

**Town of Pownal**  
**Select Board Minutes**  
**Monday, June 24, 2024**  
**6:30 pm Regular Meeting**

**I. Call to Order** by Chair Morris at 6:28 pm.

Members Present: Jon Morris, Andy O'Brien, Kate Day

Town Administrator: Becky Taylor-Chase

Road Commissioner: Matt Nielsen

Fire Chief: Jesse Peters

**II. Pledge of Allegiance**

**III. Accounts Payable Warrant & Payroll Journal**

- FY24 AP Warrant #27 in the amount of \$334,236.92.

Selectperson O'Brien motioned to approve FY24 AP Warrant #27 in the amount of \$334,236.92. Selectperson Day seconded the motion.

Discussion: None

**Vote: Yes 3; No 0**

- Payroll Journal #521 in the amount of \$9,424.68.

Selectperson O'Brien motioned to approve payroll journal #521 in the amount of \$9,424.68.

Selectperson Day seconded the motion.

Discussion: None

**Vote: Yes 3; No 0**

**IV. Minutes of the Previous Meeting**

- Regular Meeting June 10, 2024

Selectperson O'Brien motioned to approve the minutes of the June 10, 2024, meeting as written. Selectperson Day seconded the motion.

Discussion: None

**Vote: Yes 3; No 0**

**V. Public Comment – Non- Agenda Items**

None

**VI. Department Head Reports**

(Department head reports can be viewed on their respective website page(s))

- Select Board

No questions for department heads and nothing to report.

**VII. New Business**

The meeting moved to the Benefits USA agenda item.

- **Jordan Smith – Consent Agreement**

Chair Morris stated we have before us a consent agreement that he has not yet had a chance to review. The Select Board took a few minutes to read over the agreement. There was a correction that Todd Ketcham went around and clarified with the Select Board. Todd Ketcham introduced himself as counsel to Jordan Smith. He presented this document to have something to work from. Selectperson O'Brien stated if we did this for Mr. Smith, we would have to do this for anyone else that requests it. It sets a precedent. Chair Morris clarified that the Select Board was going to have a discussion and will open to public discussion after. Chair Morris asked if the Town Administrator agreed. She stated she has only read it briefly. One correction needed to happen if the Select Board moved forward with the agreement. That is D should say Pownal's Fire Chief and not Pownal's Fire Marshal. Having only read it once there really hasn't been much time to absorb the agreement because it came this afternoon. Selectperson Day stated what's very challenging is balancing out using town resources to do something that we don't know if the town wants us to do it. And yet there is real legitimacy to the service that Mr. Smith is providing to his clients and residents of the town. Chair Morris gave his thoughts on the drafted agreement. He stated there are numerous problems for the Select Board to enter into a consent agreement. They cannot enter into an agreement that is not authorized by town meeting. We are governed by town meeting. The Select Board does have some latitude into how to interpret those rules but in this particular case the showstopper is under terms it says, "the town will grant municipal approval and will sign the required OCP IHS local authorization form for Mr. Smith's IHS extraction." The Town does not have an ordinance that allows that in the town. The way for Mr. Smith is pretty clear that his path is through the State. If the State came back and stated his OCP IHS is part of your medical marijuana caregiver license, then the town has no authority because it is all governed by state law. As soon as Mr. Smith asks us to authorize something that isn't part of that Maine State licensure through the office of cannabis, we are up against agreeing to something we don't have the authority to agree to. He feels the path for Mr. Smith would be through the state. The agreement "falls off the rails" where it says, "it is not in dispute that Mr. Smith is grandfathered for medical cannabis cultivation." Mr. Smith is authorized by the State of Maine and if that is what he means by grandfather then that is fine. That the town has no authority over medical marijuana, we can't just grandfather him because we never approved him because it is not a town issue. That word has been bantered around in a kind of negative way towards the town but the town would not have known that business was in operation until he came to the first meeting of the adult use public hearing in which he stated that he was operating and that his business would be grandfathered. That would be the first unofficial knowledge of his operation. But even with his disclosure the Town had no authority to approve or disapprove because we had no ordinance. We would have to say that there is no dispute that Mr. Smith is grandfathered for medical marijuana by the state in that paragraph but not by the Town of Pownal because we have no authority to approve or disapprove. There is a factual dispute on whether Mr. Smith is grandfathered for his IHS extraction. Once again, we had no ordinance, we had no knowledge. We do want to resolve this amicably, so the next paragraph is true but once again the IHS extraction is something the Select Board does not have authority to agree to. If Mr. Smith went to the Office of Cannabis and got an affidavit saying this is part of his medical marijuana practice once again, the town would have no

authority and we would have to talk about the terms because he would need a home occupation permit. Selectperson O'Brien stated he would need to go before the planning board. Chair Morris stated in hindsight that probably should have happened in the beginning. Selectperson O'Brien agrees with that synopsis of our position. Selectperson Day stated she regrets that the whole thing has not been more straightforward because I think the state's rules and the fact that the town had no ordinance is causing this to go around in circles. It would be nice to come to an agreement where the town had an awareness and all the proper permitting and where Mr. Smith would be able to provide a service for patients. Chair Morris stated he couldn't agree more. He also stated before he opened it up for discussion, he knows that Attorney Ketcham knows there is an avenue of appeal from the Board of Appeals decision to Superior Court. Jordan Smith addressed the Select Board. He presented a few different versions of documents that demonstrate his state grandfathering. There is no question that he is grandfathered at the state level. That means there is no ordinance or warrant article required for his operation. Selectperson Day asked if that paper handed out was in the file folder. Mr. Smith stated it was at the second Select Board meeting. Attorney Ketcham wanted to address the redaction of the second "whereas". He thinks it can easily state "whereas it is not in dispute that Mr. Smith is State licensed for medical cannabis cultivation." Attorney Ketcham stated that we are all trying to get in here what we need to get in here and our expectations move. Chair Morris appreciated that comment stating this is a give and take. He asked Attorney Ketcham if he considers that affidavit a statement from the Office of Cannabis that they knew that Mr. Smith was using the IHS extraction process. Attorney Ketcham answered yes. Chair Morris asked why the state did not notify the Town it was in violation. Attorney Ketcham stated the hazardous can be investigated. Selectperson O'Brien asked the question if they were licensed originally prior to 2018? The caregiver license #CGR25056 was originally effective 6/2/2019. Mr. Smith stated there were several before that. Selectperson O'Brien asked if they were to do with growing? They answered the earlier ones were assigned to individuals and the OCP changed the licensure. Chair Morris stated we will send that affidavit to the town attorney as it could be a game changer. Attorney Ketcham stated he is happy to work directly with counsel or with the Select Board through counsel on the consent agreement. He will email it to the Town Administrator. Mr. Smith stated he has also provided a recent inspection to the ZBA. The attorney will resend them all. Chief Jesse Peters heard the Fire Chief's title mentioned in the document. Chair Morris read the statement. Chair Morris stated in our effort to remedy one situation we do not want to put the town in harm's way. Selectperson Day stated if he was "grandfathered" that would answer the question. Chair Morris stated he would not be grandfathered by the town. He would still need to get a home occupancy permit and a variance for his business in a rural zone. Attorney Ketcham summarized what would happen next and confirmed the timeline for appeals.

- **Benefits USA**

Daniel Freund from Freeport introduced himself. He stated that his request is a little unusual and also involves a large sum of money in excess of 100 million dollars and involved Pownal and every school system and town in the State of Maine because it involves Maine Municipal Employers Health Trust which may provide health insurance to full time employees here and it involved the RSU which involves more than 400 employees. The

largest expense besides wages is health insurance. He passed out handouts to the Select Board. He stated it makes sense to have a piece of software that keeps track of employees benefits so that eligibility, which is a key component to when you are taking money from employee's paychecks, is monitored. It is a fiduciary responsibility that the money is spent on what it is supposed to be spent on. He has been working with the Director of Human Resources with the RSU and her staff. They spend a lot of time photocopying paper and sending it out to employees. He then spoke about insurance claims and gave some statistics regarding the cost of medical procedures in relation to where they happen. He referenced the Medicare standard cost and that Anthen multiplies that number for a procedure by almost 3. Chair Morris asked Mr. Freund what he was proposing to the Select Board. Mr. Freund stated he has a summary in the handouts he gave each board member and he read from that summary. He has tried to contact the Health Trust. He is requesting that Pownal send an email asking the MEA and the MMEHT some reasonable questions. One question will be to ask what they do to ensure that dependent eligibility is checked. Chair Morris asked how this pertains to the Town of Pownal. Mr. Freund answered assuming the town were to have a discussion and agree to send an email, the response with your permission will be sent to the US Department of Labor. They are waiting for someone with "standing" to send a letter. Neither trust will engage in a conversation because he does not receive benefits through either trust. Senator Angus King's office is interested in the information. Chair Morris asked if he is proposing he write a "ghost" email which the Select Board will endorse and send to MEA and MMEHT inquiring about various trust operations. Replies will be sent to Benefits USA and copies sent to the US Department of Labor and Senator Angus King. He asked for thoughts from the board. Selectperson O'Brien stated he feels it's reasonable and makes sense to look into it. Selectperson Day stated she could not come to a decision now without more information. Chair Morris asked if Mr. Freund would be willing to write that "ghost" email and send it to the administrator and they will consider it and get back to him. The meeting moved back to Jordan Smith Consent Agreement.

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- **Fire Department Budget**

Chair Morris stated we have an email from Chief Peters about the FEMA reimbursement account stating...he stopped and asked for a summary of the budget. The Town Administrator stated that we discovered the fire department budget was overspent after running reports. This is mostly to do with a gear purchase that normally wouldn't have come in until July came in during May and the invoice was submitted for payment. That money was budgeted for the upcoming fiscal year. So now we are trying to balance the budget with the fiscal year ending in 3 days. Chair Morris stated that there is \$3,822.43 in the FEMA account from COVID 19. And the breakdown is \$3,056.68 for Fire and EMS. Is that money, in your opinion, to be used for the desired outcome. Chief Peter replied that was money refunded separate from the ARPA funds that the town received. This is actual costs incurred to the town for PPE supplies. It is reimbursement for expenses incurred. FEMA's rule is it is supposed to go back to the departments where the money was spent from. Chair Morris asked if it goes back to the department, is there a rule for how it should be spent. Chief Peters answered no. The Town Administrator stated that everything Chief Peters stated was correct. The money was spent over 2 years and the reimbursement goes back to each department. Chair Morris stated with that included where are we with the budget. The Town Administrator stated she had exact figures. The report run that day the

budget is negative \$3653.56. The fuel bill still needs to be taken care of. That is \$717.92 and there is a NAPA bill for \$132.95. Those figures add up to \$4,504.50. Putting the FEMA money back into the budget leaves a negative balance of \$1,447.82. Chair Morris stated before we do this he asked if Chief Peters anticipates any other bills that will need to be paid in this fiscal year. He stated no. Chair Morris stated having talked to the town attorney we can reluctantly withdraw \$1,447.82 from the Unassigned Fund Balance to cover the fire department's shortfall with the caveat that be replaced in 2025. We can take from the unassigned fund balance due to a fiscal emergency. The other members agreed and come July 1 we transfer the money back. Chair Morris wanted stated for the public record that we talked to the town attorney regarding this. The Town Administrator stated she did talk to the town attorney and under emergency and mitigating circumstances the Select Board has the authority to transfer the money. Paying bills and outfitting our fire company constitutes an emergency situation. Chair Morris motioned that the town authorizes \$1,447.82 to be transferred and appropriated from the Unassigned Fund Balance to pay for expenses from the fire department budget account. Selectperson O'Brien seconded with the addition that the \$1,447.82 be paid back to the Unassigned Fund Balance in the FY25 budget year.

Discussion: None

**Vote: Yes 3; No 0**

- **Smaller Cart Request Form**

The Town Administrator stated we talked in the past about Casella having a smaller cart option. They will have 50 sets of two of the 48 gallon size. They sent me a form that other towns have used to request the smaller size and the communication would go directly to Casella. The only edit is it's unclear if all 3 criteria need to be met or just one. Selectperson O'Brien feels the form means one of the three criteria.

- **Volunteer Form- Alan Bradstreet, Michael Pabst**

Chair Morris motioned to appoint both Alan Bradstreet and Michael Pabst to the Solid Waste and Recycling Committee. Selectperson O'Brien seconded the motion.

Discussion: None

**Vote: Yes 3; No 0**

- **Pole Permit- Allen/Fickett Road**

The Road Commissioner, Matt Nielsen, stated it is in the right of way with the town but has no impact. Chair Morris motioned to approve the pole permit on Allen/Fickett Road number 8010006629119. Selectperson O'Brien seconded the motion.

Discussion: None

**Yes: 3; No 0**

Chair Morris mentioned trash pick on the Allen Road. The Town Administrator stated the operations manager came back and picked up the trash today. Chair Morris asked about the Brown Road. The Town Administrator did not get any feedback about Brown Road.

**VIII. Old Business**

Chair Morris asked where we are with the sign? Kathy Hogue stated she has received information from NeoKraft. Three members of both committees will hold a workshop to make a decision. All questions have been answered. Selectperson Day asked to be notified of when the workshop is so she can attend.

**IX. Correspondence**

The Town Administrator stated a lot of the correspondence via the phone and counter leading up to the Town Meeting was the PAYT and the automation. Pascale has done a really good job of taking the time to explain to residents about the changes. One of the questions from the town meeting was what the costs of the cart are. The grant can be anywhere from \$5 to \$25 off the cost of the carts and the carts on average are \$75. The proposed schedule for delivery is they will be staging here on July 18<sup>th</sup>, and they will be out on July 22<sup>nd</sup> and 23<sup>rd</sup> delivering the carts and July 26<sup>th</sup> is the first automated pick up. Chair Morris asked when the PAYT ordinance change takes effect has Casella been informed. The Town Administrator stated it was her first email the next morning after the town meeting. Chair Morris asked about cardboard. He has gotten a lot of calls. It all has to be inside those carts, or it won't get picked up. One suggestion by Casella for residents that are of the senior population with long driveways is they can build a little hut to house the carts and then haul the trash out. Kathy Hogue stated that Casella is to be sending out a flyer when the carts are delivered.

**X. Any Other Business**

**XI. Adjournment**

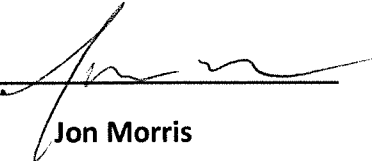
Selectperson O'Brien motioned to adjourn the meeting. Selectperson Day seconded the motion.


Discussion: None

**Vote: Yes 3; No 0**

The meeting adjourned at 7:36 pm.

Respectfully submitted,  
Becky Taylor-Chase  
Town Administrator

  
Jon Morris

  
Andy O'Brien

  
Kate Day