

Submitted by: TOWN OF PHIPPSBURG Approved by Selectmen:
SELECTMEN'S MEETING
John M. Young MINUTES
Administrator July 2, 2008

Meeting convened at 6:00 p.m. with Selectmen Pye, Douglass and Perkins in attendance.

I. Review and Sign:

1. Accounts payable and payroll warrants.
2. Meeting minutes.
3. Holding tank request.
4. Revaluation contract.
5. Reappointments.

All items reviewed and signed. Selectmen voted 3-0 to re-appoint all officials who had terms that expired in July.

II. Meetings and Hearings:

1. Meet with Nancy Sferra, The Nature Conservancy (TNC), to discuss:
 - (A) Transfer of approximately 60 acres of land to the Town.

Ms. Sferra, TNC, reported that she got clarification from the donor's attorney that the 60 acres was to be a contiguous piece in the vicinity of the school with no restrictions on its use. The shape of the land can be configured to include road frontage or access easements can be granted.

Peter Roberts, Chair of the Town Landing Committee, stated that his committee was looking at two pieces of property they would like to have for water access, Denny Reed Point, York's Woods, and Hatch Landing. The "Green Piece" may be important but the Town should be looking at the waterfront. Denny Reed Point is one spot in the Basin where you could have a boat launch. It was his original understanding that the property did not have to be contiguous and could be along the shore. He questioned the definition of "vicinity of the school".

Ms. Sferra replied that she was in error at a prior meeting concerning the donor's intent and has since consulted the donor's attorney for clarification. She added that TNC would be willing to take the Town's interest into consideration and place some public access easements on specific property that the Town is interested in. TNC could also build in a management agreement with the Town if they wanted to have oversight of a boat launch. However, road access to Denny Reed Point was not the donor's intent. She further stated that she had correspondence from the donor concerning his intent and will forward a copy to the Town. Mr. Roberts requested that the Selectmen send a copy of the donor's intentions to the Town Attorney for review and get his opinion if the Town is indeed restricted to the one contiguous parcel.

Selectman Perkins asked if Ms. Sferra would be willing to organize a

walk over the properties available to the Town. Ms. Sferra replied that she would be free to do so after the middle of August.

Gary Small asked if conservation easements would be placed on the entire Basin or if sections could be sold. Ms. Sferra replied that some properties are donated to TNC which do not have any conservation significance. These properties can be sold or used in the "trade process" (see item #5 from Selectmen's meeting minutes of October 3, 2007). This is a decision made by the donor – not TNC. However, this is not the case with the Basin and a conservation easement will be placed on the entire parcel.

Gary Small said that he would be concerned about accepting the "Green Piece" because of lead contamination from it being used for target practice. Ms. Sferra agreed that there was a lot of lead in that area and stated that TNC could configure the 60 acres by cutting out the "Green Piece."

Selectman Douglass stated that he did not want TNC to think that the Town was not grateful for the proposed gift of 60 acres. He added that the donor's intent was probably moot at this point because the property now belongs to TNC. It is evident that a boat launch at Denny Reed Point is not feasible because you can't build a road to it. He also added that if the Town ended up with the "Green Piece" it might not be patrolled and cleaned up the way TNC would like to see it. Also, since the Town no longer owns the school the donated property will probably never be used to build a new one because if it got to that point the RSU would probably just close the school and bus students elsewhere. He would like the committees (Town Landing and Town Lands Management) to meet and come back to the Selectmen with recommendations, including TNC mapping out what the 60 acre parcel will look like.

Peter Roberts asked if TNC could also map out a comparable 60 acre plot which would include York's Woods, Denny Reed Point and Hatch Landing. Ms. Sferra restated that the TNC will not chunk out these areas.

Anna Varian stated that her understanding now is that the intent was for a 60 acre parcel and not smaller sections that equaled 60 acres. Ms. Sferra replied that she was correct; however TNC could build in rights of access through easements. Ms. Varian added that her committee (Town Lands Management) had discussed the property in fragments and not one 60 acre contiguous parcel.

Doug Alexander recommended that the Chairs of both Committees meet.

Gary Small stated that since TNC has owned the Basin property access that people used to have has been denied (such as ATV usage). Ms. Sferra replied that some areas used by ATVs were not really developed trails and caused erosion into streams. These areas were closed but there are other trails with insignificant resource impact which

are open for travel. She added that TNC has not received any requests for trapping this year. She added that the Town needs to decide what section of property it wants prior to conservation easements being placed on the Basin Preserve because they will not be able to section it off after that. This will occur in two years because they want to use the value of the property for match opportunities over the next two years.

Selectman Douglass asked the committees to come back with recommendations on which piece of land, within TNC constraints, is in the best interest of the Town and any other sections that would make good landings which the Town could request easements or management rights to. The Town Administrator will arrange a meeting between the committees (Ms. Varian prefers early in the day and Mr. Roberts prefers evenings after 7 p.m.) and Ms. Sferra replied that she would be willing to meet once with each committee if necessary. Bob Cummings asked that the third Thursday of August be avoided. A copy of the donor's intent correspondence, once received, will be sent to the Town's attorney for review

- (B) Transfer of TNC sections of Basin Road to the Town.

Nancy Sferra stated that TNC would transfer the section of the Basin Road that they own and the Town uses anytime. She questioned whether the road would need to be surveyed or whether the boundaries mapped by a survey grade GPS would suffice. Bob Cummings replied that he thought a survey had been completed before and Lee Rainey mentioned a 1965 Warrant article. Selectman Pye mentioned having the road acceptance warrant article at the next town meeting which may occur in October. Administrator Young will research the survey issue.

- (C) Culvert replacements (grants).

Nancy Sferra reported that they had a severe culvert washout on one of their roads in the Basin from last year's Patriots Day storm. They can get a grant to replace 5 culverts in the Basin, including 2 on the Town's section of the Basin Road. It would require a cost match from the town (25%). She added that some of the culverts are rusted out or not long enough. They would have to meet the NCRS standards. The cost to the Town would be between \$15,000 and \$20,000 and TNC has discussed helping on the Town's cost share. The next step would be an on site meeting. Selectman Pye replied that the Town is definitely interested and Administrator Young will contact the Road Committee and have Ms. Sferra attend the next meeting to discuss the proposal.

- (D) DEP water quality classification upgrade of the Basin.

Nancy Sferra explained that DEP classifies streams and marine waters on a scale of "AA" to "SC". The higher the grade the more restrictive on discharges into the waters. Currently the Basin is graded at "SB" and they would like it upgraded to "SA". The "Friends of the Basin" asked TNC if they could request an upgrade of classification to further protect the Basin. This request was forwarded to DEP and they are currently in the public hearing process now. Once the hearings are

completed the request will be forwarded to the state legislature for action. She added that this upgrade probably would not change any use of the Basin because there are no buildings on the surrounding property owned by TNC. Anyone who wants a copy of the reclassification submission can contact TNC and any comments should be forwarded to DEP. She added that this upgrade in classification may help in obtaining funding for a boat sewage pump out station. Selectman Pye mentioned there was a pump out station at Sebasco Resort and Doug Alexander mentioned that there was also one at New Meadows Marina. Peter Roberts recommended Denny Reed Point as a possible location for a station.

(E) Other issues.

Nancy Sferra reported that they have a $\frac{3}{4}$ time seasonal employee, Mr. Hopkins, on site in the Basin. The dumping of trash has declined. TNC is currently cutting a trail which joins the one going to Denny Reed Point. TNC has also been working with high school volunteers.

2. Meet with Kai Jacob to discuss status of consensual agreement for his violation of the Shoreland Zoning Ordinance (removal of trees).

(A) Late payment of fine.

No discussion held.

(B) No replanting within time allowed.

Kai stated that he is not trying to avoid his agreement. He had intended to piggy back with someone else's tree order but due to financial and personal issues, not his doing, the order fell through. He had borrowed a tractor to try and prepare the area for planting trees and he got it stuck so the owner will not loan it to him again. He went to Skillins Greenhouse for trees and there was nothing cheaper then \$90.00 per tree and he is broke.

Selectman Douglass asked Mr. Jacob if he had planted any trees and Mr. Jacob replied that he planted 14 trees out front but none in the required area because it would be counterproductive this time of year.

Selectman Douglass asked when Mr. Jacob would have the required 12 trees planted. Selectman Pye added that if the Selectman decided on an extension of time and Mr. Jacob does not comply with the date the Town will be waiting another year to go through this process again.

Selectman Perkins asked how large the trees were that he was going to plant. Mr. Jacob replied that they would be a 3 gallon pot size. Lee Rainey, CEO, stated that a 3 gallon pot size would be a tree approximately 3 to 6 feet tall. Selectman Perkins asked Mr. Jacob why he couldn't just get a spade, dig a hole, and put them in and Mr. Jacob replied that he went into the woods and tried to dig some up but he didn't think they would survive because of the root system. Selectman Perkins stated that Mr. Jacob had planted trees in other areas rather than the required areas and asked how the Town was guaranteed that he would plant in the required area if given an extension. He asked if Mr. Jacob could have the trees in and planted by October of this year.

Mr. Jacob stated that he felt victimized by the town. Selectman

Douglass replied that Mr. Jacob had violated the Shoreland Zoning Ordinance and this was not the first time. He had signed a consensual agreement for a payment of a small fine and replanting and the Selectmen are trying to work with him. Mr. Jacob replied that they (Selectmen) had no idea what they were talking about and as soon as the draught was over he would plant he trees.

Selectman Perkins stated that he would be willing to grant an extension until October for planting of the 12 trees. Mr. Jacob asked where he should get the trees and asked Selectman Douglass to be constraint with his allegations. Selectman Pye replied that it was not the Selectmen's responsibility to show him where to get trees. Mr. Jacob stated that the Selectmen where shooting him in the foot again because he is unemployed, just topped off his heating fuel at the cost of \$600.00, and is spending more money then he is taking in. He added that this is a very personal thing to him and Selectman Douglass replied that Mr. Jacob was the one making it personal.

Selectman Pye stated that he didn't think Mr. Jacob would comply by October and Selectmen Douglass agreed. Mr. Jacob replied that he would plant the trees by October. Selectman Douglass made a motion, which was seconded by Selectman Perkins, to grant Mr. Jacob an extension on replanting 12 trees until November 30, 2008. Selectman voted (2-1, Selectman Pye opposed) to pass the motion.

3. Meet with Peter Roberts for an update on Town Landing and Center Pond projects.

(A) Alliquippa Landing

Mr. Roberts reported that Gary Small has been doing some trimming at the Alliquippa Landing. There was some rope and miscellaneous other stuff left at the landing over the years which will be taken to the Transfer Station by Mr. Small's son. Four crab traps owed by Mr. Gilliam have been removed. They have submitted a DEP "Permit by Rule" application to install 2 slabs and a ramp as well as completing some shoreline stabilization where the cove is eating into the land.

(B) Center Pond Alewife Fishway

The Selectmen voted (3-0) to accept a \$7,578.00 grant to modify the Center Pond fishway chute. The Town's share for the modifications will be \$3,000.00. Mr. Roberts sent a thank you/acceptance letter to Maritime Northeast and CWRD on June 27th.

(C) Meadowbrook Landing

Mr. Roberts reported that there are several options for rerouting the utility wires at Meadowbrook Landing to allow sailboats to launch without having unstep their masts: (1) do nothing, which would be a shame since the Town has invested \$100,000 into the landing; (2) install the utility wires underground, which would require digging up the asphalt, pouring concrete and obtaining an easement for one pole anchor (this would be an expensive option); or (3) installing a pole at the top of the hill - the property has been surveyed and the Town may have the

right of way for the pole but the anchor would be on private property which would probably need to be taken by eminent domain.

He further explained that the neighbors tried getting permission from the property owner to install a pole but couldn't get easements. Mr. Roberts added that he has meet with Chris Sturgeon and if option 2 was chosen it would require two poles next to the ramp which would need to be guyed off.

Mr. Roberts would like to get a feeling from the Selectman which way they would like to go. Selectman Douglass reminded the Board about the negative reaction the Townspeople had concerning the taking of property by eminent domain in the past. Richard Murphy discussed some history concerning actions by property owners in trying to reroute the utility runs.

The Selectmen asked Mr. Roberts to get an estimated cost on option # 2 and the Town Administrator will send a letter to the property owner that would be affected by option #3 to see if he may be willing to grant an easement without the Town having to go through the eminent domain process.

4. Meet with the Code Enforcement Officer, Lee Rainey, concerning refusal of access to property owned by Gil and Joyce Marco.

Mr. Rainey reported that he had issued a plumbing permit to Gil Marco in April to replace a failing septic system on his property in Winnegance and a contractor was supposed to begin work by the end of July. Selectman Douglass and Health Officer Sue Jones had received several complaints recently about the system failing completely and sewage possibly running into the lake. Mr. Rainey went to the property to investigate the reports and possibly require that Mr. Marco pump his septic tank and Mr. Marco refused him entry. This was also confirmed in a conversation between Administrator Young and Mr. Marco. Administrator Young also obtained a legal brief from the Town Attorney stating that Mr. Marco was required by state law to allow Mr. Rainey onto the property. Two options exist to gain entrance to the property – either send a copy of the Attorneys opinion to Mr. Marco or obtain a court order. Selectmen voted (3-0) to have Mr. Rainey obtain a court order.

III. Unfinished Business

1. Selection of representative to the MMA Legislative Policy Committee.

There were three candidates for the two open positions. Pam Hile (West Bath Administrator), Bill Giroux (Bath City Manager), and Alan Douglass (Phippsburg Selectman). Selectman Pye and Perkins decided to vote for Administrator Hile and Selectman Douglass to fill the positions because they are from smaller communities.

2. Selection of a nominee to the MMA Executive Committee

No one was selected.

3. Discuss requiring construction vehicles used for the Parker Head Corner Rebuild to travel Popham Road vs. going through the village.

An email request had been received from a resident of Parker Head requesting that the trucks used in the Parker Head Rebuild travel Route 209 (Popham Rd) to Parker Head rather than going through the village due to noise and safety. Administrator Young had contacted Rob Prue from Pine Tree Engineering who stated that the cost would be insignificant and agreed that it would be a safer route to use whenever possible. Selectman Douglass stated that he had been concerned about adding cost to the project but based on the conversation with Mr. Prue he would be willing to support adding this as a contract specification. Adding the specification was approved by the Selectmen.

IV. New Business

1. Discuss public access to Old Ferry Road Landing and the "No Trespassing" signs someone installed within the town's right of way.

Administrator Young reported that someone had posted "No Trespassing" signs in the Town's right of way to Old Ferry Landing which is a popular fishing site. He added that it could not be used to launch boats and provided a survey which showed a 52+ foot right of way to the shore. He recommended that a letter be sent to the abutters stating that signs are not to be placed within the Town's right-of-way and the current signs will be removed by the Town in one week if they are still there.

Peter Roberts added that it was historically the oldest "landing" (steamship) in Town but cannot be used to launch boats.

Bob Cummings stated that in the early 1970's the Town received a Ford Foundation grant to research the town landings in Phippsburg and create a Land Trust. They found that the Town voted to lay out a four rod road (64 feet) to the landing in the 1800's. There were two sources of title – a deed and the town meeting vote.

There was a discussion as to whether the "landing" should fall under the jurisdiction of the Town Landing Committee whose ordinance would restrict the use of the landing to Residents, Taxpayers and their guests or the Town Lands Management Committee whose ordinance does not have any user restrictions. Doug Alexander stated that there has not been any competition between residents and non residents using the landing and does not see any problem with leaving it as is. It was decided to take no action at this time – therefore there will be no restriction on users.

Peter Roberts stated that the problem with the landing is that the right of way is overgrown and has limited parking. A person can walk down to the shore but has no place to park. He recommended that the Code Enforcement Officer and a forester get together and determine what trimming could be done. He recommended that the Town Landing and Town Lands Management Committees discuss who should have oversight of the landing and that the final decision should be made at Town Meeting. Gary Small stated that he and others would volunteer their time to trim out the area.

The Selectmen directed that the Police Chief have the "No Trespassing" signs taken down immediately and that the surrounding property owners be

notified that such signs are not to be posted in the Towns right-of-way. The two committees are to discuss who should have oversight and come back to the Selectmen with a recommendation. Lee Rainey will work with Gary Small to decide what can be trimmed within the Town's right-of-way.

2. Discuss designation of "Hatch Point" (Town Landing or Town Lands)

Administrator Young explained that a formal decision had not been made as to whether Hatch Point was a landing and would fall under the jurisdiction of the Town Landing Committee or just Town property which would fall under the Town Lands Management Committee. The difference would be allowed access (see the Old Ferry Landing discussion above). It was decided that the Town Lands Management Committee would continue to oversee Hatch Point since it has informally had responsibility since the property was donated and the Committee's involvement had been implicated at a Town Meeting when the property was accepted.

Gary Small mentioned that a lot of work had been done at Hatch Point including the installation of some rip-rap for erosion protection, seeding, and ramp work (all had proper permits). It was accomplished by volunteers and donated materials. Selectman Perkins stated that the area looks good.

Anna Varian stated that there was a motor home parked on the property like it was going to be staying overnight and the Town should not encourage that type of use. It was determined that overnight camping was not allowed under the Town Lands Management Ordinance and the owners of the motor home would be asked to leave.

3. Review and sign the easement which the Town approved for Joyce and George Williams.

At the March 18, 1994 Town Meeting the voters authorized the Selectmen to grant a right-of-way over the Town's property on Sam Day Hill Road to Joyce and George Williams so they could access their property. However, there is no evidence that an easement deed was ever completed. Based on the prior town meeting authorization the current Selectmen signed an easement drafted by the Town Attorney.

4. Review retirement letter from Betty Herron, Town Clerk, effective July 1, 2008.
 - (A) Appoint Gloria Barnes as the Town Clerk

The Selectmen read the retirement letter from Betty Herron that was submitted due to health reasons. It was accepted with regrets. Selectman Perkins thanked Ms. Herron for her many years of service (33+) and wished her well in retirement. Selectmen Pye added that she had done an excellent job over the years and she would be missed. The Selectmen voted (3-0) to appoint Gloria Barnes (currently the Deputy Town Clerk) to finish Ms. Herron's three year term (two years left on term).

- (B) Appoint Lisa Wallace and Mike Young as Deputy Town Clerks.

Selectmen voted (3-0) to re-appoint Mike Young and Lisa Wallace as Deputy Town Clerks.

5. Review and sign deeds to transfer the school property (real and personal) to Regional School Unit #1 (ball field is not included).

Reviewed and signed by the Selectmen.

6. Accept a \$500.00 donation to the Goodwill Account from Peggy and Warren Doughty.

Selectman voted (3-0) to accept the donation.

7. Consider the following appointments:
 - (A) Richard Wenzel to the Historic Preservation Commission (2 year term).
 - (B) Jason Marco to the Town Lands Management Committee (3 year term).
 - (C) Tiffany Merrill to the Recreation Commission (2 year term).

Selectmen voted (3-0) to appoint all the above.

8. Transfer Station report.

Selectmen reviewed the Monthly report.

V. Selectmen/Administrator Comments and Announcements

1. Administrator Mike Young

Administrator Young announced upcoming meeting and events.

2. Selectman Pye

Selectman Pye thanked Selectman Perkins for setting up and starting the video taping of the meeting.

VI. Adjournment - Selectmen voted (3-0) to adjourn at 8:05 p.m.