

MINUTES
TOWN OF TOPSHAM
BOARD OF SELECTMEN MEETING
HELD VIA ZOOM FROM INDIVIDUAL RESIDENCES
MAY 21, 2020 – 6:30 P.M.

MEMBERS PRESENT: David Douglass
Marie Brilliant
Ruth Lyons
Matt Nixon
Roland Tufts

MEMBER(S) ABSENT: All present

STAFF PRESENT: Derek Scrapchansky, Town Manager

A meeting of the Topsham Board of Selectmen was held on Thursday, May 21, 2020, with individuals joining the meeting from their residences via Zoom.

CALL TO ORDER

The Board actually met at 6:00 p.m. to hold an Executive Session on item **20-31 CONSIDERATION AND ANY APPROPRIATE ACTION TO ENTER INTO EXECUTIVE SESSION PURSUANT TO 1. M.R.S.A. §405 (6) (D) FOR CONSULTATION WITH LEGAL COUNSEL**

The complete Board was in attendance as was Attorney Linda McGill and the Town Manager. Following discussion, motion was made by Chairman Douglass, seconded by Selectman Tufts to move out of Executive Session at 6:09 p.m.

Chairman Douglass called the regular meeting to order at 6:30 p.m. It was noted that all members were present.

PLEDGE OF ALLEGIANCE/ROLL CALL

Chairman David Douglass stood and recited 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

- Tonight, the Selectmen will be taking action on the ReVision Energy's off-site proposed municipal solar power purchase agreement (PPA). This opportunity is before the Town as a result of more than a year of extensive work by the Topsham residents who formed the Topsham Solar Advocates. So I'd like to recognize, and thank, the TSA team for their work

with the Selectmen, Town staff and research with other communities that resulted in the RFP that culminated in the contract the Selectmen will consider tonight.

- Gendron Construction has informed me that the installation of the critically important high-pressure waterline infrastructure will be completed this week. This work extends the high-pressure line to the boundary between Highland Green and the former Annex on Canam Road.
- The public hearing on the Town's Community Development Block Grant-Economic Development Program (CDBG-EDP) on behalf of Wicked Joe, LLC was held at Selectmen's meeting Thursday, May 7th, and Wicked Joe's application was unanimously supported by the Selectmen. The \$500,000 grant would support the creation of 17 new jobs. The final application will be submitted this week.
- The Town of Topsham Tax and Clerk Office will be opening by appointment only on June 1st. Operating hours will be M-W 9:00-4:00, TH 9:00 - 6:00, and F 9:00-3:00. For the safety of our citizens and staff, social distancing and face coverings will be required. Appointments may be made by phone by calling 725-1719, or by email at taxoffice@topshammaine.com. All other municipal building departments will continue to operate via phone, email, and on-line services.
- The Clerk's Office continues to process vital records requests, marriage intentions, and collection of renewal fees for victualer licenses. To date, the Clerk's Office has received over 275 absentee ballot requests for the July 14th election, which exceeds the absentee requests for the June 2018 Gubernatorial Primary. Absentee ballots can be requested online, by phone, or by mail and will be available until the close of polls on July 14th.
- On January 2nd, the Topsham Public Library will provide curbside service for the return of library materials. Please visit the library's website for more information.
- Public Safety would like to remind everyone that the fire lane at the Mall is not for parking. Please be attentive in the roadway as motorcycle, bicycle, and pedestrian traffic has increased throughout Town.
- Good news from the Solid Waste Facility - Compost is now available for pick-up.
- Bettina Bellefleur, from the Urban Garden Center, informed us they held a raffle and donated \$500.00 to our General Assistance office for people in need. On behalf of the Town, thank you for the generous gift.
- Thank you and have a good night.

BOARD AND COMMITTEE REPORTS AND UPDATES – None noted.

CORRESPONDENCE

Chairman Douglass invited citizens to call in with any questions or concerns and repeated the number to call in – 373-5090. Only one individual responded - **Phil Dostie**. Mr. Dostie expressed his support for the Solar Power Agreement.

Chairman Douglass said consideration is being given to holding Board meetings back in the Town Hall as soon as guidelines permit. Announcements will be appropriately made.

Chairman Douglass noted that Memorial Day was going to be different this year due to the Covid 19 Pandemic. There will be no ceremonies conducted. He complimented and thanked the Topsham Garden Club for their fine work in the gardens at Town Hall.

ADJUSTMENTS TO THE AGENDA – None noted.

CONSENT CALENDAR

1. Approval of the minutes of the Regular Selectmen’s meeting of May 7, 2020.

Motion was made by Chairman Douglass, seconded by Selectman Tufts to accept the Consent Calendar approving the minutes of the May 7, 2020 Board of Selectmen’s Meeting. Vote was called and it was unanimously **VOTED** to accept the minutes of the May 7, 2020 meeting as written.

PUBLIC HEARING

20-25 CONSIDERATION AND ANY APPROPRIATE ACTION ON AN APPLICATION FOR A SPECIAL AMUSEMENT PERMIT FOR DUCK PUB, 114 VILLAGE DRIVE

Sean McCarthy represented the applicant and explained how the amusements are handled at the Pub. The following Finding of Facts were gathered during Mr. McCarthy’s presentation:

FINDING OF FACTS

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 expired on March 21, 2020 and is listed for service both inside and outside.
4. Type of entertainment includes live music, karaoke and open microphone.
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 the 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 – None noted.

OLD BUSINESS – None noted.

NEW BUSINESS

20-32 CONSIDERATION AND ANY APPROPRIATE ACTION REGARDING REVISED VERSION OF REVISION REMOTE SITED MUNICIPAL SOLAR PPA CONTRACT

Economic Development Director John Shattuck presented background on the proposed Solar PPA Contract.

He said by January 31, 2020, the Town received three municipal solar PPA proposals in response to the RFP process initiated by the Topsham Solar Advocates (TSA). At the Selectmen's 2/20/20 meeting, the TSA stated that they believed the ReVision proposal represented the best value for the Town. The Selectmen directed the Town Manager to further explore the feasibility and value of the ReVision proposal and to request a draft contract. The Town received ReVision's proposed draft contract on March 6, 2020 and has since received solar engineering and legal reviews of that draft contract from Rich Roughgarden of Maine Solar Engineering, and Kevin Decker, Esq. of Bernstein Shur, respectively.

The Selectmen reviewed ReVision's 3/6/20 proposed draft contract and related engineering and legal reviews at their 4/16/20 meeting. The Selectmen's discussion noted that due diligence and appropriate prudence required that the Town protect its interests with an attorney-supported negotiation of the terms of a final contract before proceeding further and directed the Town Manager to engage the Town's attorneys to negotiate final contract terms that protects the Town's interests. Attorney Decker from Bernstein-Shur forwarded the negotiated revised version of the ReVision Contract which has been accepted by their attorney. The contract, which Attorney Decker states he believes appropriately protects the Town's interests in terms of liability, parity/equity was included in the Board package for review.

Mr. Shattuck said a disappointing element of the final negotiation process is the disclosure by ReVision that this project has been oversold by approximately 11%. Memo from Steve Hinchman of ReVision, dated 5/13/20 and filed with these minutes, states that *"If all municipalities in final stage negotiations (only 2 have signed so far) all execute at roughly the same time, then we will be oversold by roughly 11%. We do have a second site that looks like it will make 2020 construction, so our options will be to a) Switch the last 500,000 kWh in the door to the later site, or b) Ask everyone if they want to reduce their Purchaser's Percentage and if so, by how much until we get to the right number."*

The Board held a lengthy discussion trying to decide the best way to address the contract with the best interest of the Town in mind. Kevin Decker from Bernstein-Shur said the Board could 1) approve the agreement for whatever percentage is left; 2) approve contingent on being able to hit 90% of target; or 3) walk away. He said they are ready to start construction with what is on the table tonight. Question was asked if the Board needs to look at another company. Agreement was no, because of the added cost to start over. Selectman Lyons added we agreed on something that we are not now getting. Selectman Nixon said we have been working on this for three months and we are dragging our feet. Selectman Tufts said this is worthwhile pursuing. He questioned with 30% in a future project; how quickly will that materialize and appropriate wording could be added to the contract. Chairman Douglass added that it would be great if we could gain the 30% and reach 100% with an end date by April 1, 2021.

After all comments were heard, motion was made by Chairman Douglass, seconded by Selectman Nixon, to move forward with the revised ReVision Remote Sited Municipal Solar PPA Contract with a preference to get ourselves to 100% within this array; and, if we are unable to get to 100%, a date certain by April 1, 2021, we would like to be able to achieve our shortage of 100%.

Vote was called and the **motion was unanimously passed.**

20-33 CONSIDERATION AND ANY APPROPRIATE ACTION ON DISCUSSING TEMPORARY SIGNAGE DURING THE CURRENT COVID-19 PANDEMIC

Selectman Lyons requested this item be included on the agenda. She asked what the Board's stance was on the several temporary signs posted in Town. She noted that several laws are being put on hold such as vehicle registrations, due to the Covid-19 Pandemic. Selectman Lyons said the Board should do anything they can to help businesses in these uncertain times. She suggested the ordinance on these temporary signs be eased until the 15th of July.

Following discussion, motion was made by Selectman Lyons, seconded by Selectman Nixon that the businesses in the Town of Topsham be allowed to have a temporarily sign until July 15 stating they are open and the hours they are open (after receiving approval for the sign from the building owner). Selectman Lyons said, hopefully, they will use discretion.

Vote was called with 4 in favor and I opposed (Chairman Douglass). **So the motion passed.**

At 7:30 p.m., motion was made by Chairman Douglass, seconded by Selectman Tufts, to move into Executive Session. Vote was called and it was unanimously **VOTED** to move into Executive Session.

EXECUTIVE SESSION

20-34 CONSIDERATION AND ANY APPROPRIATE ACTION TO ENTER INTO EXECUTIVE SESSION PURSUANT TO 1. M.R.S.A. §405 (6) (A) TO DISCUSS A GRIEVANCE MATTER

Following discussion, The Board voted to move back into regular session. Motion was made by Chairman Douglass, seconded by Selectman Lyons and it was unanimously agreed that the

Board of Selectman will issue their ruling to both sides within 10 business days as directed by the current Labor Agreement.

ADJOURNMENT

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

VOTED

To adjourn the meeting at 8:24 p.m.

Respectfully submitted,

Patty Williams, Recording Secretary