MINUTES

BOOTHBAY HARBOR

SELECTMEN’S MEETING

OCTOBER 22, 2018

In addition to these typed minutes, video recordings of all Selectmen’s meetings are available to be viewed at BRCTV and audio recordings are available to be listened to at the Boothbay Harbor Town Office.

ATTENDING: Denise Griffin, Vice Chair

Russ Hoffman

Mike Tomko

Trisha Warren

Wendy Wolf, Chair

Tom Woodin, Town Manager

Julia Latter, Finance Officer

**Chair Wolf called the Board of Selectmen’s meeting to order at 7:00 pm.**

Pledge of Allegiance: The Board of Selectmen and members of the audience.

TOWN MANAGER’S ANNOUNCEMENTS:

1. A while ago Manager Woodin had sent the Select Board a link to the new website and wondered if they have had a chance to look at it. Chair Wolf responded she would like more time to review it. Selectman Hoffman responded his first reaction is that it looks good. Selectman Tomko suggested they provide their feed back by the end of the week.

2. William Street has been paved. Lake View and Reed Roads are still in the works. The goal is to have them done by the beginning of next week. They are also going to be putting a finish coat on the basket ball and pickle ball courts which will then be left until the spring to be striped. The parking lot there will also be curbed and paved.

FINANCIALS:

Finance Officer Latter reviewed the financial totals with the Boards.

MINUTES:

Selectman Tomko **motioned** to approve the minutes of the October 9th meeting. Selectman Hoffman **seconded**. **Unanimous approval.**

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SELECTMEN REPORTS:

1. **CSD:** Vice Chair Griffin stated that she and Selectman Warren were going to meet with two of the Boothbay Selectmen on Tuesday, October 23rd in the high school library to discuss the school charter following a special meeting of the CSD School Committee being held at 6:00 p.m.

2. **HOUSING COMMITTEE**: Chair Wolf reported the Housing Committee had met on Wednesday, October 17nd. There was discussion about the need for a market analysis in a more detailed level to find short and long-term solutions for affordable housing. Patricia Royall, Executive Director of the Boothbay Harbor Region Chamber of Commerce, is spearheading surveys conducted by businesses in the region about issues with their employees ability to live and work on the peninsula. The Boothbay Planning Board is proposing changes to their ordinances to try to promote more affordable housing in a variety of ways.

3. **BRAS:** Selectman Hoffman stated the Board of the Ambulance Service met on Monday, October 15th. The Ambulance Board is willing to give an update to the Boothbay Harbor Select Board at a future meeting.

LICENSES:

1. Vice Chair Griffin **motioned** to approve the application from Thistle Inn for a Liquor license **renewal**. Selectman Tomko **seconded**. **Unanimous approval**.

NEW BUSINESS:

1. Jon Ziegra's presentation was tabled since he was not in attendance.

2. Chair Wolf stated there had been a Wharves and Weirs hearing on-site for Philip Rubel, represented by Joe LeBlanc. at 10 Ledge Road, Tax Map #9, Lot #5 at 4:00 p.m. that afternoon and she and Selectman Tomko were present as well as CEO, Geoff Smith and Harbor Master, Nick Upham. The applicant, Philip Rubel, was **proposing to rebuild/repair an existing PT wood 5' x 25' and 7' x 10' pier damaged by ice and replace the existing 3' x 40' PT wood ramp with an aluminum or PT wood 3' x 44' ramp in the waters of Boothbay Harbor**.

Selectman Tomko stated it was a straight forward repair due to storm damage.

Nick Upham stated he had no issues with it.

Chair Wolf went through the review criteria with the Select Board.

1. Does the proposed application interfere with or cause an obstruction to navigation?

**The consensus of the Select Board was that it did not.**

2. Does the proposed application cause injury to the rights of others?

**The consensus of the Select Board was that it did not.**

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3. Has the applicant included all necessary approvals from other agencies, such as the Maine state Department of Environmental Protection, the Army Corp of Engineers and the State of Maine Bureau of Parks and Lands?

The answer was "**yes**."

DECISION:

Based on the facts above and discussion had by the Board with relation to the review criteria above the Board of Selectmen voted **unanimously** to **approve** the application.

Lee Corbin, an abutter, stated she had not been notified of the proposal but had no objections to it.

3. Chair Wolf stated there had been a second Wharves and Weirs hearing on-site for Matthew and Maria Rosenberg, also represented by Joe LeBlanc, at 180 Western Avenue, Tax Map #13, Lot #1 at 4:30 p.m. that afternoon and she, Vice Chair Griffin and Selectman Tomko were present as well as CEO, Geoff Smith and Harbor Master, Nick Upham with abutters, Ron and Laurie Richardson. The applicants, Matthew and Maria Rosenberg, were **proposing to add two PT wood 10' x 10' kayak floats adjacent to the exiting main float; add a PT wood 10' x 10' moored swim float plus an attached 15' diameter water supported trampoline in the waters of Boothbay Harbor**.

Chair Wolf stated the applicants have an existing 10' x 20' dock with an existing 10' x 10' kayak float on the south side of it that does not have a permit. The 34' ramp will remain as is with a second 10' x 10' kayak float on the north side of the dock to create a total span of 40' x 10'. The swim float and adjacent trampoline are not going to be connected to the dock but independently anchored in the water. Therefore the Select Board does not have the authority to rule on the swim float or trampoline since they are not connected to the shore such as wharves and weirs. However, the Harbor Master **does** have purview over mooring areas so can respond to the proposal for a swim float and trampoline.

Nick Upham stated the area for the proposed swim float and trampoline **does not** have room for anymore moorings at this time, therefore adding a swim float and trampoline would not be permitted. The owners will have to apply for a mooring and wait until one is available to request a swim float and trampoline.

Nick Upham confirmed there were no other trampolines in the waters of Boothbay Harbor.

Vice Chair Griffin stated being there at low tide showed the many rocks and ledges in this relatively shallow cove. The dock and float are also near the fish ladder. These are all facts that need to be taken into consideration in order for neighbors to be able to navigate around. Selectman Tomko was in agreement with these observations.

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Joe LeBlanc stated that he had talked to the owners after the site visit and they would be willing to relocate the kayak float on the south side to the same side as the new kayak float proposed for the north side, parallel with the dock.

Abutters Ron with his wife, Laurie Richardson, stated as good neighbors they have worked around the kayak float that was put on the south side the Rosenberg's dock by coming in from the north side (by the dam) in their 35' boat to reach their 10' x 20' float. With rocks on the south side it became too difficult to come in on that side especially if there was wind. But coming in from the north has meant coming within 6' to 12' from the Rosenberg's swim float where people are in the water before the swim float was moved further toward the dam which may present liabilities if the general public use it.

Ron Richardson confirmed their float is deeper into the cove so no change to their float would impose a problem for the Rosenbergs. Ron commented that the size float they have now accommodates their 35' boat so it is not likely they will want to increase it.

Jon Dunsford, speaking for the West Harbor Pond Watershed Association, pointed out the new siphon put in this past summer goes right under the swim float and expressed concern about anchorage of the float causing the siphon to rupture.

Nick Upham stated there would be no problem with the realignment of the two kayak floats if they were both located on the north side of the dock.

Selectman Hoffman asked Jon Dunsford how far the siphon will extend out into the harbor from the roadway. Jon responded it would be approximately 30 degrees to the east of a perpendicular line off the culvert. The concrete anchors will settle in the mud over the years once it is down.

Vice Chair Griffin wondered if they should add a condition that the swim float be removed by a certain date.

Chair Wolf stated the Inland Fisheries had given a date in September for this to happen so there would not be a problem if they use that date.

Laurie Richardson asked if the Rosenberg's ever wanted to replace the two kayak floats and dock with a 40' dock, would they be able to make the change.

Joe LeBlanc stated the dock is approximately 18" off of the water whereas the kayak floats are 6" off of the water so it would have to be reconfigured and probably need to be re-permitted.

Chair Wolf stated since the Code Enforcement Officer was not present to answer that question, they could make "any alteration to the dock would need to come back to the Select Board again" another condition for approval.

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Chair Wolf went through the review criteria with the Select Board.

1. Does the proposed application interfere with or cause an obstruction to navigation?

**The consensus of the Select Board was that it did not with the amended proposal.**

2. Does the proposed application cause injury to the rights of others?

**The consensus of the Select Board was that it did not.**

3. Has the applicant included all necessary approvals from other agencies, such as the Maine state Department of Environmental Protection, the Army Corp of Engineers and the State of Maine Bureau of Parks and Lands?

The answer was "**yes**."

DECISION:

Based on the facts above and discussion had by the Board, with relation to thereview criteria, the Board of Selectmen voted **unanimously** to **approve** the **revised** application as follows: For the two 10' x 10' kayak floats (one already existing and the other new) placed on the **north** side of the existing dock with the retention of the 34' ramp. The dock and kayak floats must be removed in September by the recommendations of the appropriate agency to protect the fish ladder. Any change in the dock configuration will require a new application for licensure.

Chair Wolf stated they would now circle back to the **trampoline** issue. Their ordinances reflect earlier times when structures were more related to recreational boats and ships instead of new accessory water items such as trampolines, etc. in swim areas. Their discussions for the past year centered around the concerns of a working waterfront so additional structures in the water with all the existing lobster buoys is an issue to think about.

Selectman Tomko stated they could look at other towns on the water to see what they are doing.

Vice Chair Griffin recommended Manager Woodin and CEO, Geoff Smith do research to get ideas on how to regulate these recreational items before they get inundated with requests for them all over the harbor.

Selectman Warren agreed with the comments and was especially concerned about the safety of trampolines on the water.

Selectman Hoffman wondered what the town's liability would be. Lee Corbin, who was thinking about West Harbor Pond the swim float and possible trampoline, believed liabilities would fall on the agent that approves the structure, either town or state.

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Joe LeBlanc pointed out there were large rocks along the causeway of West Harbor Pond that makes it difficult for anyone to get down to the water and that the liability remains with the owner.

Laurie Richardson stated, "if you build it they will come," and gave examples of past experiences as well as warnings of future scenarios if the swim float remains where it has been moved or if a trampoline is ever approved in West Harbor Pond.

4. Chair Wolf invited Kate Marone, with the help of Holly Stover, to talk about **Healthy Lincoln County**.

Kate Marone, Director of Healthy Lincoln County, stated Healthy Lincoln County is a non-profit organization that serves all 19 communities in Lincoln County, working primarily in two areas. The first is **nutrition education** and **food insecurity** and the second is **substance prevention**, specifically targeting young people.

Kate offered information about what Healthy Lincoln County is doing.

* Every two years they survey do an assessment of the middle and high school students in Lincoln County and their parents by doing surveys.
* They talk to law enforcement people, health care providers and the schools.
* They talk to young people directly.
* They recently enlisted 25 youths called, "photo boys," to take photos of factors that contribute to the use of tobacco/marijuana or alcohol.

Kate stated from this work they were able to deduct the following.

* One in five students report they used either tobacco/marijuana or alcohol at least once in the last 30 days.
* E-cigarettes, such as the JUUL (pronounced "jewel") that can be activated in a computer are an emerging problem that is expected to rise. (Many students may not realize how powerful they are.)
* Use of **traditional** tobacco products is going down.
* Opioids or prescription drugs are the least misused substance.
* Students usually start with marijuana or alcohol that sometimes progresses to something else.

Kate stated one aspect of their study is to find out what students believe is harmful and had the following results to share.

* Marijuana = 33%
* Alcohol = 60%
* Cigarettes = 90%
* Rx Drugs Misuse = 90%

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Kate stated they also look at the average age a person begins to use these substances because substances have more impact on a young developing brain and there is more of a likelihood they will develop an addition and a **stronger** addition. If a young person under 21 years of age has easy access to a substance, they are more likely to use it. Violence in the home depression and Adverse Childhood Experiences (ACES) may also be an indicator that a young person might be tempted to try substances.

Kate stated that there are things that help young people to stay healthy.

* A family that gives them love and support.
* The feeling that they matter to people in the community.
* That their school cares about them.

Kate concluded that they take all of this information to try to do something with it.

* Making sure parents monitor the things in their home (alcohol, prescription drugs, marijuana supply).
* Talking to the young person in your life about these things.
* Providing opportunities for young people to be encouraged by positive reinforcement from outside organizations and activities in the community.

Holly Stover, candidate for State Representative, stated she supports Kate Marone and Healthy Lincoln County because of the early intervention work they do to protect the young people in our community.

Kate Marone confirmed she would be talking to the school board next. She also confirmed all four high schools in Lincoln County were surveyed and that the surveys revealed similar results from each.

Selectman Tomko wondered when February data will be available and if there were any trends.

Kate responded that the February data would not be available until the following November or December, every two years. Kate stated that an interesting bit of information was that the responses from parents being surveyed differed quite a bit when they were talking about a son or a daughter.

5. Chair Wolf stated the next item under New Business was Harbor Bait.

Manager Woodin explained this summer there was an incident when someone who is not a customer of Harbor Bait, tied up to unload and transport their catch across the Fish Pier to a transfer vehicle. Harbor Bait, owned by the Fullers, looked at the "non compete" clause in their lease and are now proposing to update it since the present verbiage is vague and amend their lease. (Manager Woodin read the revised "non-compete" clause.) Manager Woodin stated that the Fullers would also like to rearrange some of the parking spaces on the Fish Pier to make them work better for both tenants. (The other tenant, Eddie Tibbets of Atlantic Edge is in agreement with the changes.)

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Vice Chair Griffin wondered if the small dock on the south side of the Fish Pier, where the Harbor Master ties up sometimes, would still be available to the public.

Manager Woodin confirmed that it would be.

Selectman Tomko stated to call the Fish Pier "at town pier" seems almost a misnomer.

Chair Wolf stated purchasing the property run with tenants was intended to promote economic development.

Bruce Engert explained a bait fisherman named, Gallin Alley, from Beal Island pulled up on a Sunday and got permission to unload and carry his catch across the pier so he could drive it back to Beal Island in a trailer for a 3-hour journey compared to a 21-hour journey by boat during which it would become rotten. Bruce said Gallin had called him to see if it would be allowed. Bruce consulted Selectman Tomko who in turn consulted the Harbor Master who responded he found nothing in either tenants' "non-compete" clauses that prevented him from doing so, from the south side dock. Chuck Fuller had been at the Fish Pier and charged Gallin a dockage fee "per barrel" to unload his catch.

Manager Woodin confirmed recreational fishing takes place on the pier.

Chair Wolf **motioned** to table this item for more information. Selectman Tomko **seconded**. **Motion** **passed 4-1**. (Selectman Hoffman was opposed.)

ONGOING BUSINESS:

Chair Wolf stated several people in the room had attended the last Planning Board meeting as well as she, Selectman Hoffman and Selectman Tomko. There had been considerable discussion about the role of the Selectmen and also the idea of having an independent planner review that the Planning Board may send on to the Select Board with regard to the east side zoning.

Chair Wolf wanted to clarify the statement made at that meeting, "that only the Select Board can work with consultants," which is not the case because the Select Board does not have an independent budget so any matter requiring money from the town would need to be considered to determine if it should be supported.

Selectman Tomko stated a number of people wanted to have an unbiased review (of the proposed ordinance changes on the east side) to guarantee it is not flawed while there is still a chance for modification.

Selectman Hoffman stated he did not have anything to add .

Chair Wolf stated she agreed in general but seeing the number of times proposals have been revised due to recommendations from the DEP, feels it would be financially more responsible to wait until the Planning Board has voted to make a final recommendation sent to the DEP instead of any more drafts. Chair Wolf felt this was the point (after the

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DEP has signed off) that needs to be reached before an independent planner review should take place.

Selectman Warren stated she agreed with Selectman Tomko as long as the process is not delayed.

Chair Wolf stated the town's attorney would have to approve the proposal after the DEP is done with it and then it has to go to a public hearing so there are several steps still in the works.

Vice Chair Griffin felt if they could find someone to do a review relatively quickly, it would make sense.

Chair Wolf stated they could ask CEO, Geoff Smith and Manager Woodin to look for the names of professional planners who might be able to do the review before the Public Hearing occurs.

Manager Woodin stated CEO, Geoff Smith already has a list of names of qualified people but they need to determine the scope of the review to be done.

The Select Board was in consensus about hiring an independent town planner to do a review.

Chair Wolf moved on to Public Forum.

PUBLIC FORUM:

1. Dave Racicot felt there were inconsistencies between the proposed zoning change with the comprehensive plan and that should be on the list for the independent planner review.

2. Tom Churchill, Planning Board member asked for clarification of who would be hiring the independent planner...the Select Board or the Planning Board. [Chair Wolf responded they don't have the final structure of how that consultant will be selected but favored joint participation.]

3. Cory Tibbetts felt Bruce Engert had a point about not restricting outside boats from coming into the harbor.

4. Donna Piggott stated she also supported having an independent planner review the proposed zoning changes especially because her business is on the east side.

5. Deb Todte wondered if a crosswalk could be put from the parking lot to the new restaurant at the head of the harbor called, Bradys. [Manager Woodin responded there used to be a crosswalk there but the DOT changed their requirements about where crosswalks could be on state roads but he would check with them about another place in the general area.]

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6. Ken Fitch stated after crosswalk on Union Street, further down, was extremely dangerous as well as between Park Street and Atlantic Avenue.

7. Jean McKay expressed concern that it does not seem like the Planning Board is considering public access that is mentioned in the comprehensive plan, just view corridors.

[Chair Wolf responded that the comprehensive plan looks at access comprehensively throughout the town, not just on the east side.]

8. Cory Tibbetts wondered if at least a "landing" could be made on the parking lot side across from Bradys. [Chair Wolf responded it was totally up to MDOT.]

WARRANTS:

Vice Chair Griffin **motioned** to approve the warrants upon careful review. Selectman Warren **seconded**. **Unanimous approval.**

EXECUTIVE SESSION:

(None)

MOVE TO ADJOURN:

The meeting was **adjourned** at 9:20 p.m.

KB