

MINUTES  
TOWN OF TOPSHAM  
BOARD OF SELECTMEN MEETING  
January 5, 2017 - 7:00 P.M.

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MEMBERS PRESENT: David Douglass  
Marie Brilliant  
Ruth Lyons  
William Thompson

MEMBER(S) ABSENT: Roland Tufts

STAFF PRESENT: Richard Roedner, Town Manager; Pam LeDuc, Parks and Recreation Director; Mike Labbe, Emergency Management Director;

A meeting of the Topsham Board of Selectmen was held on Thursday, January 5, 2017 in the Donald A. Russell Meeting Room, at the Municipal Building, 100 Main Street, Topsham, Maine.

**CALL TO ORDER**

Chairman Douglass called the meeting to order at 7:00 p.m.

**PLEDGE OF ALLEGIANCE/ROLL CALL**

All present were invited to stand and recite the Pledge of Allegiance to the Flag. The recording secretary took the roll call and noted that all Selectmen were present, except for Roland Tufts, who had been excused.

**TOWN MANAGER'S REPORT**

The Joy of Art display is being put up at the Library. The award ceremony will be held on January 21<sup>st</sup> and you can still cast your vote for the People's Choice Award.

In our ongoing effort to manage the forests out at the Transfer Station, representatives from SAPPI will be out there over the next several days marking property lines in anticipation of cutting late winter/early spring. As soon as a schedule is established, there will be public notice provided, and a public meeting will be hosted to explain the project.

The Public Works Crew worked 21 days straight keeping Topsham's roads clear. This has been a tough winter with a lot of ice; the crew is doing a great job.

A reminder to all residents that Town Offices will be closed on Monday, January 16 in honor of Martin Luther King, Jr. Day.

**BOARD AND COMMITTEE REPORTS AND UPDATES**

**PRESENTATION FROM MSAD #75 ON UPCOMING HIGH SCHOOL CONSTRUCTION PROJECT** - Lyndon Keck, from PDT Architects, gave a presentation on the proposed new Mt. Ararat High School. Mr. Keck said he has been managing projects such as Topsham's new school for over 40 years. He reviewed drawings showing the layout of the classrooms and described the building in general and explained the various phases of the project. Superintendent Brad Smith was also present and responded to questions from the Board.

Mr. Keck told the Board that following several committee meetings, the conclusion was made that it would be more cost efficient to build a new building rather than renovate the current school. MDOT will not allow a traffic light to be placed on Route 201. However a blinking light elaborating "School Zone" will be erected and Eagle's way will be widened. During review of a crosswalk and sidewalks for the project, the Board suggested the crosswalk be reconsidered to be placed more towards the Forest Drive area.

Mr. Smith stated some statistics relative to the number of students anticipated to attend the school in future years and feels the proposed school is correctly sized.

The project is expected to come before a referendum vote in March. A public hearing will be held in each of the four towns in the district (Topsham, Bowdoin, Bowdoinham and Harpswell) prior to that date. It was noted that there will be two questions on the ballot. 1) Regarding acceptance of the project in general; and 2) To upgrade the playing fields with artificial turf or to use grass. (Chairman Douglass asked why not three items with one being "Do you support the project?")

Mike Labbe asked questions about generation, which Mr. Keck responded to Mr. Labbe's satisfaction. If passed, the project is expected to go out to bid in March of 2018.

**PUBLIC COMMENT** – None noted.

**CORRESPONDENCE** – Chairman Douglass noted an e-mail from Jenna Gotto, Substance Abuse Coordinator for Sagadahoc County, Brunswick and Harpswell, regarding handling the issue of marijuana. A copy of the memo is filed with these minutes.

**ADJUSTMENTS TO THE AGENDA** – None noted.

**CONSENT CALENDAR****1. Approval of the minutes of the Regular Selectmen's Meeting of December 15, 2016**

Motion was made by Selectman Thompson, seconded by Selectman Lyons, and it was unanimously (of those present)

**VOTED**

To approve the minutes of the December 15, 2016 meeting as written.

**PUBLIC HEARING** – None noted.

**UNFINISHED BUSINESS** – None noted.

**16-38 CONSIDERATION AND ANY APPROPRIATE ACTION ON REQUEST TO ABANDON TOWN INTEREST IN CROSS STREET – A PAPER STREET**

A letter dated March 10, 2016 is on file from Shawn and Abigail Lowell to the Town asking the Town to abandon an existing right of way (ROW) on Cross Street. The Lowell's live at 67 Barrows Drive, Tax Map U2A, Lot 35. The Cross Street ROW was part of the original Barrows subdivision approval. The Lowell's would like to utilize the land for private purposes.

This was discussed at the last meeting of the Board and the discussion tabled until such time as staff could research the presence of utilities. The Town Manager said that based on GIS information from the Water District, there is a water line that runs through this ROW. The District is currently researching the presence of easements or other documented rights to have a water line in this location. This particular paper street has been discussed for several years and never resolved. In 1997 the town voted to retain interest in numerous rights of ways and paper streets. This vote is due to be considered again this year (after a 20-year period), per State law. There are approximately 68 so-called paper street in Town and this year a decision will need to be made on which streets to keep, or to extend the decision for another 20 year period. It was noted that the Town has not obtained a legal opinion in this case. If the Town gives the street up, the abutters would claim the lot to the center line.

Chairman Douglass said Mr. Lowell expressed his concern that this area is and has become his yard. Nothing has been done, and nobody from the Town has been concerned about it for the past 20 years and since the memo has come out, everyone is now interested. The Board was in agreement that the 20 year period is up and something has to be done with the street.

Motion was made by Chairman Douglass, seconded by Selectman Lyons and it was unanimously (of those present)

**VOTED**

That the Board direct the Town Manager to work with Town Attorneys in eliminating any liability to abandoning the Town's interest in the Cross Street paper street.

**OLD BUSINESS** - None noted.

**NEW BUSINESS**

**17-01 CONSIDERATION AND ANY APPROPRIATE ACTION ON DISCUSSING LIBRARY BOARD REQUESST TO AN EXCEPTION ON TOWN POLICY REGARDING ALCOHOLIC BEVERAGES**

Susan Preece, Library Director, requested that the Board give an exception from Town policy so the library could serve wine at an event to be held at the library the evening of February 3, 2017 (with snow date of February 4<sup>th</sup>). Ms. Preece said the Board has granted the library's request for the past two years for the invitation-only reception for adult Whitten Society members to present the Sarah Whitten Community Award. This year the award will be presented to Topsham resident Dana Cary. The award is given annually to an individual, group or business in recognition of outstanding contributions to the Topsham Public Library and the community and honors the spirit of Sarah Whitten who donated her family home to the library in 1941. Ms. Preece said that wine and cheese, along with Hors d'oeuvres will be served at the event.

Following Ms. Preece's presentation, motion was made by Chairman Douglass, seconded by Selectman Lyons and it was unanimously (of those present)

**VOTED**

That the request from the Topsham Library for an exception to Town Policy to be able to serve wine at an event to be held at the library the evening of Friday, February 3, 2017, with snow date February 4, 2017, be granted.

**17-02 CONSIDERATION AND ANY APPROPRIATE ACTION ON BIDS FOR THE RECREATION DEPARTMENT TRUCK**

Pam LeDuc, Parks and Recreation Director, reviewed bids received from Quirk Augusta, Lee Auburn, and O'Connor Chevrolet for the recreation department truck. Ms. LeDuc recommended acceptance of the bid from Quirk in Augusta.

Following a brief discussion, motion was made by Chairman Douglass, seconded by Selectman Lyons, and it was unanimously (of those present)

**VOTED**

To accept the bid from Quirk in the amount of \$32,349.75 for the Recreation Department Plow Truck.

**17-03 CONSIDERATION AND ANY APPROPRIATE ACTION ON THE ADMINISTRATIVE REVIEW COMMITTEE AND WHAT ACTION SHOULD TAKE PLACE**

The Town Manager told the Board that while looking through the Town Code, he came upon Section 6-25 which reads: "*It shall be the duty of the Town to review and bring up to date this chapter at least once in every ten years, and a committee of seven citizens, three of whom may be Selectmen, shall be chosen for this purpose.*" Mr. Roedner said this led to some research by several staff members who came up with the following time line:

- 2004 Administrative Review Committee (ARC) was created by the Board
- 2005 The ARC issued a report to the Board
- 2007 Board took action to create a Charter Commission, per ARC recommendations
- 2008 The Charter was defeated at the polls in November
- 2009 Board created a Government Improvement Committee (GIC)
- 2010 GIC made recommendations that were adopted at the May 2010 Town Meeting

Mr. Roedner said a literal reading of the code would suggest that a new Administrative Review Committee should have been appointed in 2014. However, an argument could be made that the Charter Commission and the Government Improvement Committee were essentially Administrative Review Committees, meaning we had three such committees within a 6-year period. Therefore, a new cone would not be required until 2019.

Following discussion, motion was made, seconded, and it was **VOTED** to table item 17-03 until November, 2017.

**17-04 CONSIDERATION AND ANY APPROPRIATE ACTION TO REQUEST TOWN MANAGER TO REVIEW PERSONNEL POLICY HIRING PRACTICES**

Chairman Douglass said this came about as our Personnel Code states that for Police and Fire Department, the Chairman of the Board of Selectmen creates an interview team, not including the Chief, which makes a recommendation of three candidates to the Chief for consideration. A lengthy discussion followed with questions posed such as why shouldn't the Chief be able to see all the applications; why is this different that the way other positions are filled in the Town. It was noted that some towns have a Personnel Board, which Topsham does not have.

It was agreed that this part of the code should be rewritten and the Manager asked for guidance in rewriting a policy. The Board offered suggestions for consideration. Chairman Douglass said he thinks the Selectmen should be pulled out of the process completely. Selectman Thompson said he would like to see the Fire Chief and Police Chief review all candidates for an advertised position. Selectman Lyons added that whoever is our Fire Chief or our Police Chief know what they are looking for and should see all applications.

Motion was made by Chairman Douglass, seconded by Selectman Thompson, and it was unanimously

**VOTED**

To direct the Town Manager to rewrite the policy to include comments made at this meeting.

At 8:45 p.m., motion was made by Selectman Lyons, seconded by Selectman Thompson, and it was unanimously (of those present)

**VOTED**

To move into Executive Session to discuss Agenda Items 17-05 and 17-06.

**EXECUTIVE SESSION**

**17-05 CONSIDERATION AND ANY APPROPRIATE ACTION TO ENTER INTO EXECUTIVE SESSION TO DELIBERATE OVER AN ABATEMENT PURSUANT TO 37 MRSA §405 (6) (A)**

Following discussion, motion was made by Chairman Douglass, seconded by Selectman Lyons, and it was unanimously (of those present)

**VOTED**

To abate all of the 2015/2016 taxes, interest and fees, as discussed.

**17-06 CONSIDERATION AND ANY APPROPRIATE ACTION TO ENTER INTO EXECUTIVE SESSION TO DISCUSS PERSONNEL MATTERS PURSUANT TO 1 MRSA §405 (6) (A)**

Following discussion, motion was made by Chairman Douglass, seconded by Selectman Lyons, and it was unanimously (of those present)

**VOTED**

To find that the Town Manager operated within management rights, specifically Article 6 of the contract, which authorizes the Town to classify or reclassify or to allocate or reallocate new or existing positions.

At 9:45 p.m., motion was made, seconded, and unanimously (of those present) voted to return to public session.

**ADJOURN**

At 9:46 p.m., motion was made by Chairman Douglass, seconded by Selectman Lyons, and it was unanimously (of those present)

**VOTED**

To adjourn the meeting.

Respectfully submitted,

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Patty Williams, Recording Secretary