

**6:00 PM Workshop with Town Auditors
and Finance Committee
7:00PM Board of Selectmen Meeting
Topsham Municipal Building
Donald A. Russell Meeting Room
February 15, 2018**

Pledge of Allegiance –

Roll Call of Board Members –

Town Manager's Report –

Board and Committee Reports and Updates-

Public Comment –

Correspondence –

Adjustments to the Agenda –

Consent Calendar –

1. Approval of the minutes of the Regular Selectmen meeting 02-01-2018.

Public Hearing –

Unfinished Business –

Old Business –

18-10 – Consideration and any appropriate action regarding draft Water Safety Zone Ordinance for the Androscoggin River adjacent to the Brunswick Hydroelectric facility.

New Business --

Executive Session-

Any public member desiring to address the Board shall be recognized by the Chair, shall state name and address for the record, and shall limit remarks to the question under discussion. All remarks and questions addressed to the administration of Town shall be addressed to the Town Manager or the Board of Municipal Officers through the Chair and not to any municipal town employee. No person other than members of the Board and the person having the floor shall enter into any discussion either directly or through a member of the Board without the permission of the presiding officer.

Public members attending Board Meetings also shall observe the same rules of propriety, decorum, and good conduct applicable to the members of the Board. Any person making personal impertinent and slanderous remarks, or who becomes boisterous while addressing the Board or those attending the Board meeting shall be removed from the room if so directed by the presiding officer. Aggravated cases shall be prosecuted on appropriate complaint signed by the presiding officer. In case the presiding officer should fail to act, any member of the Board may move to require the Chair to act to enforce the rules, and the affirmative vote of the Board shall require the presiding officer to act. 05/29/2003

Board of Selectmen Meeting

For the date of: 02/15/2018

Type of Item:

- Board or Committee Presentation
- Consent Agenda Item
- Public Hearing
- Unfinished Business
- Old Business
- New Business
- Executive Session
- Workshop

Type of Submission:

- Regular Submission
- Additional Agenda Item
- Additional Information

Agenda Number 1

(If this is unfinished business, please remember to research and enter the original agenda number above. For regular agenda items, the secretary will assign a number.)

Brief Title of consent or Agenda Item: Approval of the minutes of the regular Selectmen meeting 02-01-2018.

Brief Description of Consent or Agenda Item: see attached

Submitted by Rich Roedner, Town Manager **Date:** 02-02-2018

MINUTES
TOWN OF TOPSHAM
BOARD OF SELECTMEN MEETING
FEBRUARY 1, 2018 - 7:00 p.m.

MEMBERS PRESENT: David Douglass
Ruth Lyons
William Thompson
Roland Tufts

MEMBER(S) ABSENT: Marie Brilliant

STAFF PRESENT: Richard Roedner, Town Manager

A meeting of the Topsham Board of Selectmen was held on Thursday, February 1, 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, except for Selectman Brilliant who had been excused.

TOWN MANAGER'S REPORT

Tonight I have provided the Board of Selectmen a draft budget proposal for the upcoming fiscal year. Tomorrow this will be posted on the Town's web page. Paper copies of the complete budget document and staff presentations are available at Town Hall and at the Library for people to review. The Board and the Finance Committee will hold joint workshops with department heads on Feb. 7, 13 and 26. All meetings will be held at 6 pm in the Town Hall Meeting Room, and are open to the public. The Finance Committee is meeting on February 20 at 6 pm in the Second Floor Conference Room at Town Hall. Other meetings that may be scheduled will be posted on the Town's webpage, www.topshammaine.com.

Tickets are now on sale for the annual Father/Daughter Valentine Dance, which will be held on Sunday, Feb. 11 from 2:00 p.m. until 4:00 p.m.

Starting this next Monday, February 5, at the Foreside Recreational Facility, the upper forest will be closed for all activities (top of hill sliding). To preserve the health of the woods, a selective tree harvesting project will take place. For your safety, please stay out of the upper forest area. Signs will be placed at access points. If you have any questions, please contact Pam in the Parks and Recreation Office at 725-1726.

The Comprehensive Plan Committee is continuing to meet monthly at the Topsham Public Library. Committee members are reviewing draft chapters of our upcoming Comprehensive Plan. A link to the complete schedule, along with the appropriate documents, is on our home page, www.topshammaine.com.

Lastly, we have recently added a link to several promotional videos about Topsham to our homepage. CGI did this task at no cost to the Town. These videos were created this past fall, and are now ready for viewing. We are still working on the Community Organizations video, so know that will change at a future date.

Lastly, at our last meeting, I mentioned the passing of Lionel Thiboutot, a 45-year veteran of our Fire Department. Chief Labbe is here tonight with members of the Department, and they would like to make brief presentations.

BOARDS AND COMMITTEE REPORTS AND UPDATES – None noted.

PUBLIC COMMENT – Fire Chief Mike Labbe, along with Assistant Chief Steve Emmons, called Mrs. Lionel Thiboutot (Joleen) to the podium and presented her with a plaque honoring Lionel for his service to the Town and naming the new fire truck in honor of him. Several members of the Thiboutot family were in attendance for the presentation.

CORRESPONDENCE – None noted.

ADJUSTMENTS TO THE AGENDA – None noted.

CONSENT CALENDAR

1. Approval of the minutes of the Regular Selectmen's Meeting of 1/18/18.

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

VOTED

To approve the minutes of the Regular Selectmen's Meeting of January 18, 2018, as written.

PUBLIC HEARING – None noted.

OLD BUSINESS – None noted.

NEW BUSINESS

18-08 CONSIDERATION AND ANY APPROPRIATE ACTION ON AN APPLICATION FOR A LIQUOR LICENSE FOR RUBY TUESDAY

The Public Hearing was declared open.

Jason Willey represented the applicant and told the Board a new application is being submitted due to a change of ownership of Ruby Tuesday in Topsham. Mr. Willey said he has been with the restaurant for 13 years, 10 of them at the Topsham location. The restaurant can seat 270 guests.

There were no comments offered from members of the public so the Public Hearing was declared closed.

During discussion by the Board it was noted that letters are on file from the Fire Chief, Police Chief, and the CEO, all stating they have no concerns with the operation of the restaurant. Selectman Thompson inquired who to contact in case of concerns. Mr. Willey responded to start with him, customer service, or contacts stated on the application. Selectman Lyons stated she found customer service at Ruby Tuesday easy to contact.

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

VOTED

To approve the application for Ruby Tuesday so they may apply to the State for a liquor license.

18-09 CONSIDERATION AND ANY APPROPRIATE ACTION ON AN APPLICATION FOR A SPECIAL AMUSEMENT PERMIT FOR COREY EDWIN GARVER POST 202 AMERICAN LEGION

The Public Hearing was declared open. Matthew Jabaut, Post Commander of the Corey Edwin Garver Post 202 American Legion spoke to the Board saying the Post has submitted a renewal application to allow the Legion to sell liquor and to have live music, dancing or entertainment. He said a live band is often at the Legion on Friday and Saturday evenings and sometimes on Sunday. The band usually stops playing from 11:00 p.m. to 1:00 a.m. There is a specific area where the dance floor is set up and an area for the band to play. Seating capacity downstairs is 79 and 220 upstairs. There is adequate parking on the premises.

With no one from members of the public wishing to speak, the Public Hearing was declared closed.

During discussion by the Board, it was noted that letters stating no objections to the application are on file from the Fire Chief, Police Chief and CEO. The Board's Conclusions include:

1. The applicant is Corey Edwin Garver Post 202 American Legion.
2. The Legion is located at 79 Foreside Road, Topsham, Maine.
3. The current liquor license will expire on October 9, 2018.
4. Entertainment at the establishment will include live bands and a DJ.
5. The entertainment is held both downstairs and in the upstairs area.
6. Nights of entertainment will occur on Fridays and Saturdays and occasionally on Sundays.
7. The hours of operation are from 1:00 p.m. to closing; no later than 1:00 a.m.
8. It is not necessary to rearrange any furniture for the events as there is a designated space for the band to set up and a specific dance floor.
9. The down stairs area is approximately 2,000 sq.ft. and the upstairs area approximately 4,000 sq.ft.
10. Seating capacity in the lounge is 79 and upstairs 220.
11. There is adequate parking on the premises to service the facility.
12. Letters are on file from the Fire Chief, Police Chief and CEO stating no concerns with granting the permit requested.

Therefore, the Board concluded that based on the findings, 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 municipal ordinances, rules or regulations.

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

VOTED

To grant the Special Amusement Permit for the Corey Edwin Garver Post 202 American Legion, as meeting requirements of the Maine Revised Statutes, Title 25-A, Section 1054 and the Topsham Code Chapter 71, Article 1, Sections 6 and 7.

NEW BUSINESS

18-10 CONSIDERATION AND ANY APPROPRIATE ACTION ENSURING PUBLIC SAFETY IN AREAS OF THE ANDROSCOGGIN RIVER ADJACENT TO THE BRUNSWICK HYDROELECTRIC FACILITY

Samantha Edwards and Tom Mapletoft, from Brookfield, were present to bring before the Board draft ordinance language which would create a water safety zone on both sides of the Brunswick Hydro Facility. The ordinance would give authority to the Topsham Police Department to enforce no-trespassing rules in the river. Individuals would be prohibited from being in the stretch of river extending approximately 500 feet downstream of the Brunswick Hydroelectric facility to the east side of the green bridge and approximately 3,000 feet upstream of the Brunswick Hydroelectric Facility to the Maine Department of Transportation Railroad Bridge.

Town Manager Roedner spoke of the meeting a couple of years ago with Brookfield wherein Brookfield expressed safety concerns. Except for allowing danger signs to be erected, no action was taken at that time.

Ms. Edwards explained that Brookfield Renewable operates nearly 50 facilities in the Northeast region and 170 hydro facilities across North America. She said safety is their top priority. Brookfield owns and operates the Brunswick Hydroelectric Facility and noted this area is widely used for recreational activities such as swimming, boating and fishing by community members. She added that while many areas of the river are safe for such recreational activities, there are portions upstream and downstream of the hydroelectric facility that pose public safety risks. Water from the Brunswick Hydroelectric Facility peaks in the spring of the year, water levels can rise quickly and cause a strong current in the Androscoggin River, and danger to anyone in the water. People often climb on the rocks and become stranded.

When questions arose as to what the Town's liability might involve if anyone drowned or got hurt in the water, Pam LeDuc, Recreation Director, noted that the area of concern is leased from Central Maine Power Company. The Town Manager added that under Maine Municipal Law, municipal liability is limited and he said he wasn't sure just what the Town's liability would be. Selectman Lyons inquired who would be responsible for erecting the proposed signs to accompany the ordinance. Ms. Edwards responded that Brookfield would be responsible for the signs. Chairman Douglass said he worked for the Brunswick Fire Department for 10 years and personally pulled at least 13 people out of the river. He said every time fire, rescue and police people are called, there is liability and they also are at risk while saving those in danger.

Citizen Yvette Meunier, 35 Prospect Street asked if fishing from the shore would be permitted. Response was that the ordinance has not been written yet, but appropriate wording would be included prior to the ordinance coming before Town Meeting. Mr. Meunier would like to know how much rescues cost the Town. It was noted that people jumping in the water to swim cause the most problems.

Fire Chief Labbe said his department is called out 3 or 4 times a summer because of people jumping off the bridge (both swinging bridge and black bridge). There was a drowning approximately 11 years ago and had to drain the river to find the person. We had people walk out to the island, the flood gates were opened and in a matter of 5 minutes there were stranded and we had to rescue them. Selectman Lyons said she worries about children near the water and suggested that wording should be considered in the ordinance passing responsibility onto the parents who should be responsible for their children.

Citizen Phinn White, 67 Bridge Street told the Board he loved to see people swimming, fishing and enjoying the water. He added that this is the State of Maine. People want to fish. Mr. White said he can't believe we will be taking that right away from people. He asked what has changed from conditions always present. He said the individual who drowned several years ago was found to be intoxicated. Feels that signs are threats and they create animosity. Mr. White said the kids that jump off the Swinging Bridge "know their stuff." He suggested that Brookfield make that area a swimming spot. He asked to see more details of rescue reports. Mr. White said there is currently barb wire fencing by the water which looks unsightly.

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

VOTED

To direct the Town Manager to assemble an ordinance prohibiting the use inside the water way within this stretch, (500 feet down stream from the Brunswick Hydroelectric Facility to the east side of the Frank J. Woods Bridge, extending approximately 3000 feet upstream from the Brunswick Hydroelectric Facility) and bring that back to the Board for consideration.

Selectman Thompson said there will be a lot of emotions expressed when this is further discussed. Town Manager Roedner said this item will be on the February 15th agenda for review in draft form.

Pam LeDuc commended Brookfield for the work that they done to work with us to do what is best and safest for people without taking the beauty of the river away.

ADJOURNMENT

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

VOTED

To adjourn the meeting at 7:45 p.m.

Respectfully submitted,

Patty Williams, Recording Secretary

Board of Selectmen Meeting

For the date of: 02/15/18

Type of Item:

_____ Board or Committee Presentation
_____ Consent Agenda Item
_____ Public Hearing
 Unfinished Business
_____ New Business
_____ Executive Session
_____ Workshop

Type of Submission:

Regular Submission
_____ Additional Agenda Item
_____ Additional Information

Agenda Number: 18-10

(If this is Unfinished Business, please remember to research and enter the original agenda number above. For Regular Agenda items, the Secretary will assign a number.)

Brief Title of consent or Agenda Item: Consideration any appropriate action regarding draft Water Safety Zone Ordinance language for the Androscoggin River adjacent to Brunswick Hydroelectric facility.

Brief Description of Consent or Agenda Item: A draft ordinance has been attached based on the discussion at the Board's last meeting. It is currently being reviewed by our attorney. Also attached are police/ems logs for events on the river over the past 10 years. It should be noted that these are difficult to search due to how calls get logged at the time a call is made, which is not always the same as the reaction. Kids jumping off the bridge could end up with a rescue, while calls for a rescue could end up with a canoeist paddling away on their own.

Submitted by: Richard Roedner, Town Manager **Date:** February 8, 2018

MEMORANDUM

To: Board of Selectmen
From: Richard Roedner, Town Manager
Date: February 8, 2018
Re: Water Safety Zone Ordinance

Attached you will find a draft of a Water Safety Zone Ordinance, along with information regarding emergency calls to the head pond area of the Brunswick Hydroelectric facility. The ordinance has been sent to our attorney for her review, but at this point, I have not heard back from her. I anticipate having her comments in time for our meeting.

I have tried to make the ordinance generic in its format, by creating a term and definition for Water Safety Zone, and giving the Board the authority to create such a zone, following a public hearing. I have then identified one such zone, between the bridges. This gives the Board the ability to create additional zones as needed, without having to wait for Town Meeting. So, if the upstream dam becomes an issue (as an example) the Board has the ability to act. I have included the progressive penalties as proposed by Brookfield, with language about recovering court costs and the cost of rescue.

I have also tried to give some leeway to the issue of being in the water, by defining it as knee deep. This recognizes that this area, right or wrong, is used recreationally and avoids making criminals of people just standing the water.

The list of emergency calls can be confusing, as each agency records them differently. For instance, if you look at 9/9/16 for Brunswick, you will see swift water rescue. We have an entry with our Fire/EMS for the same date, refers to boats rescuing two people from the rocks. Our Police Department has two entries for 2016, people jumping off of the Swinging Bridge. So, what possible started as a call t the Police about people jumping from the bridge, turned out to be a rescue from the rocks.

Comparing the dates for the two Fire Departments, you can identify 14 separate rescues since 2007 (one is listed by both departments).

Meanwhile, our Police Department has recorded 21 calls to the Swinging Bridge area since 2006. This does not include any calls to the shore, chases across the bridge – just water related calls.

There are a couple of thoughts that the Board may want to consider. First, the use of a horn to alert people to impending changes in water levels. Second is whether the restriction on boats unduly affects people fishing. I have been contact by the Sportsman's Alliance of Maine about impacts on fishing, and whether there is any compromise language (would a horn give sufficient notice for a boat to vacate the area?) that might serve all parties better than an outright ban.

Should the Board choose to pursue this ordinance, a public hearing would be in order. I would suggest in March, so that any changes could be made before the warrant hearing in April.

“An Ordinance to Promote Water Safety by Creating a Water Safety Zone up and downstream of the Brunswick Hydroelectric Facility on the Androscoggin River”

Chapter 215 Water Safety Zones

Section 215-1 Definitions

Water Safety Zone means an area in which physical access to water poses a substantial risk to the public due to adjacency with a structure, facility, and land/water based operations. A Water Safety Zone prohibits recreational activities such as swimming, boating, fishing, and water navigation at any time within the prescribed areas.

Section 215-2 General Provisions

- A. The Topsham Board of Selectmen is hereby authorized to designate certain navigable waterways, or portions thereof, as Water Safety Zones, when after holding a public hearing, the Board determines that there is an unreasonable risk to the health and safety of the general public due to the specific nature of the waterway or stretch of waterway. This could include various natural features such as waterfalls, or man-made features such as piers, docks, dams, etc.
- B. Designation of Water Safety Zones
 - a. The portions of the Androscoggin River extending approximately 500 feet downstream of the Brunswick Hydroelectric facility to the east side of the Frank Woods Bridge (Route 24), commencing to the thread of the river and then extending approximately 3000 feet upstream of the Brunswick Hydroelectric facility to Maine Department of Transportation Railroad Bridge.
 - b. It shall be unlawful to be on or in the Water Safety Zone as described in (a) above, beyond the depth of one's knees.
- C. Nothing in this section shall be construed as prohibiting the use of adjacent shore areas for any lawful purposes.

Section 215-3 Penalties

- A. Those found in violation of the restrictions in 215-2.B above, shall be subject to a fine of not less than \$100.00 for the first offense, and not less than \$250.00 fine for a second offense. Subsequent violations shall be subject to a minimum fine of \$500.00 per offense.
- B. In addition to fines in A above, violators may also be subject to court costs incurred by the Town, as well as any costs associated with any rescue efforts undertaken. subsequent offenses.

Androscoggin River Head Pond
Emergency Responses

Brunswick Fire Rescue

IncidentDate	IncidentTime	Address	IncidentType
8/5/2007	11:45:00	MILL ST	365 - Watercraft rescue
10/5/2007	12:27:00	Mill St	365 - Watercraft rescue
3/8/2008	15:15:00	MILL ST	362 - Ice rescue
8/14/2009	20:00:00	MILL ST	363 - Swift water rescue
8/20/2009	14:04:00	MILL ST	342- Search for person in water
9/27/2010	14:41:00	Mill St	365 - Watercraft rescue
7/7/2013	13:40:00	Island East of Swinging Bridge	361 - Swimming/recreational water areas rescue
8/19/2014	17:43:00	60 Mill St	363 - Swift water rescue
9/2/2014	21:50:00	Mill St	360 - Water & ice-related rescue, other
9/9/2016	16:48:00	Mill St	363 - Swift water rescue

Topsham Fire Rescue

5/11/2011			Subject in water, possible canoe in trouble. Found canoe and operator were fine
8/10/2013			2 individuals stuck on island due to rising water, both rescued by TFR boat
10/11/2014			Missing person area of Swinging Bridge, search with State Police, no one found
6/30/2015			Kayaks capsized with BKFD recovered 2 from island
9/9/2016			2 people stuck on Whale Rock, BKFD and TFR boats retrieved both parties

Topsham Police

2006			Jumping off Swinging Bidge into water
2007			Kayaker in water under Black Bridge
2008			Jumping off Swinging Bidge into water
2009			Jumping off Swinging Bidge into water
2009			Jumping off Swinging Bidge into water
2009			Drowning
2010			Jumping off Swinging Bidge into water
2010			Jumping off Swinging Bidge into water
2010			Distraught female jumped from Swinging Bridge into water
2010			Kayaker by Black Bridge
2013			Kayaker by Black Bridge
2014			Drowning (searching for body behind Fort Andros)
2014			Swimming in River by Swinging Bridge
2015			Jumping off Swinging Bidge into water
2015			Jumping off Swinging Bidge into water
2016			Jumping off Swinging Bidge into water
2016			Jumping off Swinging Bidge into water
2017			Swimmers on rock in middle of river
2017			Jumping off Swinging Bidge into water
2017			Teens on the ice under Swinging Bridge
2017			Swimming in water by beach