

MINUTES
TOWN OF TOPSHAM
BOARD OF SELECTMEN MEETING
APRIL 5, 2012, 7:00 P.M.

MEMBERS PRESENT: Donald Russell
David Douglass
Andrew Mason
Ronald Riendeau

MEMBERS ABSENT: Marie Brilliant

STAFF PRESENT: Town Manager, Cornell Knight

A meeting of the Topsham, Maine Board of Selectmen was held on Thursday, April 5, 2012 at the Municipal Building at 100 Main Street, Topsham, Maine.

CALL TO ORDER

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

PLEDGE OF ALLEGIANCE - All present were invited to stand and recite the Pledge of Allegiance to the Flag.

ROLL CALL

The recording secretary took the roll call and noted that all Selectmen were present, except for Selectman Brilliant.

TOWN MANAGER'S REPORT

The Town Manager's Report included:

- The Town Attorney has reported that because there was a class action lawsuit in 2009 on the engine (same as in the #2 Ambulance that was blown) and the Town did not opt out of the class action suit, the Town is barred from making a claim at this time. There was no monetary settlement in the suit, just an offer of an extended warranty on the engine which the Town already had, so the Town is simply going to move forward with replacing the engine.
- The 2nd half of property taxes are due on April 17, 2012. Residents can drop checks off at the payment drop box in the parking lot.
- The 5K road race to benefit the Swinging Bridge will take place on April 15, 2012 at 10:00 a.m.. Main Street will be closed for a few minutes while the runners cross the Green Bridge.

- There will be another medical collection drop off on April 28, 2012 at the municipal building.
- This summer the Department of Transportation will be doing a mill and fill paving project on Route 196 from the Interstate to the Lisbon line and from Route 201 to Route 1 in Brunswick. Work will be done at night and work will not interfere with the Topsham Fair, Moxie games or the Air Show.
- The Topsham Heights Neighborhood Association made a \$140.00 donation to the Topsham Heating Assistance Fund. Their generosity to this worthy cause is appreciated.

BOARD AND COMMITTEE REPORTS AND UPDATES - None noted.

PUBLIC COMMENT - None noted.

CORRESPONDENCE - None noted.

ADJUSTMENTS TO THE AGENDA - Motion was made by Mr. Mason, seconded by Mr. Riendeau, and it was unanimously

VOTED

To add **ITEM 46-12 - CONSIDERATION AND ANY APPROPRIATE ACTION REGARDING A RESOLUTION TO DECLARE APRIL 8, 2012 TO APRIL 14, 2012 AS COMMUNITY DEVELOPMENT WEEK AND TO RENUMBER ITEM 46-12 TO 47-12**

CONSENT CALENDAR

1. APPROVAL OF THE MINUTES OF THE REGULAR SELECTMEN MEETING OF MARCH 15, 2012

Motion was made by Mr. Riendeau, seconded by Mr. Mason, and it was unanimously

VOTED

To approve the minutes of the March 15, 2012 meeting as corrected.
(Correction: Pg. 6, under 33-12, 2nd par., change Monday, March 19 to Friday, March 16.)

PUBLIC HEARING - None noted.

UNFINISHED BUSINESS - None noted.

OLD BUSINESS - None noted.

NEW BUSINESS

37-12 CONSIDERATION AND ANY APPROPRIATE ACTION ON A NOTICE OF CLAIM AGAINST THE TOWN FOR WATER DAMAGE TO A HOME AT 52 BRIDGE STREET OWNED BY MELISSA DOWLING

Alan Narsad, tenant in property at 52 Bridge Street which is owned by Melissa Dowling spoke with Ms. Dowling's permission. Ms. Dowling was also present at the meeting. Mr. Narsad told the Board that the basement of the property at 52 Bridge Street became flooded after the Public Works Department dug up the street. Both Mr. Narsad and Ms. Dowling testified that the basement was dry prior to the PWD digging up street and they feel the digging up of the street deferred the water to the basement. Ms. Dowling is seeking \$2,137.15 from the Town, her cost to have the basement waterproofed.

Public Works Director Dennis Cox reported that on 8/28/11 the PWD crew installed new 12-inch ADS plastic pipe from two existing storm drains near 60 Bridge Street back to an existing storm drain at Maple Street so the outflow went to Maple Street rather than out onto the lawn of a private owner on Bauer Lane, which request it be removed. On 10/17/11 the PWD crew went back and dug up the piping to verify that it was working correctly and not leaking and at that time installed approximately 30 feet of perforated 12-inch pipe to capture any potential underground water that might be going to the basement at 52 Bridge Street. Mr. Cox said all of the joints uncovered were tight and there was no water present in the trench.

The Board heard further testimony from Ms. Dowling who urged the Board to reimburse her for the cost to repair the basement. A letter was noted from B-Dry System of Maine and New Hampshire from James F. Gregorre and is filed with these minutes. Jerry Smith, Ms. Dowling's contractor, asked if it was possible that the digging could have caused enough fracturing to cause the water to redirect to the basement. Public Works Director Dennis Cox responded "no."

During discussion the Board referenced a letter from Randa L. Veilleux, Senior P&C Claims Representative from Maine Municipal Association Risk Management Services to Melissa Dowling dated March 28, 2010 stating the "The Town of Topsham is protected by the immunities granted by the Maine Tort Claims Act, Title M.R.S.A. Section 8101 et seq. This section grants broad immunities to the Town of Topsham unless the facts fall within certain narrow exceptions.....After reviewing the facts and applying what we understand to be the applicable law, it is our opinion that the Town of Topsham is not legally responsible for your damages. We must therefore decline to make any payment of this claim."

Motion was made by Mr. Mason, seconded by Mr. Douglass and it was unanimously

VOTED

To deny the request of the owner of property at 52 Bridge Street in the amount of \$2,137.15.

38-12 CONSIDERATION AND ANY APPROPRIATE ACTION ON THE FIREWORKS BALLOT QUESTIONS TO BE VOTED ON JUNE 12, 2012

The Board looked at the proposed Ballot Questions regarding fireworks proposed by the Town Attorney to be placed on the Warrant for the June 12, 2012 Town Meeting. Chairman Russell said there may be some adjustments made before the wording actually goes on the warrant but if we are going to be giving the citizens all options to vote on, the format presented appears clear.

Chairman Russell said he would like the Selectmen consider, instead of using all four zones, have only the Mixed Use Commercial with the "C" and that would pinpoint where fireworks

could be sold if the retail choice passes. The Board agreed to ask the Planning Board to zoom in on the area where the fireworks could be sold.

Although this was not a public hearing, Bill Fitzsimmonds asked to be recognized and told the Board he had concerns that the questions were confusing. He said question 1A and 2A were not necessary and just confused things. After the Board explained that an explanation would be included prior to citizens voting that they were to choose only one of the A's and one of the B's and not answer "yes" or "no" to the questions, Mr. Fitzsimmonds said he misunderstood but now was OK with the wording.

Motion was made by Mr. Riendeau, seconded by Mr. Mason and it was unanimously

VOTED

To send the proposed questions forward to the Referendum as they appear with only minor adjustments if necessary.

Motion was made by Mr. Riendeau, seconded by Mr. Mason, and it was unanimously

VOTED

To ask the Planning Board to review the Land Use Chart with the idea of limiting the use to the Mixed Use Commercial Zone and send it back to the Selectmen with their recommendation.

39-12 CONSIDERATION AND ANY APPROPRIATE ACTION ON THE REQUEST FROM THE TOPSHAM HOUSING AUTHORITY TO SUBMIT ON THEIR BEHALF AN APPLICATION TO THE DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT'S COMMUNITY DEVELOPMENT HOUSING LOAN FUND PROGRAM FOR \$300,000

John Hodge, Executive Director of the Topsham Housing Authority and Dennis Paine, Chairman, were present at the meeting and explained that the organization needed permission from the Board to submit an application to the Department of Community & Economic Development's Community Development Housing Loan Fund Program. The group will purchase and renovate two multi-family dwellings in Topsham with the funds.

Motion was made by Mr. Mason, seconded by Mr. Douglass and it was unanimously

VOTED

That the Town submit an application to the Department of Community and Economic Development's Community Development Housing Loan Fund Program for \$300,000.

The Town Manager will add appropriate wording on the warrant if this moves forward.

40-12 CONSIDERATION AND ANY APPROPRIATE ACTION ON THE THREE TAX ACQUIRED PROPERTIES

The Town Manager said that all three property owners have made arrangements to pay taxes on the acquired properties.

Motion was made by Mr. Mason, seconded by Mr. Riendeau, and it was unanimously

VOTED

To accept the payment plans made on unpaid taxes provided the terms of repayment are followed and that Quit Claim Deeds be issued when payments have been fully made.

41-12 CONSIDERATION AND ANY APPROPRIATE ACTION REGARDING A CONTRACT WITH ANDROSCOGGIN BANK FOR ONLINE COLLECTION SERVICE CALLED ANDROPAY

The Town Manager explained a new program provided by Androscoggin Bank for an on-line collection service called Andropay which will save the Town approximately \$2,500 a year compared to the plan currently used.

Following a brief discussion, motion was made by Mr. Mason, seconded by Mr. Riendeau and it was unanimously

VOTED

To authorize the Town Manager to change on-line payment services from Rapid Renewal and to enter into a contract with Androscoggin Bank for Andropay.

42-12 CONSIDERATION AND ANY APPROPRIATE ACTION TO ESTABLISH AN AGREED UPON BOUNDARY LINE BETWEEN THE TOWN OF TOPSHAM AND MARY ELWELL

Motion was made by Mr. Mason, seconded by Mr. Riendeau and it was unanimously

VOTED

That we accept the agreed-upon boundary lines between the Town of Topsham and Mary Elwell as established by Harty & Harty Professional Land Surveyors.

43-12 CONSIDERATION AND ANY APPROPRIATE ACTION TO ENGAGE SMITH & ASSOCIATES, CPA'S AS THE TOWN AUDITORS AND CONDUCT 2012 FISCAL YEAR AUDIT

Motion was made by Mr. Douglass, seconded by Mr. Mason, and it was unanimously

VOTED

To engage the firm of Smith & Associates, CPA's to conduct the 2012 fiscal year audit.

44-12 CONSIDERATION AND ANY APPROPRIATE ACTION ON APPOINTMENT OF ED MENDES TO THE 250 CELEBRATION COMMITTEE

Motion was made by Mr. Mason, seconded by Mr. Douglass, and it was unanimously

VOTED

To appoint Ed Mendes to the 250 Celebration Steering Committee.

45-12 CONSIDERATION AND ANY APPROPRIATE ACTION ON ORDINANCE AMENDMENTS TO BE INCLUDED ON THE TOWN MEETING WARRANT

Motion was made by Mr. Douglass, seconded by Mr. Riendeau and it was unanimously

VOTED

To place the Historic District Amendments, Subdivision Amendments and Sign Ordinance Amendments as recommended by the Planning Board on the May, 2010 Town Meeting Warrant.

ITEM 46-12 - CONSIDERATION AND ANY APPROPRIATE ACTION REGARDING A RESOLUTION TO DECLARE APRIL 8, 2012 TO APRIL 14, 2012 AS COMMUNITY DEVELOPMENT WEEK

Following presentation by John Shattuck, motion was made by Mr. Mason, seconded by Mr. Douglass and it was unanimously

VOTED

To approve the Resolution stating that April 8 through April 14, 2012 will become Community Development Week, as follows:

"WHEREAS the Community Development Block Grant Program is a partnership of federal, state and local government, as well as private sector, non-profit and community efforts; and

WHEREAS the Community Development Block Grant Program has become the foundation of virtually all community and economic development occurring across the nation; and

WHEREAS the Community Block Development Grant Program's primary objective is the development of viable urban communities by providing decent housing, suitable living environments, and expanded economic opportunities, principally for low and moderate income persons; and

WHEREAS a week recognizing national community development will encourage the Selectmen and Town staff, non-profit organizations and community residents throughout the Town to reaffirm the significance and diversity of their local community development program efforts toward meeting the need of persons of low and moderate income; and

WHEREAS this year, we all celebrate 38 years of success under the Community Development Block Grant Program,

NOW, THEREFORE, we the Selectmen of the Town of Topsham, do hereby proclaim April 8 through April 14, 2012 Community Development Week throughout the Town of Topsham, and give special thanks and recognition to all participants whose hard work and devotion to the neighborhoods and their low and moderate income residents help insure the quality and effectiveness of the Community Development Block Grant Program.

SELECTMEN OF THE TOWN OF TOPSHAM

Donald Russell, Chairman

Ronald Riendeau
Marie Brilliant
Andrew Mason
David Douglass"

EXECUTIVE SESSION

47-12 CONSIDERATION AND ANY APPROPRIATE ACTION TO ENTER INTO EXECUTIVE SESSION TO DISCUSS POLICE NEGOTIATIONS PURSUANT TO 1 M.R.S.A. § 405 (6) (A)

Motion was made by Mr. Mason, seconded by Mr. Douglass and it was unanimously

VOTED

To enter into Executive Session to discuss Agenda Item 47-12.

The Board returned to regular session at 8:28 p.m. No action was taken.

ADJOURN

Motion was made, seconded and unanimously VOTED to adjourn at 8:29 p.m.

Respectfully submitted,

Patty Williams, Recording Secretary