

**Board of Selectmen**

Charles R. Cunningham -  
Chairman  
Steven Lewis – Vice Chairman  
Dale Harmon  
Kristina Ford  
Michael Tomacelli

**Town Manager**

Daniel Bryer Jr.



**Town of Boothbay  
Board of Selectmen Meeting  
Wednesday, May 9, 2018  
7:00 PM  
MINUTES**

**Present:** Steven Lewis, Dale Harmon, Michael Tomacelli, Chuck Cunningham, Kristina Ford, Town Manager Dan Bryer, Town's Attorney Sally Daggett and Secretary Sherry Tibbetts

**Pledge of Allegiance:**

Kristina Ford congratulated both Dale Harmon and Steve Lewis on being reelected to the board.

**Public Hearing:**

**PGC2, LLC, dba Boothbay Harbor Country Club Wellness Center** – Map R07/lot 002-B located at 40 Birch Lane, Boothbay, Maine for a new (first-time) Liquor License for the Fitness Center on the Golf Course Property. Dan Bryer reported that the taxes on the property have been paid and there are no Notice of Violations. Steve Lewis made a motion to approve this application as presented and Dale Harmon seconded the motion. Vote: 5-0 in favor.

**Edwin & Lori Mitchell, dba Boothbay Resort** – Map R04/lot 165 located at 301 Adams Pond Road, Boothbay, Maine for renewal of an Innkeeper's License. Dan Bryer reported that the taxes on the property have been paid and there are no Notice of Violations. Dale Harmon made a motion to approve this application as presented and Mike Tomacelli seconded the motion. Vote: 5-0 in favor.

**Boothbay Craft Brewery, Inc. applicants Edwin & Lori Mitchell** – Map R06/lot 009 located at 301 Adams Pond Road, Boothbay, Maine for renewal of a seasonal Special Amusement Permit. Dan Bryer reported that the taxes on the property have been paid and there are no Notice of Violations. Dale Harmon made a motion to approve this application as presented and Steve Lewis seconded the motion. Vote: 5-0 in favor.

**Coastal Maine Botanical Gardens** - Map R04/lot 109 located at 132 Botanical Gardens Drive, Boothbay, Maine for renewal of a seasonal Special Amusement Permit. There are notice of violations on the property and this is a standard renewal. Dale Harmon made a motion to approve this application as presented and Mike Tomacelli seconded the motion. Vote: 5-0 in favor.

**AM Firpo Enterprises, LLC dba Smuggler's Cove Inn / 1820 House** –Map U06/lot11 located at 727 Ocean Point Road, East Boothbay, Maine for renewal of a Restaurant Liquor (Class I, II, III, IV) license, and Innkeepers License and a Special Amusement permit. Dan Bryer reported that the taxes on the property have been paid and there are no Notice of Violations. Kristine Ford made a motion to approve this application as presented and Dale Harmon seconded the motion. Vote: 5-0 in favor.

**Public Comment:**

**Jean Reese-Gibson** asked about the playground equipment, she had expected to see it under old business and it is not on the agenda. Dan Bryer said he is working on it. The Public Works is currently checking with two companies about the cost to fix the small things, a temporary fix until the whole thing

can be replaced/repaired. Kristina Ford suggested this topic be included in the reports section until there is a solution.

**John Ziegler** spoke on behalf of the Boothbay Region Water District's Board. He talked about a recent report that in part said there was no evidence of SOC contamination in Adams Pond and Knickerbocker Lake. This was great news since there was concern after learning of herbicide spraying by the MDOT on Rt. 27 last year. Mr. Ziegler thanked the CEO Jason Lorrain for brokering a deal with MDOT to not spray in that area and an agreement was signed last week not to spray herbicides in that area. This would not have been possible without Jason Lorraine and the Water District Board wanted to thank him for his great work.

**Nell Tharpe** said she was the prior co-chair of the Comprehensive Plan Committee and there had been talk of creating a two person ad-hoc committee to follow up and make sure the plan was being followed but nothing has been done to that effect.

**John Pottle** said he was present to discuss topic #7 on the agenda and asked if he could discuss it now and the Selectmen said they would like to discuss it when it appeared on the agenda.

#### **Approve Minutes:**

Steve Lewis made a motion to approve the minutes of April 25<sup>th</sup> 2018 and Dale Harmon seconded the motion. Vote: 5-0 in favor.

#### **Reports:**

Dan Bryer reported the following:

Code Enforcement has several various permits pending, there are no new permits for the Planning Board and there is one permit for the Board of Appeals.

The Public Works is busy doing spring clean-up, sweeping, repairing picnic tables, etc.

The Business Office just sent out 30 day notices for late taxes. Payment plans were worked out with two citizens and the taxes have now been paid.

The Town will now be posting a construction schedule for the Rt. 27 corridor project and it will be posted to the website upon completion. Dan said he is just looking at two formats and wants to make sure the most user friendly one is the one on the website. Kristina Ford said the sign warning of road work should be moved up by the Hardwick Road.

The Federal court had approved the consent decree between the Town of Boothbay and Coastal Maine Botanical Gardens, however we are still awaiting dismissal at the State level.

The Landscape Committee is working to try to get a schedule for the upcoming work along Rt. 27. This should start tomorrow and there will be a two year agreement with the Landscaper (Farley) to guarantee the plants for two years.

I met with the Lincoln County Sherriff's representative and we have come up with a tentative plan for placement and access to the office. 15 keys need to be made for the Sherriff's office. It has been determined they do not need a solitary line and the internet access has been worked out. Steve Lewis said he wants to make sure they keys are returned as personnel in the Sherriff's office changes. There is not a definite time for when the Sherriff's will start coming and going from the office.

The Umaine Aqua Ventus project (wind turbine) is still in the process of conducting core samples. Chuck Cunningham said he would like to see someone form the project at a Selectmen's meeting in the near future to say why this is taking so long.

I've met with MDOT regarding the park and ride grant and we are formulating a plan and a tentative time line while working with public works and the Water District.

The sidewalk project from the BBH YMCA to Clifford Park is slated for Spring of 2019. Kristina Ford asked if that was a start or finish date and Dan reported it was a start date.

**Old Business:** None

**New Business:**

**Maine DOT** - Rob Betts and Dave Allen from the Maine DOT were present to discuss the pending Barbers Island Bridge project. The DOT would like to post the bridge for 20 ton. They plan on advertising in July and hope to have a temporary bridge in place within a year. The finish date for the completion of a new bridge would be September 2020. Dan Bryer said he has reached out to the Fire Department, School Busses, etc. to see what this would mean to them. The Selectmen discussed that this would be a burden for contractors, oil trucks, etc. but Mr. Betts said there really is nothing else they can do, the main span is rusted through and there is nothing left to weld anything to. The State is very concerned about safety and is moving this project through as fast as they can. The Selectmen are not favoring a 20 ton limit but are in favor of safety and that has to be the priority.

**Consent Agreement** – Authorizing the CEO to execute a consent agreement on behalf of the Town with Peter and Kathryn Wagner relating to the land use violation on Sawyers Island Road, tax map R4 lot 78 and authoring any further action necessary and appropriate related to resolving the violation.

Attorney Sally Dagget briefly walked everyone through what has happened to date, in December 2017 the CEO issued a NOV to the Wagner's (property owners) and the Molinelii's (violators). The Wagner's have worked with the Town on a plan of action and the Molinelii's did not meet the March 16<sup>th</sup> deadline. The CEO and the Town's attorney have drawn up a consent agreement which needs the approval of the Selectmen and the Selectmen need to set the fine that will be imposed. The fine will be suspended and if the work is completed and the November 1<sup>st</sup> deadline for implementation of the plan is met the fine will not have to be paid.

John Pottle representing Gene Molinelii asked the board to table this item for two weeks. He said there is a history that goes back several years and this consent agreement now will leave the way open for future conflict and he wants to resolve the issue between the properties first. Both Mr. Pottle and Mr. Molinelii talked about Steve Pelletier, the forester engaged by the Molinelii's and about grandfathered land and that they did nothing wrong. They did submit a plan today to the Town, they did not realize they had to meet the March 16<sup>th</sup> deadline.

Mr. Wagner said he is following the lead of the Town and the DEP. His property was damaged and he just wants the property fixed and he is willing to sign the consent agreement that is before the Selectmen tonight.

Kristina Ford questioned what was to be gained by waiting two weeks, the rules dictate tree cutting.

Gene Molinelii said there is factual controversy, his deed gives him a view easement of the Sheepscott River, and he says that the environmental regulations for this property are grandfathered. Mr. Molinelii said he did not need a permit for most of the cutting that was done and that he received an email from Art Dunlap saying that this was a good faith cut that was grandfathered. Mr. Molinelii said if the Wagner's had kept the vegetation cut then he would not have had to do anything but they failed to live up to the view easement.

Steve Lewis asked if they had anything in writing to show that the Town agreed to this cutting. Mr. Lewis also said the Molinelii's had seven months and only put in a plan today and that is unacceptable. This issue needs to be resolved, there is no reason to put it off.

Chuck Cunningham said he felt like the Molinelii's had enough time to get their stuff together. The Wagner's have already said they agree to the consent agreement tonight. If there is a violation of a view easement that is a civil matter and has nothing to do with the Town.

Kristina Ford asked what the Molinelii's hope to accomplish in the next two weeks and Mr. Pottle said they would get input from MDOT and would work with the Wagner's. Mr. Pottle also went into some more history of the land and previous cuts.

Mike Tomacelli asked when the last time this property was cut? The Molinelii's said it was the landowner's obligation to cut on this land.

Kristina Ford asked about grandfathered cutting, she said she had not heard of that before.

Sally Dagget explained that there is some language in the ordinance but there is a dispute on what this is, it is inconsistent. Art Dunlap felt this cut was in violation and Jason Lorrain felt it was in violation that is why a NOV was given.

Steve Lewis made a motion to authorize the CEO to execute a consent agreement on behalf of the Town with Peter and Kathryn Wagner relating to the land use violation on Sawyers Island Road, tax map R4/ lot 78 and authoring further action necessary and appropriate related to resolving the violation and for the fine to be set at \$1,000. Kristina Ford seconded the motion. During the discussion Mr. Wagner again said he and his wife agree with the consent agreement. Vote: 5-0 in favor.

**Public Comment: None**

**Review Warrants and sign:** Dale Harmon made a motion to review the warrants and sign them and Mike Tomacelli seconded the motion. Vote: 5-0 in favor.

**Adjourn meeting:** At 8:25PM Dale Harmon made a motion to adjourn the meeting and Kristina Ford seconded the motion. Vote: 5-0 in favor.