

**7:00PM Board of Selectmen Meeting
Topsham Municipal Building
Donald A. Russell Meeting Room
March 7, 2019**

Pledge of Allegiance –

Roll Call of Board Members –

Town Manager's Report –

Board and Committee Reports and Updates-

- Proposed Ordinance amendments from the Planning Board- Carol Eyerman, Assistant Planner

Public Comment –

Correspondence –

Adjustments to the Agenda –

Consent Calendar –

1. Approval of the minutes of the Regular Selectmen meeting February 7, 2019.

Public Hearing –

19-06- Consideration and any appropriate action on posting the following roads from March 1, 2019 to April 30, 2019 or sooner if conditions allow.

Unfinished Business –

19-03- Consideration and any appropriate action on changing the title “Board of Selectmen” to “Select Board”.

Old Business –

New Business –

19-07- Consideration and any appropriate action on establishing a Registrations Appeal Board and appointing members.

19-08- Consideration and any appropriate action on reviewing the process for approving AP Warrants.

Executive Session-

19-09- Consideration and any appropriate action to enter into Executive Session pursuant to 1 M.R.S.A. § 405 (6) (A) to discuss a personnel matter.

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

MEMORANDUM

To: Board of Selectmen

From: Carolyn Eyerman, AICP, Assistant Planner

Date: February 26, 2019

Re: Proposed amendments to the Subdivision and Zoning Ordinances

The Planning Board has been workshopping several proposed ordinance amendments over the past few months. Those amendments include and are related to municipal signs, aquifer protection, Mixed Use Commercial, Lower Village, Board of Appeals, and subdivisions. Attached are the exact amendments as they are written right now or memos that explain where they are right now in discussion.

The Planning Board would like your feedback particularly with regard to the MUC zoning and the Lower Village Shoreland Zoning.

Town of Topsham

100 Main Street
Topsham, Maine 04086

Planning & Codes Office

Planning Office: (207) 725-1724
Codes Office: (207) 725-1723

Municipal signs

An Ordinance to Amend the Topsham Zoning Ordinance to Amend Chapter 225-6, Definitions Related to Signs, and Chapter 225-33, Signs

Underlined text are additions; Stuck out text is proposed to be removed

§ 225-6 Definitions

MUNICIPAL - Any authority, agency or unit of local government or school district.

SIGN, PUBLIC NOTICE – A sign located on municipal property or located at a municipal facility to display notices or information to the public. ~~An official notice posted by public employees in performance of their duties.~~

§ 225-33 Signs.

- A. Purpose. The purposes of these sign regulations are to encourage the effective use of signs as a means of communication within the Town; to maintain and enhance the aesthetic environment of the Town and the Town's ability to attract economic development; to improve pedestrian, bike and vehicular safety; and to minimize possible adverse effects of signs on nearby public and private property.
- B. General requirements.
- (1) No signs, other than those not requiring permits in the Consolidated Sign Table, shall be erected prior to obtaining a permit.
 - (2) All signs must be stationary and permanently installed except where exempted by this section.
 - (3) ~~No sign shall be comprised of, or illuminated by, intermittent light, except digital public service messages, such as time, date, temperature, public notices, public safety, etc., unless allowed by this section.~~
 - (3) All lighting shall be hooded or shielded to prevent direct illumination of public streets or abutting properties and shall be designed and installed to minimize lighting the sky.
 - (45) Projecting signs shall maintain height clearance of ten (10) feet above ground level and shall not extend more than four feet from the building surface.
 - (65) No sign shall be installed within ten (10) feet of the travelway, unless the applicant presents information that demonstrates to the Codes Enforcement Officer that the sign doesn't impede safe-sight lines.
 - (76) Signs may be located within the setback area (the area between the property line

Commented [CE1]: This is repeated in the next section and should be removed from this section.

Town of Topsham

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and the setback line) of the property in which they are erected, but no sign shall overhang any property line, except where projecting signs are permitted to overhang the sidewalk.

- (87) All signs shall be located below the ridgeline of the building.
- (98) Wall signs may only be installed in the signable area of the facade.
- (109) Only one post or monument sign is permitted per building, lot or project, except as provided in Subsection H below.
- (110) For purposes of calculating total sign area, only one face of post signs shall be included in the calculation. If a sign has more than two (2) faces, or if the 2 faces are not parallel to each other, all sides shall be calculated.
- (121) No signage, other than approved traffic and directional signs, shall be placed within traffic islands.
- (132) Limits on the number or size, or the method of measuring, post signs shall also apply to monument signs.
- (143) Banners. Only one banner is allowed per business, for a single period not to exceed 90 days, and shall be included in the total square footage of signage allowed. The maximum size of a banner is included in the Consolidated Sign Table. In the Commercial Sign District, banners used to announce the availability of leasable space shall not be subject to the single 90-day restriction.

Commented [2]: Editor's Note: The Consolidated Sign Table is included in Subsection L of this section.

C. Prohibited signs:

- (1) Any sign comprised of, or illuminated by, intermittent light, except digital public service messages, such as time, date, temperature, public notice signs displayed in accordance with Section J, public safety signs, or etc., except as otherwise noted. ~~Exception: Public Notice Signs, Public Safety Signs, and public service messages such as time/date/temperature may be displayed in accordance with section "J" except as otherwise noted or as authorized under a Declaration of Emergency.~~

Commented [CE3]: NOTE: Public Notice and Public Safety signs are currently permitted as digital public service messages under the current ordinance, this change cleans up the language to better reflect the purpose of this amendment. It is recognized that conformance with section "J" is a reasonable restriction without being counter to the Court ruling.

- (12) Public notice informational sign. Signs to be located on municipally owned property or located at a municipal facility to display public notices posted by public employees in performance of their duties.

Commented [CE4]: NOTE: Removing "informational" makes the section consistent with the defined term Public Notice. There is no need for the rest of the section wording due to the amended definition.

L. Sign types and sizes by sign district.

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Consolidated Sign Table

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- X Not permitted
- # Indicates size allowed with permit
- #-A Indicates size allowed with no permit required
- P Indicates permit is required; standards are in Subsections G and H

	Sign District						Highway Corridor
	Residential ^{2,3}	Commercial	Highway Commercial	LV ³	VC ⁴	MV ³	
Maximum Signage ¹	50	200	175	150	175	50	175
Sign Type							
Public notice	<u>50</u> 32-A	<u>32</u> 75-A	<u>32</u> 75-A	<u>32</u> 75-A	<u>32</u> 75-A	<u>32</u> 50-A	

Commented [CES]: Remember this size is for only public/municipal authority signs!

NOTES:

3. No internally illuminated signs are permitted, except public notice signs displayed in accordance with permitted under section "J."

4. No internally illuminated signs are permitted, except on those lots that abut Route 196 and public notice signs displayed in accordance with permitted under section "J."

Aquifer Protection Overlay District

An Ordinance to Amend the Topsham Zoning Ordinance to Amend Chapter 225-20, Aquifer Protection Overlay District

Underlined text are additions; Stuck out text is proposed to be removed

§ 225-20 Aquifer Protection Overlay District.

- A. Purpose. The preservation of pure, clean supplies of groundwater is declared to be public purpose. The purpose of this section is to promote the preservation and wise utilization of groundwater through the control of land uses and activities which might otherwise degrade or destroy the use of aquifers for public and private drinking water supplies.
- B. Establishment of Aquifer Protection Districts. Sand and gravel aquifers have been mapped by the Maine Geological Service (MGS) which indicate significant groundwater aquifers and recharge areas. District boundaries may be verified or amended or additional districts added by the submission of new or additional geological data by either the staff of the MGS or registered professional geologist.
- C. Land use restrictions. All land uses, except the following, are prohibited: single-family dwellings; multifamily dwellings; agriculture; animal husbandry; public utility service lines; public water utility facilities; forest management; educational facilities; retail and service businesses which do not use chemical processes or require bulk storage of hazardous materials; and accessory uses, except those using chemical processes.
- D. Dimensional standards. The dimensional standards for residential uses shall be based upon the development contributing no more than twenty-five percent (25%) of the public drinking water standards for concentrations of listed chemicals into the defined development area based upon average annual precipitation infiltration. In the event that new technologies may reduce one (1) or more chemical components, the concentration of the next highest shall control the density of the development. Calculations for nitrate contributions shall be based upon five (5) pounds per person at three and five-tenths (3.5) persons per household and one and eight-tenths (1.8) pounds per one thousand (1,000) square feet of fertilized lawn and garden area. The nitrogen loading formula is pounds of nitrogen multiplied by four hundred fifty-four thousand (454,000) mg/lb divided by infiltration in gallons per year multiplied by three and eight-tenths (3.8) liters per gallon is equal to parts per million concentration. A five-acre lot with fifteen thousand (15,000) square feet of lawn will not exceed twenty-five (25%) of the public drinking water standards. Single-family lots shall be five (5) acres unless otherwise documented to contribute less than twenty-five (25%) of the standard. Animal nitrate contributions shall not exceed the following area requirements: dairy cattle, one (1) per acre; beef cattle, three (3) per acre; swine, four (4) per acre; sheep, eight (8) per acre; goats, twelve (12) per acre;

horses, three (3) per acre; chickens, one hundred thirty-nine (139) per acre; and dogs, twenty-four (24) per acre.

- E. Runoff and drainage. Provision shall be made for on-site recharge of stormwater runoff from impervious surfaces unless the Planning Board determines that either recharge is unfeasible because of site conditions or is undesirable because of uncontrollable risks to water quality from such recharge. Recharge shall be by surface infiltration through vegetative surface unless otherwise approved by the Planning Board. Recharge quality shall not be significantly reduced from predevelopment levels. Dry wells shall be used for control of surface runoff only if other methods of control are unfeasible. Dry wells shall not be used for disposal of any leachable materials or hazardous materials and shall not be connected to floor drains. Where dry wells or leaching basins are used, they shall be preceded by oil, grease and sediment traps.
- F. Safeguards.
- (1) Provision shall be made to protect against toxic or hazardous materials discharge or loss resulting from erosion, accidental drainage, spillage or vandalism through measures such as spill control provisions and secured storage areas for toxic or hazardous materials. Handling and storage of toxic and hazardous materials shall meet performance standards established by the Maine Department of Environmental Protection.
 - (2) All retail and service businesses shall be connected to the public sewer system in accordance with the criteria set forth by the Topsham Sewer District.
 - (3) Monitoring wells shall be required for subdivisions of eight or more lots and any use deemed by the Planning Board to be an actual or potential source of pollution. The number, location and depth of monitoring wells shall be determined by a hydrogeologist approved by the Town and shall be installed and sampled in accordance with the recommendations of the hydrogeologist. Monitoring wells shall be installed on the property at the expense of the owner or occupier. The Town shall be provided with all monitoring well information and shall be granted access to all monitoring wells.

Mixed Use Commercial

An Ordinance to Amend the Topsham Zoning Ordinance to Amend Chapter 225 Attachment 1.1. Table of Use Regulations, as follows:

Underlined text are additions; Stuck out text is proposed to be removed

	R1	R2	R3	CC	RCU	MUL	MUC	MUC-1	BP	CC196	I	BP2	R4	LI	VC	MV	LV	R2B	
Dwelling, single-family	P	P	P	P ¹	P ⁶	P ⁵	Sp ¹	C ^{1.11}	X	P	X	X	P	P ²²	X ²²	P	P ²²	P	Formatted: Font: 10 pt
Dwelling, two-family	P	P	P	P ¹	P ⁶	P	Sp ¹	C ^{1.11}	X	P	X	X	P	P ²²	P ²²	P	P ²²	P	Formatted: Font: 11 pt
Dwelling, multifamily	P	P	P ²	P ¹	P ⁶	P	P ¹	C ^{1.11}	X	X	X	X	P	P ²²	P ²²	P	P ²²	P	Formatted: Font: 10 pt

February 25, 2019

Dear members of the Board of Selectmen,

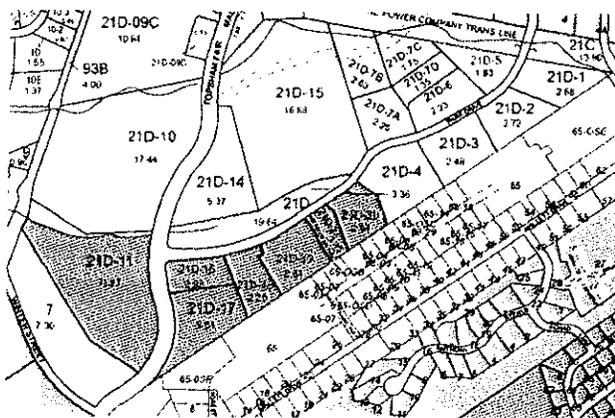
At the Topsham Planning Board Meeting on February 19, 2019, members of the board raised some pertinent questions in response to Commercial Properties, Inc.'s proposed potential zoning change to allow residential on the first floor in the MUC zone. These questions included:

- What does the old Comp plan say about the MUC zone?
- What does the new draft Comp plan say about the MUC zone?
- What is "market rate" housing?
- Where are the other relevant parcels in the Topsham Fair Mall MUC zone that could benefit from such a change?

Please find our response, as well as explanations for the proposed MUC zoning change, below.

The 2007 Topsham Comprehensive plan (old Comp plan) stated that the MUC zone "should remain an area of varied uses" and that "This area [MUC] is also suitable for residential uses in a mixed-use setting," in reference to Topsham Fair Mall, Park Drive, and on the other side of 295 (page 48). However, things have changed since the old Comp plan, as noted in the current draft Comprehensive plan (draft Comp plan) which identifies areas around the Topsham Fair Mall Road as potential locations for the Neighborhood Transformation - Intentional Growth Sector. This designation intends to promote higher-density development to increase walkable communities that are linked to amenities, and decrease suburban sprawl.

According to the draft Comp plan, retail is the second highest industry in Topsham based on number of employees. Rather than requiring commercial on the ground floor in a market that is saturated with retail and preparing for stagnation, Topsham can look at other opportunities to maintain the Topsham Fair Mall area as a robust part of town, with day and night activities and people to support existing retail. Changing the MUC zoning to allow residential on the first floor accomplishes two goals: overall increasing the housing stock in Topsham and providing a wider variety of uses in the MUC zone to help combat retail shrinkage.



After considerable review in light of the points raised by the Topsham Planning Board, we propose that the Town of Topsham consider implementing the MUC zoning change as a starting point on the parcels south of the stream that runs along Park Drive, including: 21D - 11; 21D - 16; 21D - 17 (Church); 21D - 18; 21D - 19 (Goodwill); 21D - 20; and 21D - 21 (highlighted in darker green to the left). The stream and its conservation area offer a natural boundary line for a transitional

February 25, 2019

neighborhood, from single-family residential, to higher density mixed use, to commercial and retail space. (See Appendix 2 for entire MUC zone map)

Residents have made clear that they want new housing stock in Topsham. Commercial Properties, Inc. would like to build quality, non-subsidized, market-rate housing in Topsham. Comparable projects range from \$1,285 (948 SF, 2 bed) at Fox Ridge Crossing at Kelly Park in Lisbon, to up to \$1,700 per month (2 bed) at Brunswick Station apartments in Brunswick. However, the MUC zoning footnote that allows residential on the first floor if parking is tucked under, at or below grade, would make building market-rate housing infeasible in Topsham. From our discussions with contractors and others who have built units with tucked under parking, it is incredibly expensive and makes financial sense only in urban environments where land costs are much higher. The 3 hour fire-rated ceiling of the parking unit requires significantly more concrete, increasing the weight of the structure and ultimately increasing costs.

Our vision is to create a transitional shift between the residential neighborhoods on the edges of the MUC zoning area and to provide quality housing for Topsham residents to live within walking distance to Topsham Fair Mall amenities. Despite the need, no housing has been developed in the MUC zoning area up to now, potentially due to the burden of the existing residential requirement footnote on the MUC zone. Also noted in the Planning Board meeting, transitional areas between retail/commercial and residential has historically been professional office space. However, as our firm has seen over the past fifteen years, office, medical office and retail uses in some areas of the MUC zone are almost infeasible due to location within the mall area. Additionally, there is a glut of office space in Brunswick and Topsham, with noted vacancies in both towns' industrial parks. Providing higher density housing in the area proposed above could provide a transition between single-family residential neighborhoods to the commercial center of Topsham Fair Mall.

We thank the Board of Selectmen for taking the opportunity to read this letter, and for its time spent on the consideration of the MUC zoning change. Please reach out with any additional questions.

Sincerely,

Commercial Properties, Inc.

See appendix for further information on:

1. Notable quotes from draft Comp plan
2. Entire MUC Zone

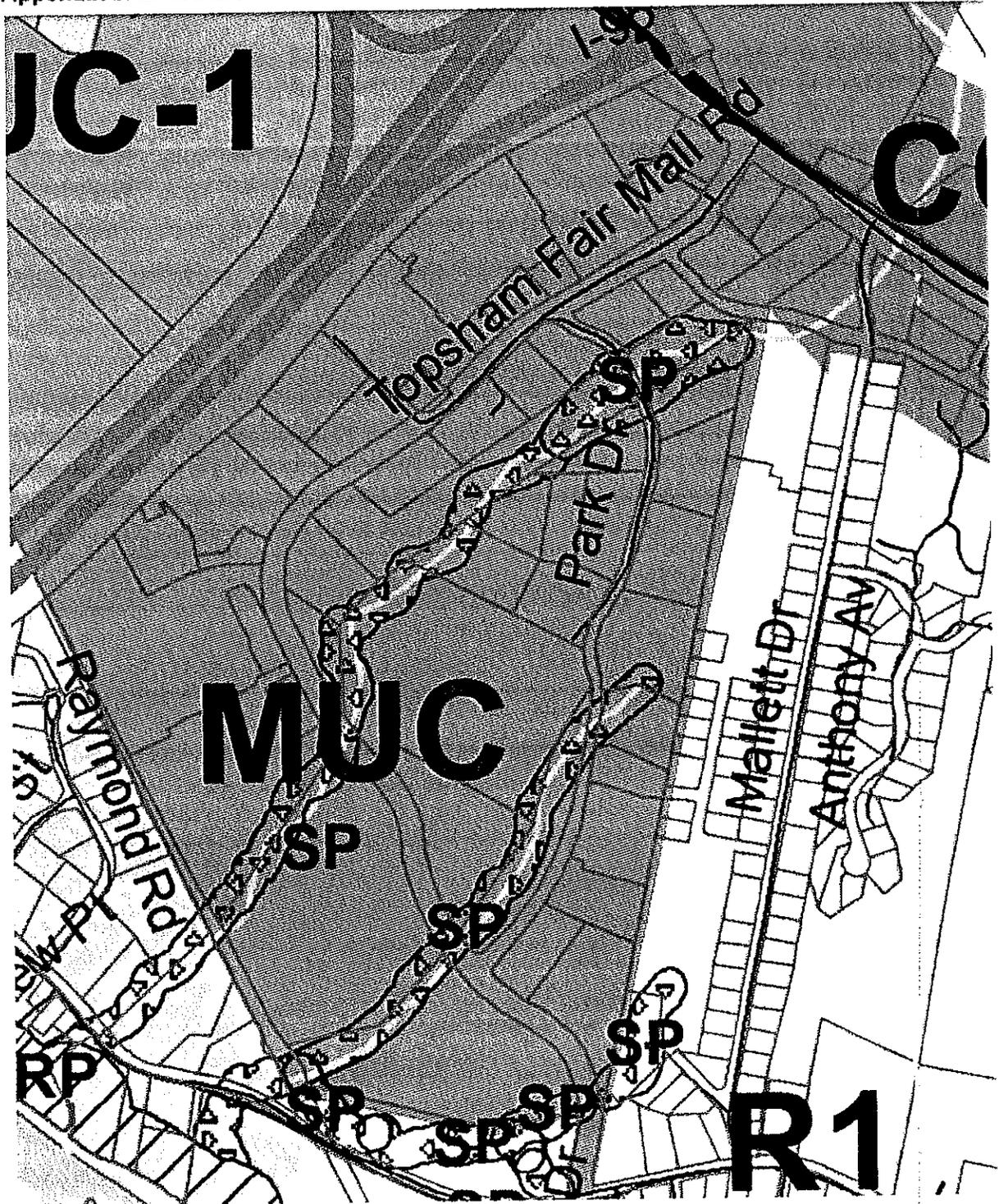
Appendix 1: Notable quotes from the draft Comp plan

“At the same time, the face of retail continues to shift and contract. Topsham has an opportunity to effectively compete with Brunswick Landing and Cooks Corner by taking a proactive approach to the retail industry, by inviting, permitting, and encouraging higher density mixed-use development within its commercial and other growth zones. High quality development should be required while giving developers and landowners clear and straight-forward rules that allow projects to gain quick and administrative approval to the extent possible.

ACTION: Update the zoning code to make it easier to attract new, denser development to zoning districts within the Neighborhood Transformation - Intentional Growth Sector.
ACTION: Allow a broad range of land uses within the intended growth areas as well as within the rural zones as part of building groups.” Page 94

“The Topsham Fair Mall area is comprised of multiple parcels and property owners. There may be a time when the changing retail market presents an opportunity for property owners to pursue redevelopment that responds to emerging retail and lifestyle trends. This illustrative plan shows how the mall site can begin to incrementally create a more mixed-use and active environment within Topsham. New streets and blocks allow the mall to accommodate a park-once strategy, where people can safely and comfortably walk and bike to multiple destinations.” Page 116

Appendix 2: Entire MUC Zone



MEMORANDUM

To: Board of Selectmen
From: Carolyn Eyerman, AICP, Assistant Planner
Date: February 26, 2019
Re: Proposed amendments to the Zoning Ordinance – Shoreland/ Lower Village

Ric Quesada of Fore River Company is discussing a possible project in the Lower Village. In preparation for his request, I reviewed the existing lot sizes within that zone. The current base lot size is required to be a minimum of 7,500 square feet and the shoreland overlay zone minimum lot size is required to be between 30,000 and 60,000 square feet. The total number of parcels is 37.

Colin A. Clark, Shoreland Zoning Coordinator in the Bureau of Land Resources for Maine Department of Environmental Protection states "...If you would like to increase the density that is allowed but the town would need to submit some documentation about the current conditions that show that it is already more dense than the standards and then request that reduction in lot area."

The lots are currently as such:

Lot	Acreage	Acreage (sq. ft.)
1	0.16	6969.6
23	0.38	16552.8
24	0.89	38768.4
37	0.68	29620.8
38	0.17	7405.2
39	0.17	7405.2
40	0.04	1742.4
41	0.15	6534
42	0.20	8712
43	0.58	25264.8
45	0.12	5227.2
11	0.40	17424
12	0.13	5662.8
13	0.13	5662.8
134	0.28	12196.8
135	0.10	4356
136	0.13	5662.8
14	0.08	3484.8
15	0.07	3049.2

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16	0.15	6534
17	0.32	13939.2
18	0.82	35719.2
3	5.72	249163.2
3-1	0.14	6098.4
3-2	0.06	2613.6
3-3	0.43	18730.8
3-4	0.38	16552.8
3-5	0.30	13068
3-6	0.07	3049.2
3-7	0.11	4791.6
4	1.60	69696
5	0.18	7840.8
5A	0.14	6098.4
6	1.38	60112.8
64	0.39	16988.4
65	1.59	69260.4
65B	1.41	61419.6

Average (mean)	0.53	23029 sq ft
Range	0.04 - 5.72	
Mode	0.13	

7,500 or less = 18	% of total # = 49
7,500 to 30,000 = 8	% of total # = 22
30,000 or more = 7	% of total # = 19

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Board of Appeals

An Ordinance to Amend the Topsham Zoning Ordinance to Amend Chapter 225-6, Definitions Related to Appeals, and Chapter 225-70, Board of Appeals

Underlined text are additions; Stuck out text is proposed to be removed

Chapter 225. Zoning

Article 5 225-6 Definitions

(add the following definitions in proper order alphabetically)

DE NOVO – To begin afresh, anew, new trial

APPELLATE – The power to review the judgement of another board or commission.

Article X. Board of Appeals

§ 225-70. Powers and duties.

The Board of Appeals shall have the following powers:

A. Administrative review. To hear and decide appeals where it is alleged there is a zoning violation or error in any order, requirement, decision or determination made by the Code Enforcement Officer in the enforcement of this chapter.

Administrative appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board or Historic District Commission in the administration of this ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the code Enforcement Officer in his or her review of and action on a permit application under this ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a "de novo" hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board or Historic District Commission, it shall hold an appellate hearing, and may reverse the decision of the Planning Board or Historic District Commission only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board or Historic District Commission. The Board of Appeals may only review the record of the

As of February 20, 2019

Town of Topsham

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proceedings before the Planning Board or Historic District Commission. The Board of Appeals shall not receive or consider any evidence which was not presented to the Planning Board or Historic District Commission, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board or Historic District Commission proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board or Historic District Commission for additional fact finding.

B. Variances. To authorize variances upon appeal in specific cases, but only within the limitations set forth in this chapter.

C. Interpretations of this chapter.

~~D. To hear and decide appeals for conditional uses:~~

D. Planning Board appeals. To hear appeals of decisions by the Planning Board on applications for conditional use permits, subject to the limitations of §225-67 of this chapter. Pursuant to § 225-67.H, the appeal review shall not be de novo. The Board may affirm or reverse the decision of the Planning Board on appeal, or it can order, not more than one time, a remand to the Planning Board for further consideration.

E. The Board of Appeals shall not have jurisdiction or authority to hear appeals from site plan or subdivision decisions made by either the Planning Board or the Town Planner.

§ 225-71. Variances

~~Variances and administrative exception may be permitted only under the following conditions:~~

- A. ~~Variances may be granted by the Board of Appeals for land use, setbacks, height, minimum lot size, structure size, and open space requirements dimensional standards such as lot area, lot coverage, frontage and setback requirements as allowed by MRSA 30-A §4353.~~

§ 225-73 Decisions

~~E. A conditional use permit, or variances or administrative exceptions secured under the provisions of this chapter by vote of the Board of Appeals or Planning Board shall expire if the work or change involved is not completed within two years of the date on which the conditional use or, variance or administrative exception is authorized.~~

Commented [CE1]: Administrative exceptions are not allowed by state statutes.

Commented [CE2]: The Planning Board appeal and decision is already described in 225-67 Conditional Use permits.

Subdivision

An Ordinance to amend the Town Code, Chapter 191, Definitions – to amend the section to remove the definition for resubdivision and update the definition of subdivision.

(additions are underlined; deletions are struck through)

§ 191-1 Definitions.

~~RESUBDIVISION – The division or any change of lot size therein or the location of any street or lot in a subdivision.~~

SUBDIVISION --The division of a tract or parcel of land into three (3) or more lots for the purpose, immediate or future, of lease, sale, development or building, whether this division is accomplished by immediate plotting of the land by metes and bounds. The term "subdivision" shall include the subdivision of land for nonresidential purposes and resubdivision of land. In addition, the definitions of "subdivision" set forth in 30 M.R.S.A. § 4956¹ shall apply for purposes of these regulations within any five (5) year period that begins on or after September 23, 1971 in accordance with 30-A M.R.S.A. §4401[4] and as that Subsection may be amended from time to time.

Board of Selectmen Meeting

For the date of: 03/07/2019

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 02-07-2019.

Brief Description of Consent or Agenda Item: see attached

Submitted by Rich Roedner, Town Manager **Date:** 02-11-2019

MINUTES
TOWN OF TOPSHAM
BOARD OF SELECTMEN MEETING
DONALD A. RUSSELL MEETING ROOM
FEBRUARY 7, 2019 – 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, February 7, 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. (The Board actually met informally prior to the meeting to conduct a Workshop with the Medical Marijuana Working Group on proposed licensing standards.) It was noted that all members were present.

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

Tonight I have presented to the Board a draft budget for Fiscal Year 20, the first step in our annual budget process. Starting next week, there will be three joint Selectboard/Finance Committee workshops, where each department will present their individual budgets, answer questions, etc. Those meetings will be on Monday, February 11; Wednesday, February 13; and Wednesday, February 27. All three meetings will be held here at 6:00 p.m. The public is welcome, and is given an opportunity to provide comments. There is a link on the front page of our website, www.topshammaine.com for FY 20 Budget Information. Right now, the only document there is the budget schedule. But, starting tomorrow, you will find budget information and departmental information. Check out the schedule so that you can see when the specific department you are interested in is scheduled. As always, if you have any questions, please contact me at Town Hall, by phone or email, or call for an appointment.

Linda Dumont, our Town Clerk, is seeking nominations for the Boston Post Cane honor. The Boston Post Cane is a recognition program started in the early 1900's by the Boston Post newspaper, to honor the oldest resident of each town in New England. Topsham still has its original Boston Post Cane, and has revived this recognition program over the past several years. So if you feel that you or a friend or family member is the oldest resident in Topsham, Linda would like to hear from you. Nomination information is available on the Clerk's web page.

Our annual Valentine's Day dance is this coming Sunday, from 2:00 to 4:00 p.m. The dance is open to all young ladies and their escorts. Tickets are on sale until tomorrow at 3:00 p.m. and are not available at the door. So check in with the Recreation Department before 3:00 p.m. tomorrow for your tickets.

March 16 is our annual son/escort bowling event. Again, contact the Parks and Recreation Department for details.

March 28, the Parks and Recreation Department is sponsoring a train trip to the Maine Flower show. Details and registration are available on the Department's web page.

Finally, the Recreation Department's train trip to Boston still has tickets left, but the deadline is tomorrow at 3:00 p.m.

Following the Town Manager's Report, Selectman Lyons noted that in order to apply for the Boston Post Cane, one has to have lived in Topsham for 10 consecutive years. Applications must be returned to the Town Office before 5:00 p.m. on February 15th.

BOARDS AND COMMITTEE REPORTS AND UPDATES – None noted.

PUBLIC COMMENT – None noted

CORRESPONDENCE

Chairman Douglass noted correspondence dated January 10, 2019 from Raija Suomela to Selectman Tufts and said the item will be discussed later during the meeting as an agenda item.

The e-mail read as follows: "*Roland, I would like to petition the Town of Topsham to officially change the name "Board of Selectmen" to "Select Board."*

Could you provide feedback, if a change such as this would be well received among the Board and municipal leadership and if there would be costs or other issues to consider in the name change.

Please let me know if we could talk on the topic.

*Thank you much,
Best,
Raija Suomela
605 Middlesex Road"*

Selectman Tufts forwarded the e-mail to Chairman Douglass who forwarded it to the Town Manager. Mr. Roedner responded to Ms. Suomela on January 16 as follows:

"Raija

Just to keep you in the loop, your e-mail ended up with Dave Douglass, Chairman of the Board and we are putting this item on the agenda for our February 7 meeting for discussion.

In your initial e-mail you asked about the process, costs, etc.: The process is a change to our Town Code, which specifies Board of Selectmen or Selectman in multiple locations and is based on Stat4 Statutes (MRSA 30-A §2635). So the edition of the code would take some time to make sure the references are all covered. The changes would then be subject to Town Meeting approval. Following that, there would be an actual cost of updating our Town Code, which is difficult to estimate since the cost of updating our code depends on how many pages are edited, how much is edited, etc.

I hope to see you at the February 7 meeting when this item is brought up for discussion.

Rich

*Richard Roedner
Town Manager
(207)725-5821, Ext. 2110"*

ADJUSTMENTS TO THE AGENDA – None noted.

CONSENT CALENDAR

1. Approval of the minutes of the Regular Selectmen's Meeting of January 17, 2019.

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

VOTED

To accept the Consent Calendar, approving the minutes of the regular Selectmen's Meeting of January 17, 2019 as written.

PUBLIC HEARING – None noted.

UNFINISHED BUSINESS – None noted.

OLD BUSINESS – None noted.

NEW BUSINESS

19-03 CONSIDERATION AND ANY APPROPRIATE ACTION ON CHANGING THE TITLE "BOARD OF SELECTMEN" TO "SELECT BOARD"

The Town Manager explained how the process would work to change "Board of Selectmen" to "Select Board." Ms. Suomela was present and spoke to the Board of her reasons for changing the title to not be gender specific. Board members commented, including Selectman Lyons and Selectman Brilliant, saying they were comfortable with the title of Board of Selectman, but had no objection to it being changed if that was what the majority wanted.

Mr. Roedner said if the Board decides to make a change, there are two ways to do it. One is by Board policy, that the Board will be referred to as Selectboard, and each member will be referred to as Selectperson. This would demonstrate the Board's intent, but would be subject to future Board's having a different intent.

The other way is by code amendment, which would entail amending Chapter 6 specifically, and any other portion of the Town Code that refers to the Board of Selectmen or Selectmen. There would be additional time and cost with this approach, both in reviewing the code, drafting amendments, and preparing for Town Meeting votes. Lastly, there would be a cost to codify those changes.

Following discussion, the Board was in unanimous agreement to table the item to allow the Town Manager time to check the Maine Municipal Association's list of towns and to come up with a policy for consideration for the Board's review.

19-04 CONSIDERATION AND ANY APPROPRIATE ACTION ON INCREASING EMS BILLING RATES

Fire Chief Chris McLaughlin and Mike Labbe were present to discuss this item. Mr. McLaughlin spoke saying to remain current and up to date on our revenues, he is seeking to increase the EMS billing rates. He said it has been a long time that the ambulance billing rates have been compared to other towns and the industry norm. Topsham Rescue has always charged the Medicare rate which has resulted in the loss of potential revenues from other insurances that will pay more.

Mr. McLaughlin included a comparison to charges from surrounding towns in the Board package showing Topsham to have the lowest billing rates out of all the services offered. A \$30,000 increase in revenue is anticipated with the proposed increase.

Following discussion, motion was made by Chairman Douglass, seconded by Selectman Lyons, and it was

VOTED

To go with Chief McLaughlin's proposal to increase rates effective January 17, 2019.

(The vote was 4 in favor with one voting against (Selectman Brilliant).

EXECUTIVE SESSION

At 7:30 p.m. motion was made by Selectman Tufts, seconded by Selectman Lyons, and it was unanimously

VOTED

To enter executive session at 7:30 p.m. for consideration and any appropriate action to deliberate over an abatement pursuant to 36 MRSA §841, and Title 1 405 6 (F) with all members present, along with the Town Manager.

**19-05 CONSIDERATION AND ANY APPROPRIATE ACTION TO DELIBERATE
OVER AN ABATEMENT PURSUANT TO 36 M.R.S.A. §841 AND TITLE 1 405-6
(F)**

Following discussion, motion was made, seconded and unanimously

VOTED

To come out of Executive Session.

Motion was made, seconded, and it was unanimously

VOTED

To grant the abatement.

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: 03/07/2019

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: 19-06

(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 and any appropriate action on posting the following roads from March 1, 2019 to April 30, 2019 or sooner if conditions allow.

Winter Street/River Road from Main Street to Whitehouse Crossing Road
Whitehouse Crossing Road
Cathance Road
Meadow Cross Road
Ward Road
West Merrill Road
Robert's Hill Road
Foreside Road from Townsend way to the Middlesex Road

Brief Description of Consent or Agenda Item:

Submitted by: Dennis Cox, Public Works Director

Date: 02/26/2019

PERMIT TO OPERATE ON A POSTED WAY

(For Office Use Only)

Application No. _____
2019

Your application to operate on a Town of Topsham posted road has been approved as follows:

Applicant:

Address:

Telephone:

FAX:

Type Vehicle:

Destination of Vehicle:

Name of Posted Way(s):

Est. Total No. of Trips:

Date(s) for Permit:

The above request is hereby approved subject to the following conditions:

1. There has been no rain for at least 24 hours prior to the hauling time.
2. Delivery takes place first thing in the morning and all loaded trucks are off the posted road by 9 am. (unless the road remains solidly frozen, which means the air temperature stays less than 32°F **and** no water is showing in the cracks of the road - both conditions must be met).
3. Air temperature in the night time hours before the haul date is below 32°F for 5 hours.
4. Trucks operate at reduced speed over posted road (10 MPH below speed limit).
5. If the weather is not appropriate on the proposed haul date the hauling must not take place.

Regardless of this permit, any user of a posted town road who damages the roadway is responsible for the full cost to repair the damage as determined by the Public Works Director.

Date:

Dennis Cox, Public Works Director/Road Commissioner
cc: Chris Lewis, Police Chief

Public Notice:

To: Rich Roedner
From: Dennis Cox
Subject: Road Posting
Date: February 26, 2019

I would like to make the following recommendation that the Town posts the following roads due to the conditions created by the warming temperatures, as the frost leaves the ground under these said roads. The procedure to be followed will be that as described in the Town of Topsham's Code Book, Chapter 210 Vehicles and Traffic, Article IX. Weight Restrictions, 210-62. Closing roads to travel of certain trucks; exemptions; permits.

Winter Street / River Road from Main Street to Whitehouse Crossing Road

Whitehouse Crossing Road

Cathance Road

Meadow Cross Road

Ward Road

West Merrill Road

Robert's Hill Road

Foreside Road from Townsend Way to the Middlesex Road

These are the same roads that were requested last year. The road posting would be effective March 8, 2019 to April 30, 2019 or sooner if conditions allow. In my tenure, I have removed these postings before April 30th, because conditions have always improved and warranted this.

Board of Selectmen Meeting

For the date of: 03/07/2019

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: 19-03

(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 and any appropriate action on changing the title "Board of Selectmen" to "Select Board".

Brief Description of Consent or Agenda Item: Chairman Douglass received an email from Raija Suomela requesting to petition the Board to change the Board of Selectmen title.

Submitted by: Dave Douglass, Chair, Board of Selectmen **Date:** 02/27/2019

MEMORANDUM

To: Board of Selectmen
From: Richard Roedner, Town Manager
Date: February 27, 2019
Re: How to reference the Board

At our last meeting, we heard from a resident about whether the Board would consider changing its name from Board of Selectmen to Selectboard (or Select Board). There was general understanding of the issue that was raised, and staff was asked to work on a policy, rather than an ordinance change.

Attached is a draft policy for the Board's consideration, that would establish the practice of referring to the Elected body as the Selectboard (or Select Board). As a group, the members would be referred to as members of the Board, while individually, the members would opt for their own preferred means of address – Selectwoman, Selectman, Board member, etc.

The policy also provides for a minor amendment to the Town Code, to clarify that Board of Selectmen also means Selectboard, and that Selectman also means Selectwoman and Selectperson.

Name of Board of Selectmen

Recognizing that gender is not a limiting factor in serving the public, and recognizing that State Statutes, when describing Town government, refers to Selectman and Board of Selectmen, as well as Municipal Officers, the Topsham Board of Selectmen hereby adopt the following policy:

1. The Elected Board governing the Town of Topsham shall be referred to as the Topsham Selectboard;
2. The individual members of the Topsham Selectboard shall choose their preferred term of reference to be Selectman, Selectwoman, Selectperson or other individual choice as made be made known;
3. When referring to the collective members of the Topsham Selectboard, the reference shall be to Board members or Selectboard members;
4. Town staff shall take efforts to change necessary documents to refer to Selectboard;
5. This policy does not obligate the Town to go through the process of amending its Town Codes, other than when convenient due to other changes;
6. The Selectboard shall begin the process of adopting clarifying language for the Town Code that clarifies that when the term Board of Selectmen is used, it also means Selectboard, and that the term Selectman also refers to Selectwoman and Selectperson;

This policy shall remain in effect until such time as a future Selectboard determines it should be replaced, repealed or amended.

Board of Selectmen Meeting

For the date of: 03/07/2019

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: 19-07

(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 and any appropriate action on establishing a Registration Appeals Board and appointing board members.

Brief Description of Consent or Agenda Item:

Submitted by: Linda Dumont, Town Clerk

Date: 01-25-2019

MEMORANDUM

To: Board of Selectmen
From: Linda Dumont, Town Clerk
Date: January 25, 2019
Re: Registration appeals board

In reviewing election laws I have found that the town should have in place a Registration appeals board in the event that a voter is aggrieved by the decision of the Registrar to cancel the voter.

I have been working on establishing this committee and have since received a nomination from both the Democratic and Republican political party as required by state statute and I have selected a nominee to serve as the chair.

I am requesting that the board authorize forming this board and to appoint the following nominees to the the Registration appeals board. Each member serves a three year term, with the exception of the chair which serves a four year term. I have attached the statute for your review.

Democratic Party	Sara Ward
Republican Party	Dwayne Bickford
Alternate	Gail Eaton
Chair	Peter Lepari

Title 21-A: ELECTIONS
Chapter 3: VOTER REGISTRATION
 Subchapter 1: REGISTRAR OF VOTERS

§103. Registration appeals board

In a city or town that has a population of 5,000 or more, if a person is aggrieved by the decision of the registrar of voters to cancel that person's registration in the central voter registration system or to reject that person's voter registration application, that person may appeal in writing to the registration appeals board. [2005, c. 453, §9 (AMD) .]

1. Population of 5,000 or over. The registration appeals board consists of 3 members who must be appointed as follows: The municipal committee of each of the major political parties shall nominate one member, who must be enrolled in the party of the municipal committee that nominates the member, and the municipal officers shall appoint the persons nominated by the municipal committees and the 3rd member must be nominated by the clerk of the municipality and appointed by the municipal officers. The clerk of the municipality may give the municipal committees of the political parties a list of qualifications necessary for a person to fulfill the duties of the registration appeals board, and the municipal committees shall take those qualifications into consideration when nominating members to the board. The 2 members of the board nominated by the municipal committees of the major political parties may be members of the municipal committee nominating them and of the county or state committees of the political party that nominates them and may be members of a state or county delegation to a political convention. When a municipal committee nominates a member to the registration appeals board, it shall also nominate an alternate board member, who serves if the member nominated by the municipal committee is or becomes unable to serve. The municipal clerk may not serve as a member or alternate member of the registration appeals board.

[1997, c. 436, §19 (AMD) .]

2. Population of 4,000 to 5,000.

[1999, c. 426, §4 (RP) .]

3. Term of office. Each member nominated by the municipal committees of the major political parties and appointed to the board shall serve for 3 years and until the member's successor is appointed and sworn. The member nominated by the clerk of the municipality and appointed to the board shall serve for 4 years and until that member's successor is appointed and sworn.

[1995, c. 459, §8 (AMD) .]

4. Chairman of the board. The member nominated by the clerk of the municipality is chairman of the board.

[1985, c. 161, §6 (NEW) .]

5. Vacancy. When there is a vacancy on the board, the alternate board member nominated by the municipal committee of the political party of the former incumbent shall serve. If an alternate is not available, the municipal officers shall appoint a qualified person nominated by the municipal committee of the party of the former incumbent to fill the vacancy. If the vacancy is in the office of the chair of the board, the municipal officers shall appoint a qualified person nominated by the clerk of the municipality to fill the vacancy. Vacancies must be filled for the remainder of the term of office.

[1991, c. 466, §2 (AMD) .]

6. Appeal hearing. Upon receipt of a complaint by a person aggrieved by the decision of the registrar, the chair of the registration appeals board shall immediately fix a time and place for the board to meet for a prompt hearing. The voter must be given written notice of the hearing at least 20 days in advance and must have the opportunity to testify and to present witnesses and other evidence at the hearing. The hearing is de novo. After hearing, the board may affirm, modify or reverse the decision of the registrar of voters. The board shall issue the decision to the voter in writing and shall provide information on how the voter may appeal the decision. The aggrieved person may appeal the decision of the board to the Superior Court in accordance with Rule 80B of the Rules of Civil Procedure.

[2009, c. 253, §9 (AMD) .]

7. Actions of the registration appeals board. A registration appeals board may only act by unanimous or majority action.

[1995, c. 459, §10 (RPR) .]

8. Removal from office. A member of the board may be removed from office at any time during the member's term by the appointing authority if the appropriate nominating authority nominates a replacement. Any replacement member shall serve out the remainder of the replaced member's term.

Board of Selectmen Meeting

For the date of: 03/07/2019

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: 19-08

(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 and any appropriate action on reviewing the process for approving AP Warrants

Brief Description of Consent or Agenda Item:

Submitted by: Rich Roedner, Town Manager **Date:** 02/26/2019

MEMORANDUM

To: Board of Selectmen
From: Richard Roedner, Town Manager
Date: February 25, 2019
Re: AP Warrant signatures

This past week we had a difficult time getting three signatures to release our AP Warrant (Monday a.m. we are still waiting). Roland has raised the issue of whether we can have a streamlined process to sign the warrant, perhaps electronically.

Below is a portion of State Statutes that describes the Treasurer's authority to pay bills.

§5603. Powers and duties (references deleted for space)

The treasurer has the following powers and duties.

1. Powers. The treasurer may:

A. Make deductions from the salary of a municipal employee and pay the money deducted to the proper payee, when the employee gives the written authority to do so. The treasurer's authority to make a deduction continues until:

(1) The employee revokes the authorization in writing; or

(2) The treasurer knows that the reason for the deduction no longer exists.

2. Duties. The treasurer shall:

A. Except as provided in subparagraphs (1) to (3), and except as otherwise provided by charter or ordinance, disburse money only on the authority of a warrant drawn for the purpose, affirmatively voted and signed by a majority of the municipal officers.

(1) The municipal officers may adopt a written policy to permit the disbursement of employees' wages and benefits when a disbursement warrant has been signed by one or more designated municipal officers. The policy must be filed with the town clerk and the municipal treasurer and renewed annually by vote of the municipal officers.

(2) The municipal officers may adopt a written policy to permit the disbursement of payments for municipal education costs when a disbursement warrant has been signed by the school superintendent and approved by a majority of the school board or by a finance committee appointed or duly elected by the school board. The policy must be filed with the town clerk and the municipal treasurer and renewed annually by vote of the municipal officers.

(3) The municipal officers may adopt a written policy to permit the disbursement of state fees when a disbursement warrant has been signed by one or more designated municipal officers. The policy must be filed with the town clerk and the municipal treasurer and renewed annually by vote of the municipal officers;

B. Upon request, provide an account of the finances of the municipality and exhibit the official records to the municipal officers or to any committee appointed by them to examine the accounts. The municipal officers shall examine the treasurer's accounts at least once every 3 months; and

C. Maintain a bank account in the municipality's name for the deposit of cash receipts. The treasurer shall deposit all cash receipts in the bank within 10 days. The treasurer may not commingle funds of the municipality with any personal funds or in any personal account of the treasurer.

The underlined section clearly limits the Treasurer's authority to paying bills unless approved by a majority of the Board. The local Board can adopt a policy to allow the Treasurer to release payroll, pay the School District or release State fees.

Our Town Code, 6-21, reads as follows:

§ 6-21 Disbursement of Treasurer's warrants.

- A. Purpose. The purpose of this section is to provide an alternate to the statutory procedure for approval of warrants authorizing the Treasurer to disburse money.*
- B. Authority. This section is enacted pursuant to 30-A M.R.S.A. §§ 3001 (municipal home rule) and 5603, Subsection 2A.*
- C. Procedure for approval. The Treasurer may disburse money only on the authority of a warrant drawn for the purpose, either:
 - (1) Affirmatively voted and signed by a majority of the municipal officers at a duly called public meeting;*
 - (2) Seen and signed by a majority of them acting individually and separately; or*
 - (3) Signed as otherwise provided by law for the disbursement of employees' wages and benefits and payment of municipal education costs.**

So, should the Board be interested in a revised manner of approving the warrants, it could perhaps interpret (2) above to include digital signatures (once we decide on how much information you would like to have emailed to you). I would say that State Statutes would also give the Town the authority to amend the Town Code to allow the release of AP Warrants with fewer than three signatures, just as we do with payroll.

I will check with MMA Legal to make sure I am not missing something in the interpretation of the Statutes. I am also reaching out to other Managers to see how other communities handle this.

Rich Roedner

From: Legal Services Department <legal@memun.org>
Sent: Monday, February 25, 2019 2:20 PM
To: Rich Roedner
Subject: RE: Topsham - Spending Approvals

Dear Rich,

I agree with you that the voters could amend the ordinance to authorize less than a majority of the board to approve AP (accounts payable) warrants as well as payroll warrants. I'm not sure I agree, however, that the board could simply interpret Section 6-21(C)(1) as authorizing digital signatures as well as manual ones. In my opinion the wording of this provision offers no clear support for such a reading.

But in so stating, I do not mean to imply that I am opposed to the notion of allowing digital signatures for approval of disbursement warrants. On the contrary, I support the idea if the municipal legislative body wishes to endorse it. So, Section 6-21(C)(1) could be amended by the voters to clearly authorize digital signatures as well as manual ones. If that is the direction you choose, I strongly suggest that the amendment expressly incorporate, at least by reference, the definition of "digital signature" as set forth in 10 M.R.S. Section 9502(1), which is part of the Maine Digital Signature Act. This definition is intended to ensure the digital signatures are unique and verifiable and not easily subject to fraudulent use.

For your information, 10 M.R.S. Section 9502(1) reads as follows:

- 1. Digital signature.** "Digital signature" means a computer-created electronic signature that:
- A. Is intended by the person using it to have the same force and effect as the use of a manual signature; [1999, c. 762, §2 (NEW) .]
 - B. Is unique to the person using it; [1999, c. 762, §2 (NEW) .]
 - C. Is capable of verification; [1999, c. 762, §2 (NEW) .]
 - D. Is under the sole control of the person using it; and [1999, c. 762, §2 (NEW) .]
 - E. Is linked to data in such a manner that it is invalidated if the data are changed. [1999, c. 762, §2 (NEW) .]

I hope this advice is helpful, Rich.

Best regards,

Richard P. Flewelling, Senior Staff Attorney
Legal Services Department

Maine Municipal Association
60 Community Drive, Augusta, ME 04330
1-800-452-8786 (in-state)
207-623-8428
FAX 207-624-0187
legal@memun.org

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From: Rich Roedner [mailto:rroedner@topshammaine.com]
Sent: Monday, February 25, 2019 12:09 PM
To: Legal Services Department <legal@memun.org>
Cc: Rich Roedner <rroedner@topshammaine.com>
Subject: Spending Approvals

Good Morning

I have been asked by a Selectboard member to look into alternatives for approval of AP or Payroll Warrants.

Topsham is a non-charter community.

I have read 30-A 5603 which seems to give Towns the authority to decide how to pay bills. Under Duties of Treasurer, it says "...except as otherwise provided by charter or ordinance, disburse money only on the authority of a warrant drawn for the purpose, affirmatively voted and signed by a majority...".

Our Ordinance Language reads:

§ 6-21 Disbursement of Treasurer's warrants.

- A. Purpose. The purpose of this section is to provide an alternate to the statutory procedure for approval of warrants authorizing the Treasurer to disburse money.
- B. Authority. This section is enacted pursuant to 30-A M.R.S.A. §§ 3001 (municipal home rule) and 5603, Subsection 2A.
- C. Procedure for approval. The Treasurer may disburse money only on the authority of a warrant drawn for the purpose, either:
 - (1) Affirmatively voted and signed by a majority of the municipal officers at a duly called public meeting;
 - (2) Seen and signed by a majority of them acting individually and separately; or
 - (3) Signed as otherwise provided by law for the disbursement of employees' wages and benefits and payment of municipal education costs.

Our practice is to leave the AP and Payroll Warrants in the Selectmen's Office. Payroll requires a single signature, while the AP requires 3.

The question that has been raised is whether the process could be made digital, and accept email replies as a 'signature'.

I think the Board could define/interpret (2) above to include digital correspondence, absent any preclusion in Statutes.

I also think the Town could adopt an ordinance to allow fewer than a majority of the Board to sign AP, as they do Payroll.

What I don't know is whether there is any other provisions in Statute that would come into play (such as a definition of signature) or case law that would preclude such an approach.

Your help and advice is always welcome and appreciated.

Thanks

Rich

Richard Roedner

Board of Selectmen Meeting

For the date of: 03/07/2019

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: 19-09

(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 and any appropriate action to enter into Executive Session pursuant to 1 M.R.S.A § 405 (6) (A) to discuss a personnel matter.

Brief Description of Consent or Agenda Item:

Submitted by: David Douglass, Chair, Board of Selectmen **Date:** 02/27/2019