

MINUTES
TOWN OF TOPSHAM
BOARD OF SELECTMEN MEETING
DONALD A. RUSSELL MEETING ROOM
DECEMBER 20, 2018 – 7:00 P.M

MEMBERS PRESENT: David Douglass
Marie Brilliant
Ruth Lyons
William Thompson
Roland Tufts

MEMBER(S) ABSENT: All present

STAFF PRESENT: Richard Roedner, Town Manager

A meeting of the Topsham Board of Selectmen was held on Thursday, December 20, 2018, in the Donald A. Russell Meeting Room, at the Municipal Building, 100 Main Street, Topsham, Maine.

CALL TO ORDER

Chairman Douglass called the regular 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.

TOWN MANAGER'S REPORT

The Town Office will be open on Monday, December 24th from 8:30 until noon and then closed for the Christmas Holiday. Office will be closed on Tuesday and reopen on Wednesday. On the following week we will be closed on Tuesday, January 1st for New Years.

Merry Christmas to everyone.

BOARDS AND COMMITTEE REPORTS AND UPDATES

UPDATE - TDI/ECD – John Shattuck, Topsham Economic and Community Development, Inc. Director presented an update. He thanked the Board of Selectmen for bringing VOC 10 Director Nancy Weed to their December 12th meeting. Mr. Shattuck said he will be meeting with her to discuss how the Town and MCEDD can help advance her vision for a 4 year comprehensive technical high school. The school will be a critically important driver for economic growth in our area.

Mr. Shattuck is participating in the reconvened marijuana regulation advisory group per vote results. This could result in high quality jobs in Topsham – technical manufacturing jobs.

Business Retention, Expansion and Attraction (BREA) – Mr. Shattuck is working with two companies from nearby towns seeking to relocate and expand in Topsham. They are technically oriented, high quality businesses.

Comprehensive Plan Committee (CPC) – The Committee has completed its detailed review of the Draft Comprehensive Plan. Mr. Shattuck said he will be continuing to work with the Planner, the Consultants and other staff on the parallel, ongoing staff review of the plan.

Design Advisory Committee (DAC) and Section 106 Process – We are still anticipating an announcement from the Federal Highway Administration and related agencies, finalizing their decision to replace the existing Brunswick-Topsham Bridge. Mr. Shattuck said he attended a December 5 presentation by the Friends of the Frank J. Wood bridge. The Friends’ presentation continues to advocate for rehabilitation. At the conclusion of the meeting, a leader of the group stated that the Friends had retained a Washington, DC attorney specializing in appeals of FHWA decisions to replace older bridges. It was noted that over 30,000 citizens of the Topsham and Brunswick area represent an overwhelming majority for the bridge replacement.

Congratulations to Topsham Resident – Congratulations were extended to Bruce Van Note for his new position as Commissioner of the Maine Department of Transportation.

PUBLIC COMMENT – None noted.

CORRESPONDENCE – Chairman Douglass read into the record two pieces of correspondence regarding Thomas Avenue issues; one from Barry and Susan Lohnes dated 12/19/18 and the other from Jane Tuttle dated 12/20/18. Both letters are filed with these minutes and are part of the public record.

ADJUSTMENTS TO THE AGENDA – Motion was made by Chairman Douglass, seconded by Selectman Tufts and it was unanimously

VOTED

To take Agenda Item **18-110 CONSIDERATION AND ANY APPROPRIATE ACTION ON APPLYING TO THE PLANNING BOARD FOR SITE PLAN APPROVAL FOR A PARKING AREA ADJACENT TO THE UPPER FIELDS** out of order.

CONSENT CALENDAR

1. Approval of the minutes of the Regular Selectmen’s Meeting of December 6, 2018.

Town Manager Roedner said he received an e-mail from Yvette Meunier saying she was at the December 6 meeting and had wanted to mention how much the residents of the Maple Street neighborhood appreciated the fine job the Public Works Department did plowing snow. Her comment is noted as part of these minutes.

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

VOTED

To approve the Consent Calendar as presented: **Approval of the minutes of the Regular Selectmen's Meeting of December 6, 2018.**

PUBLIC HEARING – None noted.

UNFINISHED BUSINESS

18-64 CONSIDERATION AND ANY APPROPRIATE ACTION AWARDDING THE BID FOR A CULVERT REPLACEMENT ON THE RIVER ROAD

Planner Melanson explained that in August this item was reviewed and tabled. One bid was received that came is higher than the cost estimate/project budget. Staff has since been working on seeking extensions on grant funds, discussing details of the project with Crooker and the Water District and also Wright-Pierce Engineers to assist in navigating the project implementation.

Since that time, a full grant extension from MDEP/EPA (to expire in December of 2019) as well as securing an extension of the SEP funding has been received for the project. Public Works Director Dennis Cox confirmed with Crooker Construction that they are willing to hold their price on the bid. After meeting with the engineers, DPW Director and Town Manager, a couple of options to continue this project with funding assistance in place have been identified.

1. Accept the current bid from Crooker and budget the funding difference for the upcoming fiscal budget year;
2. Decline the Bid from Crooker and re-bid the project in March;
3. Forfeit the project/grant funds.

During discussion, the Board was in agreement that the project needed to be done and suggestion was made that the Town Manager discuss the project with TIF attorney to determine if economic developments funds could be used.

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

VOTED

To continue accepting the current bid and to budget the difference from the upcoming budget.

OLD BUSINESS – None noted.

NEW BUSINESS

18-110 CONSIDERATION AND ANY APPROPRIATE ACTION ON APPLYING TO THE PLANNING BOARD FOR SITE PLAN APPROVAL FOR A PARKING AREA ADJACENT TO THE UPPER FIELDS

Town Manager Roedner issued a 4-page memo dated December 6, 2018, which is filed with these minutes, responding to issues/questions that have been received from Board members and members of the public regarding the parking lot.

He began the discussion saying he has talked to the Town Attorney about the Board of Appeals decision regarding right, title and interest and the sense of the attorney, at this point, is that the Town does have a right interest to the parcel. This went to the Planning Board this past summer and a public hearing was held. The Planning Board granted Site Plan Approval which is still valid. They also granted a Conditional Use Approval which was appealed to the Zoning Board of Appeals, which the Board of Appeals overturned, due to the question raised regarding right, title and interest. The attorney is working on this and has not gotten back to the Town.

Selectman Thompson responded to the correspondence received from Ms. Tuttle and disagreed with many of the comments she made, especially about young children being at risk for drugs and also on property values. He did not agree that the parking lot would place a negative impact on the neighborhood or that child predators and drug dealers would be an issue. He said all these things are not happening now and will not happen because of a parking lot. Selectman Thompson said he wants comments backed by facts. He said he lives at 26 Arbor Avenue and supports the project as a resident and also as a Town Official.

Chairman Douglass said we have before us the reapplying for the parking lot to the Planning Board. We need to go back to the Planning Board to show we have right, title and interest, which we believe we have. The Town Manager said when we accepted the road in 1972; there were no meets and bounds to describe the road. The Subdivision Plan of Thomas Avenue shows this cut out or stub, so when accepted by Town Meeting, that was part of it. The other argument is if that was a different road and laid out as a paper street, by State Statute, then towns retain whatever rights they have in that street as part of the subdivision. Any rights we have for access have been reserved. So under both scenarios, it appears the Town does own it, but the Town Attorney needs to get back with final information.

Selectman Lyons said she wants to be sure we are working with correct facts. She said she understands the feelings of the citizens in the neighborhood as they have every right to their feelings. She said we need to communicate well with the citizens and make ourselves available to them. If they need to speak again, they need to be heard again. Chairman Douglass asked Selectman Lyons if she believed that the Board did not allow the neighbors to speak. She said she did not say that in any way.

Chairman Douglass asked if anyone wished to comment. Those wishing to comment included the following (note that, due to the length of comments, they are only partially listed).

Karen Murphy – Finds it “interesting” that the Board is going to propose to bring this back to the Planning Board before the Town Attorney has fully given her opinion. Said the Town has looked at the street but has not adopted it. Asked what is the Town’s process for adopting paper streets. Asked what the Town plans to do about replanting the trees that were cut down? Inquired about zoning and building guidelines in the aquifer protection zone, future plans for forest management, and fund allocation from the tree harvesting. Said no one has talked about the drug situation. Asked how the Town can prove there isn’t going to be a problem. Said the fears people have are real.

Ann Bouchard – Ms. Bouchard said she lived across the street from a house that dealt in drugs for 20 years. Said there were incidents in the street and in the field. 20 cars a day used to come and go from the house and some from out of state. The house has now been foreclosed and the problem is gone. Asked what about the aquifer? Said we were never told there was going to be a parking lot. Gravel there now is OK, but what about runoff when it is tarred? Asked how Towns' people find out about when meetings will be held? How much is the parking lot going to cost? How much money did you get from the tree cutting? Where do citizens go to find out this information?

Chairman Douglass responded that every single thing Ms. Bouchard brought up has been transparent. People need to pay attention. This was all talked about in public meetings. Meetings that are posted on the website. Nothing is hidden.

David Marcello, Chairman of the Board of Appeals – Mr. Marcello spoke of the appeal of the Planning Boards decision. He said the Board of Appeals followed the rules and only the question of right, title and ownership of who owned the road is why the Board overturned the Planning Board's decision. Mr. Marcello said he was not aware of a workshop on this item and it seemed like the process went quickly. He said the Zoning Board of Appeals was the first ones to hear concerns of the public. He added that we need to go back to step one and be sure there is ownership.

Krista Chase, 19 Thomas Avenue – Said the parking lot will be in their backyard. They have lived there 13 years and that field has not been used. Said it boggled their mind for years why the Town of Topsham is not utilizing that space. Said her family is in favor of the parking lot as parents and grandparents need to be able to easily watch their family play. Said her family is happy to see the field now going to be used and it was wonderful having all those little soccer people around. Said a parking lot makes a lot of sense. Said she has no fear of any harm coming to her children from the parking lot. Said they lived across from the so-called drug house and this has been talked about but it is now gone. Said they loved the fact that the field was being used this fall. Said they love their neighbors and appreciate their perspective but it is time people stopped talking about it.

Pam LeDuc, Director of Parks and Recreation – Ms. LeDuc said the tree harvesting was duly advertised and a public meeting was held at the Library in November of 2017 and only 23 people attended. She said on January 3, 2019, the Tree Committee will give a full report of the harvest to the Board of Selectmen and all in attendance. Paul Larivee, Forester for SAPPI, will be in attendance. She went on to explain that the \$13,500 plus from the harvest is a General Ledger Account with the monies from the harvest at the Solid Waste facility. Ms. LeDuc clarified that bids were received from the bidders for the parking lot in the amounts of \$62,000 and 84,000 and were declined. She also clarified that the funds collected from the harvest can only be spent with the Board of Selectmen's approval.

Kari Hojara, 21 Arbor Avenue – Ms. Hojara said "Actually, I wrote a letter to Mr. Roedner which he replied to. I just want to express my continued concerns about the traffic that might come into the neighborhood, and I know that the industry numbers and what this might look like and that it shouldn't be an increase, but I'm hearing growing numbers and more gains. I'm not sure why we shouldn't sort of consider more specifically a traffic study or some sort of evaluation ahead of time. I have very small children. I walk with them.I also worry that there are no sidewalks for safe pedestrian travel.....I'm not sure why there couldn't be more

planning ahead of time. I've heard that sidewalks may be considered but I don't know what that meant. When will they be considered?"

Town Manager Roedner responded to the questions posed.

Chairman Douglass said he lives beside and in front of the parking lot to the Topsham Public Library. He has two small children. Has zero fears. People can be there 24 hours a day. There are no lights proposed for the parking lot. We all have speeders. We have talked about speeders at every single meeting. The Police Department has heard from this Board that it is a priority. We need this parking lot. People need to have the ability to go watch their kids and to have an area to safely park. I'm going to support this going back to the Planning Board and would like the Town Attorney to make the presentation to the Town to make sure there are no questions.

Selectman Tufts – Said he wants to be sure we have clarity on the ownership and how the aquifer protection zone applies. Going to support going back to the Planning Board. Said there is now a new road to go down to that field from Brookside and Homeplace.

Selectman Lyons – Said she wants the absolute facts about ownership of that piece of land. In favor of presentation from the Town Attorney. We all need to continue to talk.

Selectmen Brilliant – Says she is in support of going back to the Planning Board, especially for a safety issue. Not safe parking on the side of the road.

After all comments were heard, motion was made by Chairman Douglass, seconded by Selectman Lyons and it was unanimously

VOTED

That following a clear opinion from the Town Attorney on Right, Title and Interest on the entrance to the field, I make a motion to apply to the Planning Board for Conditional Use Approval for the Thomas Avenue Parking Lot and for this to be handled and presented by the Town Attorney.

18-108 CONSIDERATION AND ANY APPROPRIATE ACTION ON DECLARING THE OLD BRUSH TRUCK, A 1993 GMC SIERRA PICKUP AS SURPLUS

The Town Manager spoke to this item saying they would like to get rid of the 1993 GMC Sierra pickup which has been replaced and sell it using the bid process. Mike Labbe added that the truck is rusting away in the parking lot, but is still running good. The bid will go inside and outside with anyone able to bid.

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

VOTED

To declare the 1993 GMC Sierra Pickup as surplus and to put same out to bid.

18-109 CONSIDERATION AND ANY APPROPRIATE ACTION ON CREATING A GOVERNANCE REVIEW COMMITTEE

The Town Manager said per our Town Code, Chapter 6, Article IX, Paragraph 25, every 10 years the Board is charged with creating a committee to review Chapter 6 and recommend any necessary changes. We considered this section in 2016 and determined that the work the Town undertook with the Charter Commission and Chapter 6 made in 2009 qualified as the last review period. Therefore, in 2019 we are due to appoint a committee for this review.

Code language reads as follows:

"It shall be the duty of the Town to review and bring up to date this chapter at least once in every ten (10) years, and a committee of seven (7) citizens, three (3) of whom may be Selectmen, shall be chosen for this purpose."

There was a discussion of whether or not Board members serving on the committee would be a conflict of interest.

Chairman Douglass said his opinion on the portion where three Selectmen could be on the committee, that under our Rules and Regulations, Board members should not be a part of anything. He said he believes when reviewing the government, Board members should not be involved and that it is in contradiction to our own rules. Selectman Tufts agreed. Selectman Lyons said she would like to be on the committee as she has served on two processes in the past, but understood why it might be conflict and perhaps she could simply express her comments at the appropriate time.

Motion was made by Chairman Douglass, seconded by Selectmen Tufts, and it was unanimously

VOTED

To start creating a Governance Review Committee.

ADJOURNMENT

Chairman Douglass wished everybody a Merry Christmas and said he hoped everyone would have an opportunity to spend quality time with their families.

Motion was made, seconded and it was unanimously,

VOTED

To adjourn the meeting at 8:45 p.m.

Respectfully submitted,

Patty Williams, Recording Secretary