

MINUTES  
TOWN OF TOPSHAM  
BOARD OF SELECTMEN MEETING  
DONALD A. RUSSELL MEETING ROOM  
APRIL 4, 2019 – 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 and Derek Scrapchansky,  
Assistant Town Manager

A meeting of the Topsham Board of Selectmen was held on Thursday, April 4, 2019, 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, except for Mr. Tufts, who had been excused.

**TOWN MANAGER'S REPORT**

Topsham's Comprehensive Plan is nearing completion. There will be a Public Hearing on Monday, April 8 at 6:00 p.m. in the Donald A. Russell meeting room to accept comments. The plan will then be forwarded to Town Meeting on May 14, 2019 for a vote on adoption.

Speaking of Town Meeting, next Thursday, April 11 at 7:00 p.m. the Selectboard will hold a Public Hearing on the Draft Town Meeting Warrant. There will also be a Public Hearing on the proposed Marijuana Licensing Regulations that are being proposed and which will be discussed later this evening.

Saturday, April 27 will be a busy day. From 10:00 a.m. to 2:00 p.m. at the Police Department lobby, the next Drug Take Back collection will be held. Bring in your old, unused and unwanted medications for proper disposal. No liquids or needles will be accepted.

Also, on the 27<sup>th</sup>, the next Regional Household Hazardous Waste Collection Day will be held. We join with Brunswick and Bath to collect materials that should not be disposed of with regular

garbage. The collection this year will take place at Bath Public Works. Pre-registration is required. All information is available on our website: [www.topshammaine.com](http://www.topshammaine.com).

Finally, the Solid Waste Facility has shifted to its summer hours: Tuesday, Wednesday and Thursday from 8:00 a.m. to 6:00 p.m. and Friday and Saturday from 9:00 a.m. to 5:00 p.m.

### **BOARDS AND COMMITTEE REPORTS AND UPDATES**

**Update from Topsham Development, Inc.** – John Shattuck, Topsham Economic and Community Development, Inc. Director expressed Don Spann’s regrets that he could not be present at the meeting. This update will be placed on the agenda at a later date.

**Update from TDI/ECD** - John Shattuck, Topsham Economic and Community Development, Inc. Director reported on economic and community development, including:

**Business Retention, Expansion and Attraction (BREA)** – The Town Manager, Assistant Town Manager, Planner and Mr. Shattuck met with a prominent commercial real estate broker to discuss possible sites for a significant, high value office development possibility for Topsham. So far, the Topsham property is the interested party’s first choice for the project. More information to follow as it develops.

**Chamber:** At the Annual Chamber’s Award Dinner on March 8, dinner award recipients included Topsham residents Bruce Van Note (President’s Award for community contribution/DAC Leadership) TDI Director, Brian Robinson – Young Professional of the Year Award.

**Lower Village Development Committee (LVDC) - Elm Street Extension** – Resulting from the Board of Selectmen’s March 21<sup>st</sup> meeting, contract for ESES Survey and Plans has been executed. The survey is expected to start next week. Abutter outreach has been initiated.

**Comprehensive Plan** – The Lower Village Development Committee held a special meeting this date and voted to endorse the proposed Comprehensive Plan Update.

**Design Advisory Committee (DAC and Section 106 Process)** – March 14: FHWA FONSI working to complete permitting process for replacement of the Frank Wood Bridge. The Design Advisory Committee will reconvene in the Donald A. Russell meeting room on April 24 to hear recommendation from the DOT. DAC will again invite input from the Friends of the Frank Wood Bridge. The Friends have repeatedly stated intention to bring suit to appeal the Federal decision.

**Topsham Development, Inc. (TDI)** – On March 20 the TDI Board of Directors unanimously voted to support the proposed Comprehensive Plan Update. Nancy Weed, Voc 10, presented plans to develop comprehensive voc-tech high school at Brunswick Landing. Ms. Weed also detailed key legislation to support CTE and WF development. The Board of Directors voted unanimously to actively support these efforts, as did the Lower Village Development Committee.

**PUBLIC COMMENT** – None noted.

**CORRESPONDENCE**

Chairman Douglass read aloud a letter from Barry and Susan Lohnes dated March 3, 2019. The letter is filed with these minutes.

Chairman Douglass acknowledged a letter he received last night (4/3/19) from Jenna Gotto.

**ADJUSTMENTS TO THE AGENDA** – Motion was made, seconded and unanimously (of those present) **VOTED** to move agenda item 19-11 to be addressed after Item 19-21.

**CONSENT CALENDAR**

**1. Approval of the minutes of the Regular Selectmen’s Meeting of March 21, 2019.**

Motion was made by Selectman Brilliant, seconded by Selectman Lyons, and it was

**VOTED**

To accept the Consent Calendar, approving the minutes of the regular Selectmen’s Meeting of March 21, 2019 as written.

(The vote was 4-0 with one abstention, Chairman Douglass.)

**PUBLIC HEARING**

**19-10 CONSIDERATION AND ANY APPROPRIATE ACTION ON A SPECIAL AMUSEMENT PERMIT FOR THE DUCK PUB**

Sean McCarthy, Director of Operations for the Duck Pub, represented the applicant and talked about how the pub was run and its various activities.

The Public Hearing was declared open and Chairman Douglass asked if anyone had questions, comments or concerns. There being no response, the Public Hearing was declared closed.

**FINDING OF FACTS**

The following Finding of Facts were noted:

1. Name of applicant is The Duck Pub, Sandbaggers Golf, and LLC
2. Location of the Duck Pub is 114 Village Drive, Topsham, Maine
3. Liquor license will expire on March 21, 2020 and is listed for service both inside and outside.
4. Type of entertainment includes live music, karaoke and open mic.
5. Entertainment is held outside on the patio and upstairs in the dining room and in the private function room.
6. Hours of operation are from 11:00 a.m. to 9:00 p.m.
7. No furniture will need to be moved to accommodate the entertainment.
8. Size of the downstairs lounge and upstairs area is approximately 20’x25.’
9. Seating capacity is 48 downstairs and 24 upstairs.
10. There is adequate parking on the site to accommodate the functions.

11. Letters are on file from the Codes Enforcement Officer, Fire and Police stating no concerns with the operation, especially since a sprinkler system has been inspected.

**CONCLUSIONS**

The Board unanimously agreed that, based on the Findings, the issuance of a Special Amusement Permit would not be detrimental to the public health, safety or welfare or would violate municipal ordinances, rules or regulations.

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

**VOTED**

That the application for a Special Amusement Permit for The Duck Pub be granted as meeting the requirements of the Maine Revised Statutes, Title 25-4, Section 1054 and the Topsham Code, Chapter 71, Article 1, Section 6 and 7.

**UNFINISHED BUSINESS**

**19-11 CONSIDERATION AND ANY APPROPRIATE ACTION TO SCHEDULE A PUBLIC HEARING ON A PROPOSED LICENSING ORDINANCE REGARDING MEDICAL MARIJUANA**

(This item was moved to be addressed after Agenda Item 19-21.)

**19-14 CONSIDERATION AND ANY APPROPRIATE ACTION ON A REVIEW OF NORTH EAST AMBULANCE CONTRACT**

Fire Chief Chris McLaughlin provided a six-month review of the mutual aid contract with Northeast Mobile Health Services regarding Bowdoinham EMS coverage. In July, 2018, Topsham Rescue responded to 13 calls in Bowdoinham and 34 calls from September 2018 through the end of February 2019. He said the department has been able to handle that call volume without reducing the level of service to the Town of Topsham, averaging approximately 5.6 calls per month to Bowdoinham. Northeast Mobile Health has paid all invoices dating back to July 2018 for a total of \$12,250.

There were no questions posed by the Board following the Chief's review.

**19-15 CONSIDERATION AND ANY APPROPRIATE ACTION ON THE RESULTS OF THE NEIGHBORHOOD MEETINGS**

Assistant Town Manager Scrapchansky talked about the results of the 2019 Neighborhood Meetings which were conducted in January. The meetings (divided into 4 neighborhoods) were held to listen to issues, concerns, desires and suggestions of town residents. Each resident in Topsham was mailed a postcard with a date and location for their respective meeting.

Mr. Scrapchansky said the majority of concerns were the same as expressed at previous neighborhood meetings including:

- Town government
- Speeding and safety
- Signage/Lights/Crosswalks
- Economic Development
- Land use/Development/Codes Enforcement
- Roads/Sidewalks
- Paving
- Recreation
- Trails – bicycle and Pedestrian
- Waste Management

During discussion, Chairman Douglass said the Board needed to determine a date for a workshop and asked each Board member to bring 3 to 5 items they feel the strongest need to be discussed as a group. Goals will be set before calling another neighborhood meeting. Date for the workshop will be determined and announced shortly.

**OLD BUSINESS** – None noted.

**NEW BUSINESS**

**19-18 CONSIDERATION AND ANY APPROPRIATE ACTION ON AWARDING THE ROAD STRIPING BID TO LUCAS STRIPING**

Public Works Director Dennis Cox said he sent out 5 RFP's and only one response came back. The one received, from Lucas Striping, met all specifications. Mr. Cox said he is satisfied with the work Lucas Striping has done for the Town in the past and recommended that they be awarded the contract for \$32,628.85 which is within the budget.

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

**VOTED**

To award the contract for Road Striping to Lucas Striping in the amount of \$32,628.85.

**19-19 CONSIDERATION AND ANY APPROPRIATE ACTION ON AWARDING THE LOW BIDDER FOR THE PURCHASE OF A 1-TON TRUCK WITH PLOW TO O'CONNOR CHEVROLET**

Public Works Director Dennis Cox said the replacement for the 1-ton dump truck and plow to replace the existing 2009 unit is in the Capital Budget for \$70,000. He recommended purchasing the chassis from O'Connor in the amount of \$41,651.00, the lowest bid received, and the dump body from H. P. Fairfield for \$17,160 (the only bid response).

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

**VOTED**

To accept the bid from O'Connor Auto Park in the amount of \$41,651 and from H. P. Fairfield for the dump body and plow in the amount of \$58,811.

**19-20 CONSIDERATION AND ANY APPROPRIATE ACTION ON UNION GRIEVANCE RELATED TO HEALTH REIMBURSEMENT ACCOUNTS (HRA)**

Chairman Douglass began the discussion saying that IAM Local S89 filed a grievance to the Town Manager. In the contract, the agreed upon value of the HRA was \$2,500 for those with single coverage and \$5,000 for those with family plans. This was done knowing that the MMA Health Insurance Plan had a maximum out of pocket of \$3,000 for individuals and \$6,000 for family plans, which were not included in the contract language.

It was noted that several pieces of documentation on this item were included in the Board package and are on file including the grievance form dated March 13, 2019; letter to Tom Lister and Mike Labbe, IAM Operations Unit Stewards dated March 14, 2019 from Town Manager Roedner denying the grievance; and memorandum to the Board of Selectmen from the town Manager dated March 28, 2019.

Mr. Roedner said the sought after remedy is to change the HRA levels going back to July 1, 2016 and to reimburse any employee that may have run out of HRA benefit during that period. He said the collective bargaining agreement clearly stated the limits of the HRA allowance at \$2,500/\$5,000 and no provisions were included to increase that level due to actions by any third parties, such as MMA raised out of pocket levels or even the federal or state governments implementing limits on the total value of the HRA.

Chairman Douglass asked if there was an HRA representative present at the meeting to speak to this item. It was noted that no HRA representative was in attendance.

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

**VOTED**

To uphold the Town Manager's denial of the grievance and to notify the unit of same.

**19-21 CONSIDERATION AND ANY APPROPRIATE ACTION ON REVIEWING DRAFT CAPITAL REPLACEMENT POLICY**

Town Manager Roedner explained that this item came out of the budget discussions. He said there is a difference of opinion regarding this line between the Finance Committee and the Board of Selectmen. Based on the discussions, he has created a Draft Capital Replacement Policy for the line called "Replacement," which was established last year. The funds would be available if something fails or breaks, such as furnaces, A/C systems, lighting systems, flooring, roofs, etc. Funds for this line would be capped at a determined amount and be replenished as needed. Facilities covered by the fund are municipal building, public safety, public works, the library and solid waste facility. Selectman Lyons said we already have a Capital Fund and wants to be sure not to overlap taxpayer's money. Mr. Roedner said we have not been budgeting for such items as furnaces, roofs, etc.

The proposed policy was discussed and the amount at which it should be capped. Following discussion, motion was made by Chairman Douglass, seconded by Selectman Lyons and it was unanimously (of those present)

**VOTED**

To accept the Capital Replacement Policy, with second full paragraph, that the fund be capped at \$500,000.

**19-11 CONSIDERATION AND ANY APPROPRIATE ACTION TO SCHEDULE A PUBLIC HEARING ON A PROPOSED LICENSING ORDINANCE REGARDING MEDICAL MARIJUANA**

Planner Rod Melanson spoke to this item saying that this week the Planning Board held a public hearing on the land use component on the various uses including (1) Registered Caregiver Retail Store; (2) Marijuana Cultivation Facility; (3) Marijuana Products Manufacturing Facility and (4) Marijuana Testing Facilities. These are defined in the Use Table of where they would be permitted.

Mr. Melanson said tonight we are discussing licensing. The Selectboard will be the authority on the businesses, such as we did tonight for the Duck Pub but with greater detail. If the businesses meet the requirements scheduled, a license will be granted. Distributions of licenses was discussed and the number for each use that could be issued. Care givers will be asked to register with the Town Clerk. There would be no charge for the registration.

Town Attorney Mary Costigan joined the meeting at this point to answer any questions. There was a discussion of how licensing fees would be developed. Ms. Costigan said she has been working with several towns and trying to make it all work. She said these sessions are great to discuss concerns. You used to have limited ability to regulate but now you have all sorts of ability to do that. It would be good for the Board to have fees and details established prior to Town Meeting if times permits.

Chairman Douglass asked if anyone from the public wished to comment. The following comments were heard:

**Ryan Holmes, 50 Adams Landing Road** – Talked about licensing and the number to be issued. He said this was a massive discussion at the committee meetings. Most operations, when you talk about cultivation facilities, will have a manufacturing plant inside of that. The manufacturing side is not a very big space, but when you are in a cultivation facility, there is a lot of different things that are happening now that have to be produced whether you are going to a kitchen or to concentrate. A person having a cultivation facility license might also need to apply for a manufacturing license. That is the reason we justify multiple licenses. Only one license would block how you do business.

The fees would be justifiable with how much time the Town would have to put in. Other towns have done lotteries but I wouldn't recommend it. There could be some kind of point system assigned points for certain things such as if you live in the town you could get points. Someone that is operating in compliance. We are blazing a path for the future and are looking to make the best decisions we can. We are trying to move ahead on the medicinal side. We focus too much on criminal activity, but there are good people in this industry trying to make a difference. This is a good opportunity for our economy to be boosted. We want to protect the Town but also want to help businesses flourish in a positive way.

**Mary Costigan** – We are talking about an annual license and people are going to have to behave themselves or their license won't be renewed.

**Charles Dougherty, High Brow, Rockland** - Talked about the need for multiple licenses. Regarding the transferring of licenses, if something would happen to me, it would be nice for my family to be able to continue the business. On the other side, ending a license it is scary for a business owner to know your license your form of income, could be stripped away after a year. Any type of protection for the business owner's side would be nice. Everybody is allowed to grow 3 plants over 21, 6 plants on medical. You are still going to have sales in residential areas. People are going to do what they want to do. The State will do inspections any time there is a complaint. All you have to do is called Nicky or Ginger in Augusta, two retired sheriffs. They will come done and do inspections for you. It might save your guys a little bit of money. Talked that they did a glass show that lasted until 9:00 p.m. There were people in attendance who wanted to make a purchase, but couldn't after 8:00 p.m. I don't want to have to say, go in the parking lot. I can legally do a sale 50 feet outside the door. You guys are going to have to look at every scenario.

**Eric McMaster, Brunswick** – Said he is a caregiver and storefront owner in another town. Said he came to help out. His business is grandfathered in until the licensing process is established. Said he used to be in dentistry but has been in the cannabis service since he was 14. It's not a bad drug and he helps a lot of people. Said he too knows Nicky and Ginger and they don't mess around. Hallowell did a lottery and it was terrible for them.

Discussion between the Board continued on several issues to be on agenda for next meeting, including:

- Licensing
- Prioritization
- Enforcement
- number of licenses
- implementation date
- schedule
- How to establish a waiting list and how to deal with someone who is already operating, coming in for a license.
- The issue if someone doesn't have a facility, how long do they have to start operating to stay in compliance with the preliminary license.
- Signage removal from registered caregivers
- Transfer of ownership
- Fee schedule first week in May
- Point system first week in June

### **EXECUTIVE SESSION**

At 9:17 p.m., motion was made by Selectman Thompson, seconded by Selectman Lyons, and it was unanimously (of those present)

**VOTED**

To move into Executive Session. Those attending included Town Manager Roedner, Assistant Town Manager Scrapchansky, Town Attorney Mary Costigan, Selectman Douglass, Selectman Lyons, Selectman Thompson, and Selectman Brilliant.

Motion was made, seconded and it was voted to come out of Executive Session and return to regular session at 10:43 p.m. with the following action noted:

**19-16 CONSIDERATION AND ANY APPROPRIATE ACTION TO ENTER INTO EXECUTIVE SESSION PURSUANT TO 36 M.R.S.A. TITLE 1 §405 (6) (F) TO DISCUSS A TAX ACQUIRED PROPERTY**

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

**VOTED**

To direct the Town Manager to enter into a repayment plan to redeem the foreclosed property in question, based on the terms discussed.

**19-17 CONSIDERATION AND ANY APPROPRIATE ACTION TO ENTER INTO EXECUTIVE SESSION PURSUANT TO 1 M.R.S.A. §405 (6) (E) CONSULT WITH LEGAL COUNSEL**

Motion was made by Chairman Douglass, seconded by Selectman Brilliant and it was

**VOTED**

To direct the Town Manager to pursue negotiations with Bowdoinham to provide EMS coverage, based on the terms discussed.

(The vote was 3 in favor with one opposed [Selectman Lyons])

**19-22 CONSIDERATION AND ANY APPROPRIATE ACTION TO ENTER INTO EXECUTIVE SESSION PURSUANT TO 1 M.R.S.A. §405 (6) (E) TO CONSULT WITH LEGAL COUNSEL**

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

**VOTED**

To amend the Draft Town Meeting Warrant, scheduled for Public Hearing on April 11, 2019, to include an article to accept the Thomas Avenue unnamed right-of-way stub as a public way, as depicted on the Arbor Avenue subdivision plans.

**19-23 CONSIDERATION AND ANY APPROPRIATE ACTION TO ENTER INTO EXECUTIVE SESSION PURSUANT TO 1. M.R.S.A. §405 (6) (C) TO DISCUSS PROPERTY ACQUISITION**

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

**VOTED**

To authorize the Town Manager to pursue property negotiations as discussed.

**ADJOURNMENT**

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

**VOTED**

To adjourn the meeting at 10:44 p.m.

Respectfully submitted,

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Patty Williams, Recording Secretary