

TOWN OF TOPSHAM
BOARD OF SELECTMEN MEETING
November 17, 2016 - 7:00 P.M.

MEMBERS PRESENT: David Douglass
Marie Brilliant
William Thompson
Roland Tufts

MEMBER(S) ABSENT: Ruth Lyons

STAFF PRESENT: Richard Roedner, Town Manager

A meeting of the Topsham Board of Selectmen was held on Thursday, November 17, 2016, 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, which was led by a local Girl Scout Troop. The recording secretary took the roll call and noted that all Selectmen were present, except Selectman Lyons who had been excused.

Chairman Douglass congratulated Selectman Brilliant and Selectman Thompson for re-election to the Board. He also thanked John Graham for stepping up and running for the Board of Selectman.

TOWN MANAGER'S REPORT – The Town Manager just returned from a well deserved vacation, so no official report was given. He said he had a great vacation and one of the highlights was on Friday, Veteran's Day when his party drove into Belgium to the site of a 4-year battle in World War I. A Veteran's Day/Amethyst Day Celebration in an American cemetery was led by local American Based Boy Scout and Girl Scout troops and was very touching. Mr. Roedner also thanked the local Girl Scout Troop for attending the meeting this evening.

BOARD AND COMMITTEE REPORTS AND UPDATES

Update – TDI/ECD – John Shattuck, Topsham Economic and Community Development, Inc. Director's report included:

- Topsham Fair Mall Road Master Plan
 - Great ideas were presented at a second public meeting held last evening
 - The Planner will be scheduling a detailed presentation to the Board of Selectman at a future meeting
- Design Advisory Committee Process
 - Entering decision-making phase on recommendations
 - Next meeting is scheduled for Wednesday, December 7, 2016 in the Donald A. Russell Meeting Room. The Committee will make their recommendation public at that time.

- Activity
 - Dan Catlin's project, next to Woody's, is near completion and full occupancy
 - Morningstar is going through the process of expanding its operation
 - Work on a major new addition to our retail center will soon be announced

Presentation by the Community Fund Committee on the Neighborhood Partnering Program – Victor Langelo, Chair and Carol Eyerman, Assistant Town Planner - In the absence of Mr. Langelo, Carol Eyerman, Assistant Town Planner, distributed a 4-page handout explaining a proposed new program (The Neighborhood Partnering Program [NPP]), which would allow citizens to partner with the Town to propose small to medium scale projects on Town-owned property to improve the places in which people live, work and play. Examples of projects that would qualify include:

- Beautification/landscaping
- Pedestrian and bicycling enhancements
- Community gardens
- Pocket parks
- Trails, trailheads, and gateways
- Curb, gutter and green streets
- Street furniture
- Park creation and improvements

Ms. Eyerman explained that the program would be staffed by the Assistant Planner, Public Works Director and one person from the Community Fund Committee and would consist of 3 sub-programs:

1. The Neighborhood Cost Share Program (NCSP)
2. The Grant Assistance Program (GAP)
3. The Adopt-A-Median Program (AAMP)

A public workshop to bring the program forward was held in late October. Chairman Douglass told Ms. Eyerman that he thought the program sounded exciting. However, as the program is split between the Town and neighborhood, and if the neighborhood no longer has funding, is there a way to require percentages of the money up front. That way, if they didn't come forward, didn't have the money, there would be a claw back.

The handout (filed with these minutes) explains the complete aspects of the program. Ms. Eyerman will tweak the document and come back to the Board with it at a future date.

Update of the Topsham Multi-Use Path – Rod Melanson, Town Planner told the Board that the original date of completion of the Multi-Use Path behind Wright-Pierce and Community Drive was scheduled for November 15 but has been extended by MDOT and the consulting engineers to allow for some additional work beyond the deadline. Additional work includes added chain link fence for safety purposes as well as added security purposes in proximity to the housing in the Highlands that abuts the path.

In a memo to the Selectman dated November 8, 2016 (filed with these minutes), the Planner has broken down the budget and costs to date. The project is currently under budget by \$84,531.87. A new opening date of November 30, 2016 has been selected pending resolution of some culvert issues that still need to be resolved, so the date may have to be extended. MDOT has stated that they would like to do a ceremony on the path which may be put off until spring. Mr. Melanson

said he and others have received several compliments on the path.

Update on the Town Landing Trail – Rod Melanson, Town Planner, reported that the trail is done with a walk-in path along the river and back up to Elm Street, thanks to the generosity of Bill Littlefield, Gary Smart and River Landing Group giving easements. A Thank You was extended to the Public Works Department and the Brunswick-Topsham Land Trust for their part in the trail. The last piece that needs to happen is the signage. Photos of proposed signs were distributed for the Board to review. The grant closes out next month and the project is coming in under budget.

PUBLIC COMMENT – Chairman Douglass read an open letter to the voters of Topsham expressing his concern for lack of participation and knowledge in local politics. The letter will be printed in the paper tomorrow.

CORRESPONDENCE – None noted.

ADJUSTMENTS TO THE AGENDA - None noted.

CONSENT CALENDAR

1. **Approval of the minutes of the Regular Selectmen Meeting of November 3, 2016**
2. **Approval to correct the spelling from Front Street to First Street on the approved 6-16-16 minutes under item 16-44.**

Motion was made by Selectman Tufts, seconded by Selectman Brilliant, and it was unanimously (of those present)

VOTED

To approve the minutes of the Regular Selectmen Meeting of November 3, 2016, as written, and to correct the spelling from “Front” Street to “First” Street on the approved minutes of 6-16-16 under Item 16-44.

PUBLIC HEARING

16-101 CONSIDERATION AND ANY APPROPRIATE ACTION ON RENEWAL OF A SPECIAL AMUSEMENTS LICENSE FOR COREY EDWIN GARVER POST 202 AMERICAN LEGION

The Public Hearing was declared open. Matthew Jabot, Legion Commander, spoke to the Board saying he appreciated the consideration of renewal of the Legion’s license for special amusements. Chairman Douglass asked if anyone from members of the public wished to speak. There being no response, the Public Hearing was declared closed. Chairman Douglass asked the applicant questions regarding type of entertainment, hours of operation, etc. He noted the application was duly advertised and that letters were in file from the Codes Enforcement Officer, Chief of Police, and Fire Chief; all expressing no concerns. The following Finding of Facts were gathered:

FINDING OF FACTS

1. The applicant is Corey Edwin Garver Post 202.
2. Post is located at 79 Foreside Road.

3. Liquor license expiration date is October, 2017.
4. Location of entertainment will be in the downstairs lounge and often in the upstairs hall.
5. Entertainment is mainly held on Fridays or Saturdays.
6. The hours of operation will be from 8:00 a.m. to 12:00 midnight.
7. Types of entertainment will include DJ's, Band and Comedy.
8. Occupancy size is 225 upstairs and 80 downstairs.
9. The applicant stated there was adequate parking for any of their events.
10. Letters are on file stating no concerns from the Codes Enforcement Officer, Fire Chief and Police Chief.

CONCLUSIONS

Based on the Findings of Facts, it is concluded that the issuance of a Special Amusement Permit would not be detrimental to the public health, safety or welfare or would not violate the municipal ordinance, rules or regulations.

Members of the Board unanimously agreed with the above Finding of Facts and Conclusions.

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

VOTED

That the application for a Special Amusement Permit for the Corey Edwin Garver Post 202 be granted as meeting the requirements of Maine Revised Statutes, Title 25-A, §1054 and the Topsham Code, Chapter 71, Article 1, Section 6 and 7.

UNFINISHED BUSINESS - None noted.

OLD BUSINESS - None noted.

NEW BUSINESS

16-102 CONSIDERATION AND ANY APPROPRIATE ACTION ON FURTHER INPUT FROM THE BOARD OF SELECTMEN REGARDING THE FRANK WOOD BRIDGE 106 PROCESS

Chairman Douglass noted that this agenda item is about the contents of a letter the Board has already agreed upon and voted to support. He told the Board, unless they objected, he was not interested in entertaining any further discussion from the public if it is about asking the Board to change their mind. There were no objections from the Board.

John Shattuck reiterated that the Town is one of a very few statutorily entitled consulting parties, and the only hosting municipality that is participating in the ongoing US Federal Highway Administration's (FHWA) §106 Process meetings. To date, these meetings have been dominated by comments from opponents to the replacement of the existing bridge, none of whom are statutorily entitled consulting parties.

Mr. Shattuck said the Selectmen have indicated their desire to reaffirm the sentiments expressed in their unanimous June 2, 2016 resolution regarding the Topsham-Brunswick Bridge. Mr. Shattuck said he prepared a letter reaffirming the Selectmen's Resolution, for their review and, if approved for submission to the §106 Process, It was noted that in the June and August

inspections of the bridge, MDOT noted decay was much worse than expected and rehabilitation of the bridge would cost from \$4 to \$10 million dollars more than replacement.

Following Mr. Shattuck's presentation, John Graham asked to be recognized. Mr. Graham told the Board there are actually 7 major reviews going on right now, including fish, environmental, and Army Corps of Engineers. He said the Board has already stated their position and that it is confusing to the public to make further statements until all the information is compiled.

Chairman Douglass asked if the Board is comfortable with the letter and they responded they were. Following discussion it was agreed to table action on the letter until the December 1st meeting. Board members were asked to submit comments and/or suggestions they might wish to make to the letter to the Town Manager by next Tuesday, November 22, 2016.

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

VOTED

To table action on the proposed letter to the December 1, 2016 meeting of the Board.

16-103 CONSIDERATION AND ANY APPROPRIATE ACTION TO HEAR AN UPDATE FROM STAFF MEMBERS REGARDING THE BROWN TAIL MOTH SITUATION IN TOPSHAM

Pam LeDuc, Parks and Recreation Director spoke to the Board of the impending danger of Brown Tail Moths in Topsham. A packet of information on the moths was included in the Board package for the Board to review. Ms. LeDuc said members of the Planning Department, Public Works Department and Parks and Recreation Department have met with Kyle Rosenberg (Arborist for Topsham) and Charlene Donahue (State Entomologist) at two separate times to review the current situation of Brown tail Moths in Topsham.

A letter is in the file from the State of Maine Department of Agriculture, Conservation & Forestry, Doug Denico, Director. Mr. Denico said the letter is to forewarn towns that they believe will feel the effects of the Brown Tail Moth in 2017. The late summer defoliation indicates populations are very high in several towns including Bowdoin, Bath, Bowdoinham, Richmond, Topsham, West Bath, etc....mostly in Sagadahoc County.

It was noted the cost is too high to inject individual trees, costing as much as \$400 for each tree. Last year Cumberland sprayed a number of streets at a cost of approximately \$15,000. The Town Manager is meeting on December 9th with staff from Bowdoinham and other towns to consider arial spraying.

Ms. LeDuc said Ms. Donahue is willing to come to a meeting in Topsham in January to speak to residents about the moths. It was noted there is only a one-week window to spray in the month of May, depending on the type of winter. A second spraying should occur in August.

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

VOTED

To direct the Town Manager to put a comprehensive plan together on all aspects discussed

tonight and to work to create a collation and a presentation to the community, perhaps in January.

16-104 CONSIDERATION AND ANY APPROPRIATE ACTION ON THE SUBMISSION AND FINAL ACCEPTANCE OF THE ATTACHED CERTIFIED LOCAL GOVERNMENT (CLG) HISTORIC PRESERVATION GRANT IN THE AMOUNT OF \$6,241 TO CONDUCT AN UPDATE TO THE HISTORICAL WALKING TOUR BOOKLET

Assistant Planner Eyerman told the Board that the Historic District Commission reviewed two grants. One to update the Walking Tour Booklet and the other for a new roof on the Topsham Fair Grandstand. The Commission opted to forgo the submission on the booklet and to work on it during the year for submission next year and to only submit the Grandstand application.

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

VOTED

To take no action on Agenda Item 16-104.

16-105 CONSIDERATION AND ANY APPROPRIATE ACTION ON SUBMISSION AND FINAL ACCEPTANCE OF THE ATTACHED CERTIFIED LOCAL GOVERNMENT (CLG) HISTORIC PRESEVATION GRANT IN THE AMOUNT OF \$24,000 TO REPLACE THE ROOF ON THE TOPSHAM FAIR GRANDSTAND

Selectman Brilliant recused herself from participation of this agenda item because of a possible conflict of interest.

Assistant Planner Eyerman spoke to this item saying the Historic District Commission ask that the Town put forward the grant application and then allow the acceptance of the money once they decide on it at the State level in May. The Town will put in \$1,000 for in-kind service to do the application. The rest of the money will come as a cash match from the Fairground and also in-kind from Fairground personnel. Ms. Eyerman also requested that the Board allow forgoing the expense from the Transfer Station for handling the material that comes off the roof.

Jay Herrick, Architect on the project said he talked with Ed Caron and a contractor to estimate how many yards will come off the roof to be processed by the transfer station. It is estimated that dump fees will total approximately \$2,000. Chairman Douglass expressed concern that there is a value of the in-kind contribution. Ms. Eyerman said the deadline for submission is before the next BOS meeting. She asked the Board if they would be more comfortable in separating the vote on this item into two pieces. One for the submission of the grant and the second, she and Mr. Herrick will rework the figures and come up with a budget for the funding vote at a future meeting. This suggestion was acceptable to the Board.

Motion was made by Selectman Tufts, seconded by Selectman Thompson, and it was

VOTED (3-0-1)

To approve the submission of the Application for a Certified Local Government Historic Preservation Grant to replace the roof on the Topsham Fair Grandstand, which will come

back to the Board of Selectmen for acceptance, and to instruct the Planning Office to meet with the Fairground Staff to discuss an appropriate budget strategy.

Chairman Douglass reiterated that staff needs to do a better job of obtaining complete and final figures before coming to the Board for acceptance.

16-106 CONSIDERATION AND ANY APPROPRIATE ACTION ON LOCAL REGULATION OF MARIJUANA PRODUCTION AND SALE

Town Manager Roedner reported that he has received several e-mails asking what the Town is going to do regarding Question 1 on the ballot (production and sale of marijuana). It is anticipated to take up to 9 months before State regulations come forward and Topsham may adopt its own regulations on top of what the State does, as long as the local regulations are at least as stringent as the State's.

In Mr. Roedner's memo to the Board dated November 17, 2016 and filed with these minutes, he said he saw three avenues open for the Town:

1. Accept the law as adopted and rely on the State to adequately regulate this new industry.
2. Decide that, as a Board, you don't want this industry in Topsham, and recommend to the Planning Board that it draft language for the prohibition of the manufacturing, growing, selling and operating facilities for the use of marijuana.
3. Decide that the Town should accept the results of the vote, but that we should regulate on our own. This would lead to a vote at the May 2017 Town Meeting to institute a moratorium on the manufacturing, growing, selling and operating facilities for the use of marijuana, for a period of six months, during which the Planning Board could draft language. Assuming it will take longer than six months, then the Board of Selectmen could extend the moratorium an additional 180 days, which would take us to the May 2018 Town Meeting where new regulations could be voted on.

John Shattuck, Economic and Community Director noted that growing and manufacturing were not facilities for use and said Topsham has at least one existing business interested in a recreational growing facility. Such a facility would create a new building on a presently empty commercial property; add a substantial increase to the tax base; and create new jobs. Mr. Shattuck asked the Board not to exclude possibilities for Topsham as similar projects are advancing in other towns. He said he would hate to see Topsham not be able to participate in the growing side, whatever our decision on the social side on what we think activities are appropriate for the Town.

Jenna Gotto, Topsham resident and Substance Abuse Coordinator for Sagadahoc County, Brunswick and Harpswell said this is an opportunity for our Town to decide what we want our Town to look like. She urged the Board to impose a moratorium.

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

VOTED

To direct the Town Manager to gather information to start putting in motion the possibility of a moratorium for the May 2017 Town Meeting.

16-107 CONSIDERATION AND ANY APPROPRIATE ACTION ON THE CREATION OF FINANCE DIRECTOR POSITION

A job description for the position of a Finance Director for the Town was included in the Board package. In a memo to the Board from the Town Manager dated October 27, 2016, he wrote this is before the Board for action on creating the position of Finance Director. This position would assume responsibility for the financial operations of the Town, as well as being an integral part of administering the Town's Human Resources Program, along with the Town Manager and the Manager's Administrative Assistant.

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

VOTED

To approve the creation of a Finance Director Position.

16-108 CONSIDERATION AND ANY APPROPRIATE ACTION ON THE ELECTION OF CHAIR FOR THE BOARD OF SELECTMEN

Selectman Tufts nominated David Douglass to serve as Chairman of the Board of Selectman for the coming year. There were no further nominations. Nominations ceased. Vote was called and **David Douglass was unanimously elected to serve as Chairman of the Board of Selectmen for the ensuing year.**

16-109 CONSIDERATION AND ANY APPROPRIATE ACTION ON THE ELECTION OF A VICE-CHAIR FOR THE BOARD OF SELECTMEN

Chairman Douglass nominated William Thompson to serve as Vice Chairman of the Board of Selectman for the coming year. There were no further nominations. Nominations ceased. Vote was called and **William Thompson was unanimously elected to serve as Vice Chairman of the Board of Selectmen for the ensuing year.**

EXECUTIVE SESSION - None noted.

ADJOURN

Motion was made by Selectman Tufts, seconded by Selectman Brilliant, and it was unanimously

VOTED

To adjourn the meeting at 8:55 p.m.

Respectfully submitted,

Patty Williams, Recording Secretary