

Selectmen's Meeting Minutes
November 1, 2018
Harpswell Town Office
Approved November 15, 2018

At 5:00pm, Chairman Daniel moved, seconded by Selectman Chipman to enter executive session pursuant to 1 MRS § 6(e) Re: Pending Litigation on Two Land Use Matters; motion passed 3-0. [Attorney Tchao was present].

The Board recessed at 5:45pm.

Call to Order and Pledge of Allegiance: The meeting was called to order at 6:00 p.m.

Selectmen Present: Richard A. Daniel, Kevin E. Johnson and David I. Chipman

Staff Present: Kristi Eiane, Town Administrator; Terri Sawyer, Deputy Town Administrator; and Fred Cantu, Code Enforcement Officer

Others Present: Attorney Amy Tchao

1. Adoption of the Agenda: Chairman Daniel moved, seconded by Selectman Chipman to adopt the agenda as amended by moving item 6 to after public comment, removing item 7 (Land Use Violation Matter, Map 20, Lot 42, 21 Elden Point Road, Bailey Island) and replacing it with Consider Extension Relating to Disposal Fees for Stevens; motion passed 3-0.

2. Public Comment: Donna Frisoli explained how she schedules programs on Channel 14.

6. Land Use Violation Matter, Map 49, Lots 15 & 19, 250 Harpswell Islands Road: Amy Tchao, Town Attorney, stated the Town has been working on an enforcement matter with Harpswell Auto Sales & Service. The parties held a voluntary mediation session after the Board authorized the Town Attorney to proceed. The details of mediation cannot be discussed but Attorney Tchao provided a summary available in the Mediation Term Sheet (attached). Chairman Daniel stated the Board met earlier tonight in executive session to review the Mediation Term Sheet and he invited public comment. Katharine Chatterjee spoke against the terms laid out in the Mediation Term Sheet stating that unpermitted activities should not be allowed to continue. Ms. Chatterjee detailed multiple issues with both properties and the illegal activities that have been occurring, particularly on Lot 19, which she stated was never used commercially and therefore should not be grandfathered when considering the use by Harpswell Auto Sales. Additionally she states how unsafe the passage in and out of Long Reach Road is due to the visibility issues created by the cars at the site. Fred Cantu, Code Enforcement Officer, responded to some of the concerns and questions including the limit on the number of cars and if the site doesn't allow for that many in the winter then some will have to be removed. Ms. Chatterjee stated even if the Town accepts affidavits that lot 19 was used commercially, the Town's ordinances state that a non-conforming use cannot resume if the use had stopped for a year. Lot 19 is in the Resource Protection District and the use by Harpswell Auto Sales is not allowed. Mr. Cantu stated Ms. Chatterjee is correct in the ordinance reference but with the affidavits and other mediated discussions, it was determined a grandfathered use was not unreasonable. Selectman Chipman stated the Sheet addressed many environmental issues and should reduce the activity and he hopes that helps Ms. Chatterjee's concerns. Chairman Daniel asked Attorney Tchao if the Board has to act tonight. Attorney Tchao responded this Sheet was generated through voluntary mediation and comes with her's and Mr. Cantu's recommendations but does not need to be decided by the Board tonight. Chairman Daniel stated there are a few things he wants to check into prior to deciding. Selectman Johnson stated he was prepared to proceed with the recommendation. Selectman Chipman stated it's a difficult situation but he's not sure more information will help. Selectman Johnson moved to accept the Mediation Term Sheet. Chairman Daniel stated he needs to review a couple of things and he moved to enter into executive session pursuant to 1 MRS § 6(e); motion passed 3-0. The Board returned to open session at 7:11pm. Chairman Daniel stated he reviewed photos and affidavits that support that a business occurred on lot 19 since at least 2012. The Board voted in favor of the motion by 3-0.

3. Selectmen's Announcements: None.

4. Town Administrator's Report: Administrator Eiane reported there were 24 applicants to the Town's 2018 Property Tax Assistance Program and 21 qualified at an average benefit of \$368. It was noted some residents may qualify but are reluctant to file Maine income taxes and the Town's program requires an applicant to have received a Property Tax Fairness Credit through the income tax process.

5. Consent Agenda: 1) Engagement Letter for 2018 Audit; 2) Election Worker Appointment; 3) Road Names; 4) Authorization of the Warrants: Selectman Chipman moved, seconded by Selectman Johnson to approve the consent agenda [2018 Engagement Letter for 2018 audit; appointed Kristen Montana as an election ballot clerk for November 6; Luff Lane and Tack Lane road names; warrant #45 in the amount of \$138,317.47, warrant 45a in the amount of \$3,187.60, warrant #45b in the amount of \$25,203.79 and payroll warrant #43 in the amount of \$19,273.13]; motion passed 3-0.

7. Consider Extension Relating to Disposal Fees for Stevens: Selectman Chipman moved, seconded by Selectman Johnson to approve the extension. Chairman Daniel stated this extends the date of an existing arrangement regarding disposal of a mobile home to November 17. Motion passed 3-0.

8. Preston & Terry Dalglish Wharf Application, 32 Water cove Road, Bailey Island, Map 25, Lot 115: Joe Leblanc, owner's representative, reviewed the proposal for: a pressure treated wood 4'x8' access platform, 4'x8' access stairs, 6'x10' pier with a pier-end flip-up float storage frame, 3'x36' aluminum ramp, pressure treated wood 10'x16' float, plus a staggered pressure treated wood 150' +/- meandering access platforms and stairs system leading to the top of the property (as per approved plans and none to exceed four (4) feet wide). Mr. Leblanc stated the site is very steep which is why the platform and stair system is needed. Mr. Leblanc reviewed the recent interpretation from the Department of Environmental Protection (DEP) Shoreland Zoning Department that floats cannot be stored within 75-feet of the water in vegetated areas; this is why this proposal includes a flip up system for the float storage. Fred Cantu, Code Enforcement Officer, stated floats are not functionally water dependent and he will continue to look for wharf system proposals to conform to the DEP's recent interpretation. Chairman Daniel moved, seconded by Selectman Chipman to approve the application as the Harbormaster indicates it does not create a hazard to navigation and there is no injury to the rights of others relating to fishing, fowling and navigating; motion passed 3-0.

9. Communication to Federal Communications Commission Re: Franchise Fees: Administrator Eiane reported the Community Television Association of Maine has reached out to communities regarding a Federal Communications Commission (FCC) rule that could deprive communities of receiving franchise fees. Harpswell receives about \$80,000 in franchise fees which represents 5% of gross revenue for entertainment services. The rule suggests that in-kind services will reduce the franchise fee and the Town should go on record in opposition. Selectman Chipman suggested that Harpswell's congressional delegation also be contacted. He noted that internet is not included in the definition of entertainment services. Chairman Daniel noted in addition to the loss of revenue to municipalities, the roll out of small cell infrastructure is heading towards taking all control away from municipalities. The Board reached consensus to send a letter to the FCC Chairman.

10. Public Comment: None.

11. Other Business: None.

12. Administrative Matters: Administrator Eiane stated the Energy and Technology Committee recommended conducting a cell phone coverage report which has been received. She suggested the Board hold a workshop with the Committee on November 14 at 4:30; the Board agreed.

13. Adjournment: At 7:43 p.m. the Chair adjourned the meeting without objection.

Respectfully Submitted,

Terri-Lynn Sawyer
Deputy Town Administrator

Attachments: Mediation Term Sheet