MINUTES

BOOTHBAY HARBOR

SELECTMEN’S MEETING

MARCH 9, 2015

ATTENDING: Denise Griffin, Chairman

William Hamblen, Vice Chairman

Russ Hoffman

Wendy Wolf

Thomas Woodin, Town Manager

Julia Latter, Finance Officer

**Chairman Griffin 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. Manager Woodin reminded the Board that they needed to be thinking about who to select for the 2015 Spirit of America Foundation award, as requested by Bruce Flaherty on February 9th.

2. Manager Woodin stated that he had sent the Board a draft of an investment policy and guidelines template, for them to consider the possibly of investing some of the town’s reserve money in city accounts, to discuss at a future Selectmen’s meeting.

FINANCIALS:

Finance Officer Latter reviewed the financial totals with the Board, stating that the real estate taxes were due on March 12th.

CONSENT AGENDA:

Chairman Griffin stated they had approval of the minutes of the February 12th meeting and the renewal of the liquor licenses for Fisherman’s Wharf and the Topside Inn on the consent agenda. Selectman Hoffman **motioned** to approve the consent agenda. Selectman Wolf **seconded**. **Unanimous approval**.

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ONGOING BUSINESS:

(None)

NEW BUSINESS:

1. Manager Woodin stated he would like to have the Board approve hiring Aaron Durgan for the full-time position that was available on Public Works, explaining that Aaron had worked for them part-time on Public Works for several seasons and had been selected from seventeen applicants as their choice. Aaron identified himself as the “sidewalk man.” Vice Chairman Hamblen **motioned** to approve hiring Aaron for Public Works. Selectman Wolf **seconded**. **Unanimous approval.**

2. Manager Woodin stated Chief Hasch had recommended Julian Hauser as a reserve officer for the police department, the letter of which he had sent to the Board on February 25th, adding that Julian had already passed a number of required tests such as a polygraph, psychological and physical test. Selectman Wolf **motioned** to approve hiring Julian to the police department. Vice Chairman Hamblen **seconded**. **Unanimous approval**.

3. Chairman Griffin stated they would move on to the Connors’ Wharves and Weirs hearing inviting Joe LeBlanc to give them a brief summary of the current design.

Joe LeBlanc stated due to the questions that came up at the site visit, they had modified the design by shortening the pier from 50’ to 35’ and the ramp from 3’ by 50’ to 2’ by 35’ as well as repositioning the float so it would be 50’ from the Bird’s dock with a 25’ setback to the property line.

Chairman Griffin invited abutter Steve Saudek to speak.

# Steve Saudek stated he was opposed to the proposal because it was a very small cove and that he believed it violated a number of ordinances. Steve stated the first was that it would interfere with an existing natural beach; the second was that it essentially would create a wall across the cove including access to his property and create a dangerous condition for his grand children to swim with boats going in and out; and third, that the approval by the DEP and Corps of Engineers was for the first two designs.

# Environmental consultant, Lauren Stockwell, who was representing the Birds, stated the Birds felt the efforts to move the float further from their pier was a reasonable compromise so were happier about it.

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# Bruce Engert asked for clarification of the location of the cove.

# Vice Chairman Hamblen answered that it was behind the hospital where a point had been subdivided into three lots a while back, this being the third remaining lot and closest to the drive leading in to them.

# Joe LeBlanc asked to respond to Mr. Saudek’s comments.

# Joe stated it would be questionable that the new pier would block the Saudek’s property since they also have a dock and 75’ of shoreline frontage. Joe stated that the grand children would have to climb over slippery rocks in that location so the safest place for them to reach the water would probably be from their dock. Joe stated since the Birds also have a dock, the Connors’ request to have one as well was rightful and considering how much they have reduced it in size, should meet the concerns of both parties. Finally, Joe pointed out the beach was private and really only accessible by the Connors’ who own it.

# Selectman Wolf suggested Joe might also want to comment that the Conner’s property line really encompasses the entire cove except for one point (which Vice Chairman Hamblen, who had colored it in on a map, confirmed).

# Steve Saudek read the state ordinance concerning piers crossing beaches.

# Vice Chairman Hamblen stated any pier in town is going to go over the land between high and low water so this should be permissible.

Joe LeBlanc added another point Mr. Saudek had made about the DEP and the Corps of Engineers approving a larger structure would not be a problem as they had told him to come back with the correct dimensions on the final plan once the town approves the application.

Emily Connors stated she and her husband were not trying to “shoehorn” a dock in; that her husband has his Captain’s license and teaches Coast Guard classes all around the state of Maine as well as internationally and since they have two children of their own, would take into consideration child safety in the cove.

Vice Chairman Hamblen stated the latest plan with the dimensions reduced and so satisfies the distance to the Bird’s pier and has the 25 foot setback required so was inclined to approve the application since it would not obstruct navigation at low tide, since there is none at that time, and at high tide there is plenty of water.

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Vice Chairman Hamblen made his last comment a **motion,** subject to the condition that it receives approval from DEP and the Corps of Engineers. Selectman Hoffman **seconded**. **Unanimous approval**.

PUBLIC FORUM:

1. Chairman Griffin asked the group from the Congo Church to present their concerns.

Peggy Pinkham, trustee for the church, wondered if the Board of Selectmen could help them find a way to resolve the issue between the church and the abutters without going to court and pleaded the Board of Selectmen to fill the vacancies on the Planning Board so their application could be heard again.

Bob Hilscher, Building Committee Chairman, stated they had sat down with all of the abutters last October to keep them informed of the project being planned. Bob stated they had gone before the Planning Board for the first time in early December at a public hearing to submit their application for a building permit, that was followed by a site visit shortly after, then another public hearing in front of the Planning Board (on 12/15/14) when their application was approved…with several conditions.

Bob continued to explain that the Perkins Family appealed the decision resulting in a public hearing on February 20th by the Appeals Board, who, in their opinion, acted outside of their purview by deciding to send the application back to the Planning Board. Bob pointed out that several times during that meeting, Appeals Board members stated they were not saying that the Planning Board had NOT done their job. Bob stated the Appeals Board had approved the appeal intending for the Planning Board to hear the matter further, to determine if the adverse impact to the abutter was being minimized.

Bob stated he and Eric Marden, the “Clerk of the Works,” had met with CEO, Geoff Smith to understand what was going to be happening at the next Planning Board meeting so they could be properly prepared but instead had been given a letter from Mike Tomko, Chairman of the Planning Board, recusing the entire Planning Board from the process due to the inability to have an impartial quorum and an email from Rob Crawford, Town Attorney, saying essentially that the only course of action left was to take the matter to Superior Court.

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Reverend Sarah Foulger stated they had set out as a congregation to improve the church to make it a safer and more effective facility for church activities and for the broader community for generations to come by bringing it up to code and making the church more accessible. Reverend Foulger continued to state many groups would be adversely affected by a delay such as Sunday school, youth groups, the choir, the bell choir, adult education programs, and many other groups that use the church such as the food pantry, Alcoholics Anonymous, Healthy Kids Taking the

Blinders Off, Lincoln Arts, Yarts as well as significant costs and economic hardship associated with a potential delay.

Mary Neal reiterated that there would be multiple economic impacts to the church due to the failure of the town to do its job and gave estimates of the staggering costs ensued should there be a delay. Mary continued to point out the economic impact that their dilemma would have on the greater Boothbay peninsula because trades people would see how impossible it is to get through the Planning Board or Appeals Board processes. Mary concluded that all they were asking was for a just process for their church to move forward with a plan that has met code.

Bob Hilscher stated it was ridiculous that the Planning Board can recuse itself in total from doing its job. Bob stated if it was going to cost the church $30,000 to $40,000 in legal fees, he assumed it was going to be the same for the town and for a simple building permit to be obstructed by an abutting neighbor is to lose focus of getting the job done.

Chairman Griffin asked Mike Tomko if he would like to comment on this (while encouraging the viewing public to volunteer to fill the empty seats on the town’s Boards).

Mike Tomko stated that he could not comment on the application in discussion as it was an “open” application and not permitted.

Mary Neal suggested having a conference call with the Planning Board member who is away until June so they could have a quorum to hear the application; that to have so many openings the process to recruit members to the Boards is not working.

Chairman Griffin responded she felt it was unfair for her to say they don’t have the right process for the Planning Board.

Mary Neal stated (with great respect) that to have three vacancies on the Board, the process has failed or it is not effective.

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Chairman Griffin stated the process was not just the process of the Selectmen but also the process of the town’s citizens so encouraged people to come forward and fill these vacancies.

Reverend Sarah Foulger stated (with great respect) it takes recruitment to make it happen and cited examples of how she gets volunteers for her church…asking how

soon they could fill vacancies if people stepped forward.

Chairman Griffin responded they appoint people at any Selectmen’s meetings.

Selectman Wolf added that Manager Woodin would be happy to review how that occurs; that one of the first things she’d looked at, when coming onto the Board about a year ago, was how thinly the committees were populated. Selectman Wolf stated the Board of Selectman do not have the capacity to appoint people or fill vacancies when they don’t have volunteers, however, anytime they have an application, after reviewing the credentials of the individuals and act in an expeditious manner; that going to the courts is not anything any of them want to see.

Selectman Wolf concluded that the Board of Selectmen do not have jurisdiction over the decisions of the Planning Board or Appeals Board decisions.

Vice Chairman Hamblen added the Board of Selectmen does not have the ability to “draft.”

Bob Hilscher asked Vice Chairman Hamblen if the Board of Selectmen could ask the Appeals Board to reconsider their decision, to which Vice Chairman Hamblen responded they could not under state law.

Mary Neal brought up the issue that due to anticipating construction to commence on April 7th that money was already being moved to purchase equipment.

A resident of Boothbay Harbor and member of the church spoke up and wondered what the Board of Selectmen could do with a dysfunctional Board to address the concerns of the church.

Vice Chairman Hamblen responded that the Board of Selectmen is expressly forbidden to interfere with Planning Board operations.

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Mary Neal questioned how securing two more members as alternates to the Planning Board would provide a quorum if the member who was away is not returning until May.

Doug Carter expressed concern about the lack of negotiation between the church and the Perkins Family and wondered if something had happened to prevent this from happening.

Reverend Sarah Foulger responded that the Perkins Family were unhappy about the church being moved back on the property twenty-five years ago and they had not have been able to work out anything with them even though they had tried. (Reverend Foulger added that the church had been there for 250 years.)

Eric Marden stated he felt he was close to reaching an agreement with the Perkins Family but the way it is now, they would still have to go to Superior Court.

Genie O’Connell stated she hoped they would not spend town money on any legal fees that could be avoided.

Bruce Engert stated that there **was** a process in place…that the parties have thirty days to appeal a decision of either of those Boards in Superior Court.

Mary Neal suggested paying to fly the missing Planning Board member back to make a quorum...if they could find two new Planning Board members.

Reverend Sarah Foulger stated they’d had a relationship with the Perkins Family when the Perkins Family were doing an addition onto their house and were allowed to park construction trucks in the church parking lot. Reverend Foulger stated that for their approval, they had accepted conditions about hours of construction as well as conceded to do something about the spotlights as well as design a whole new roofline so they did not have to step onto the Perkins property during the renovation…“everything they could do”…and if they can’t start construction in April all of those things she mentioned would be adversely affected.

2. Chairman Griffin invited Doug Carter to speak.

Doug stated that after talking with his legal counsel, he had decided not to put anything on the warrant but instead to just apply for the building permit to build a

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house on the 1.3 acre parcel of land he had purchased from the town. Doug added he was not planning to ask for any variances from the Planning Board.

3. Bruce Engert expressed concern about using Undesignated Funds to make an emergency purchase of a Bobcat snow blower for $70,000 instead of going through the Budget Committee process and asked how the Board of Selectmen had decided it would be repaid.

Vice Chairman Hamblen responded the plan is to stretch it out over a number of years from the Public Works annual budget so it won’t affect the taxpayers…to be worked out at the next Budget Committee meeting on Wednesday, March 11th.

EXECUTIVE SESSION:

Vice Chairman Hamblen **motioned** to go into Executive Session under MRSA Title 1, Chapter13, Subchapter 1, 405 (6) (A) – Personnel Matters at 8:19 p.m. Selectman Hoffman **seconded.** **Unanimous approval**.

The Board came out of Executive Session at 9:10 p.m.

No decisions were made during Executive Session.

WARRANTS:

Selectman Wolf **motioned** that the warrants be approved upon review. Selectman Hamblen **seconded**. **Unanimous approval.**

MOVE TO ADJOURN:

Selectman Wolf **motioned** to adjourn. Selectman Hoffman **seconded**. **Unanimous approval**. **Meeting was adjourned at 9:11 p.m.**