage	\$ 37,160	\$ 14,240	0.82	020-016
TOWN OF SANGERVILLE	McPhetres rd, Pleasant, round town garage		\$ 24,790	26.2	020-009
TOWN OF SANGERVILLE	Small lot on Pleasant		\$ 2,740	0.2	020-020
TOWN OF SANGERVILLE	Land locked Pie		\$ 3,600	0.18	022-010
TOWN OF SANGERVILLE	Center Pond boat landing		\$ 4,970	0.5	013-004
TOWN OF SANGERVILLE	Wood lot Bean hill		\$ 53,620	120	002-005
TOWN OF SANGERVILLE	Wood lot Bean hill		\$ 55,620	130	004-043
TOWN OF SANGERVILLE	Wood lot Grange Road		\$ 11,900	119	006-004
TOWN OF SANGERVILLE	Wood lot Grange Road		\$ 61,320	164	006-003
TOWN OF SANGERVILLE		\$ 405,760	\$ 429,120	582.44	
TOWN OF SANGERVILLE	KNOWLTON MILLS CEMETERY			2	
TOWN OF SANGERVILLE	TOWNHOUSE CEMETERY			1.49	
TOWN OF SANGERVILLE	JACKMAN CORNER CEMETERY			2.09	
TOWN OF SANGERVILLE	FRENCHS MILLS CEMETERY			0.57	
TOWN OF SANGERVILLE	BAILEY CEMETERY			0.86	
TOWN OF SANGERVILLE	GILMAN CEMETERY			1.03	
				590.48	

# SIGN-IN SHEET

EVENT Selectmen's Meeting & Public Hearing  
DATE 3/21/18

PLEASE PRINT

George Noite  
Terri Warle  
J DeGosh  
B Iskem