

Submitted by:

TOWN OF PHIPPSBURG
SELECTMEN'S MEETING

Approved by Selectmen:

John M. Young
Administrator

MINUTES
April 08, 2009

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

I. Review and Sign:

1. Accounts payable and payroll warrants.
2. Liquor permit for "The Lobster House".
3. Silver Star Banner Day Proclamation.
4. Appointment certificate for David Gray (Shellfish Conservation Commission).

Selectmen voted (3-0) to approve and sign the above items.

II. Meetings and Hearings:

1. Meet with Richard Lemont, Chairman of the Shellfish Committee, to discuss having a revolving shellfish conservation closure between flats west of Cape Small and east of Cape Small (New Meadows and Kennebec). This was tabled from last week.

The meeting was held with Richard Lemont, Steve Goodenow, John Libby, Dean Doyle Jr. and several other interested harvesters. Mr. Lemont explained that the revolving closure, which was proposed by Mr. Doyle, was discussed at the last Shellfish meeting. The closure would shut down the New Meadows side (except The Branch and North Creek) during March when the Kennebec can be harvested. He added that the Kennebec River will be closed more often now because of the new DMR management plan and use of a flow meter. The Committee had voted (2-1) for the revolving closure and Mr. Lemont added that he had voted against it. There were 20 people at the Shellfish Conservation Commission meeting and only one person was opposed to the revolving closure and the rest had no comments.

Selectman Pye stated that it would be hard to institute the revolving closure without a full assessment by the harvesters. Mr. Lemont recommended a secret ballot vote from the harvesters at the next meeting and Selectman Pye thought that was a good idea.

Selectmen choose to table a decision on the revolving closure until after the April 23rd Shellfish Conservation Commission meeting.

2. Meet with Jim Totman, Fire Chief, to discuss purchase of a new ambulance.

Chief Totman and Noreen Alexander were present. Chief Totman mentioned that the Rescue Association had voted to request appointment of Ms. Alexander as the new Rescue Chief to replace Sue Jones who would be resigning in July. He commended Ms. Jones on her performance as Rescue Chief and added that they would miss her.

Chief Totman explained that he had not planned to replace any of the

town owned ambulances but Sugarloaf Ambulance, who services the ambulances, had a 2008 diesel demo with 1,600 miles they were willing to sell. At the last ambulance meeting, which most members attended, it was recommended that this 2008 ambulance be purchased to replace the 1999 ambulance. This decision was based on the following factors: (1) Ford was not going to manufacture any more ambulances with diesel engines; (2) The 2008 ambulance has side windows so the attendants will not have a tendency towards car sickness as they do in the 1999 ambulance which has no side windows; (3) The 1999 ambulance is larger than the 1996 ambulance and is harder to get into the smaller roads; (4) The town would get more money from selling the 1999 ambulance than the 1996 ambulance; (5) The 2008 ambulance has more features which would be of help to the attendants; (6) The Rescue Department has found the P & L model ambulance to be very dependable; and (7) There was a \$5,200 rebate available from Ford. Chief Totman added that the equipment was interchangeable between the two ambulances and that Sugarloaf would be including \$8,000 in free equipment that he would not ordinarily order on an ambulance.

Chief Totman stated that the cost of the 2008 ambulance would be approximately \$150,000 of which the Rescue Association would pay \$40,000 and \$81,000 would be taken from the Fire and Rescue Capital (account balance was estimated at \$162,000). The 1999 ambulance would be sold on EBAY with the proceeds paying for the balance of the 2008 ambulance.

Chief Totman requested permission to negotiate with Sugarloaf Ambulance on behalf of the Town and to sell the 1999 ambulance on EBAY.

The Selectmen agreed that the proposition sounded good. Selectman Perkins asked what the condition of the 1999 ambulance was and Chief Totman replied that it was in good shape and he expected to sell it for between \$15,000 and \$20,000. He added that he would state a minimum bid when advertising it on EBAY.

The Selectmen gave Chief Totman permission to negotiate with Sugarloaf Ambulance for the 2008 ambulance purchase and to advertise the 1999 town ambulance on EBAY.

3. Meet with Peter Roberts, Chairman of the Town Landing Committee, to discuss the Aliquippa Town Landing stabilization and float installation.

This meeting was held with Mr. Roberts, Lee Rainey (Code Enforcement Officer), Marie Varian (Chair of the Planning Board), Clifford Newell (Planning Board) and Gary Small (Town Landing Committee). The discussion evolved around Mr. Roberts wanting to exceed a one to one slope at the Aliquippa landing and fill in the area behind the slope. He had submitted several drawings to the Planning Board which were not submitted to the DEP because they were not ready at that time.

Selectman Douglass read an e-mail from DEP stating that the "Permit by Rule" obtained by Mr. Roberts would allow stabilization of the shore, but what was asked for in the two drawings, which were faxed up to DEP by the CEO, were more than allowed and would require a full "Tier 1 Permit".

Mr. Roberts stated that the Town could have done this construction without going to DEP for a full permit and has now "shot itself in the foot".

Selectman Douglass informed Mr. Roberts that he could stabilize at a one to one slope, but if he needed more he would have to get a full "Tier 1 Permit".

Mr. Roberts stated that he resents any implication that he or the Town Landing Committee did anything illegal or otherwise.

Ms. Varian stated that when Mr. Roberts came in to get the Planning Board permit for the Aliquippa landing he presented a copy of the "Permit by Rule" from DEP and showed them two drawings of the project which they assumed had been submitted to DEP with the application and approved. During the Planning Board site walk it became evident that Mr. Roberts intended on exceeding the 20% limitation on lot coverage and it appeared that Mr. Roberts was trying to reclaim land that no longer existed. She added that the property was grandfathered - but cannot be made more non-conforming. She clarified that Mr. Roberts could do what he wants as long as he obtains a "Tier 1 Permit" from DEP because he is exceeding the scope of the "Permit by Rule". Her opinion was that the plan, as per Mr. Roberts drawing, was more then what DEP thought they were giving the "Permit by Rule" for. Also, considering the amount of fill he wants to use he needs to get a permit from the Planning Board because it will be over 10 yards (the contractors bidding on the job estimated between 100 to 120 yards).

Mr. Roberts denied trying to create any extra parking by wanting to exceed the 1 to 1 slope and backfilling and he maintained that he said nothing to mislead the Planning Board. The two drawings he submitted to the Planning Board were just not completed until the Tuesday before the Planning Board meeting.

The Selectmen emphasized that the Town has to follow its own ordinances and DEP regulations and that the last thing it needed was a fine from DEP and then have all its projects come under scrutiny.

Mr. Roberts stated that even though he was involved in drafting the 1993 Shoreland Zoning Ordinance - section 15 has been inappropriately cited and is detrimental to the Town. It was never meant to apply to the Town's landings. He added that this section deals with structures and in his opinion it does not apply to slabs. He added that this section was not brought up when the Town Hall was moved, Fire Garage built, or Meadowbrook Landing constructed. Yet it was brought up with Aliquippa landing which blindsided him. He added that the ordinance is detrimental to just about every landing and he is hoping that the State Legislature can get to the bottom of this DEP requirement. Even with a 70% allowance he could not do what he wants with the Aliquippa Landing.

Ms. Varian replied that although the 20% coverage was brought up, that is not what is stopping the project. The question is whether DEP will allow the vegetated land to be dug up and graveled. It is a given that the landing is already at 20%, but when you take up the vegetation it will make it more

nonconforming. However, an option would be to plant grass to bring it back to 20%. She added that there is no problem with the cement slabs on the outside of the rock out-cropping and there is no issue with the 20% - you can work on the land and then replant vegetation. In accordance with the "Permit by Rule" you can come to the edge and stabilize underneath it. However, what you can't do is come past the edge and then level it off.

Mr. Newell said that the original drawings sent in with the "Permit by Rule" application were different than the ones the CEO obtained and sent later to John Mclean at the DEP. The later ones seem to reclaim land that no longer exists.

Mr. Rainey stated that the DEP had actually been lenient with the "Permit by Rule" by allowing a 45 degree slope vs. the 1 to 1. However, what Mr. Roberts proposed to the Planning Board and what was observed on the site walk went well beyond that.

Mr. Roberts argued that the key element and benchmark was the toe wall (indicated by two flagged stakes). That is what John McLean from DEP said would be the starting point for the 1 to 1 slope using geo textile, rip rap, etc.

Selectman Douglass showed the drawings in question to Mark Hawkes (contractor who submitted a bid on the project) and asked him if he bid on the project as shown in the drawings. Mr. Hawkes replied that the work he bid on did not look exactly like that reflected in the drawings. Selectman Douglass added that everyone could sit here all night pointing fingers but we need to see where we are at and where we are going with the project.

Mr. Roberts replied that the "Permit by Rule" is dead because it can't be done without digging away vegetation and backfilling.

It was recommended that a full "Tier 1 Permit" be submitted for a vertical wall at the remnants of the old wall. In the meantime, work should be completed as per the "Permit by Rule" to protect what is currently there. Selectman Douglass recommended contacting Androscoggin Soil and Water to assist with the "Tier 1 Permit" to minimize consulting costs. Mr. Roberts said that once the float is in and the dust settles he may apply for a full permit for a set of steps at the landing.

III. Unfinished Business

1. Discuss choosing a firm for the Town's investments. This was tabled from last week.

Because proposals from investment firms were still being received the Selectmen decided to table any discussion for one more week.

IV. New Business

1. Consider John Libby for an appointment to the Shellfish Conservation Commission (alternate member).

Selectmen voted (3-0) to approve appointment. There were no other applicants.

2. Consider assessing a consensual fine for a posted roads violation against Portland Air Freight Inc.

The driver of the Air Freight vehicle, Brian Gilbert, was present for the meeting. He stated that the William Wyman, who he was delivering to, said he could come to his house and would be able to turn around in the driveway. By the time Mr. Gilbert saw the Heavyweight Vehicle Poster at the beginning of the Town's section of Small Point Road (by Seal Cove Road) it was too late to turn his tractor-trailer around safely anywhere but in Mr. Wyman's driveway. He added that in other towns there are warning posters prior to the posted section so that big rigs can turn around beforehand. If he had realized Small Point Road was posted near the end he would have brought a smaller truck. He recommended that a warning sign be posted at the Popham/Small Point intersection.

Selectman Perkins asked how long the driver had been operating in the area. He replied that he had been driving in the area for six years, but had a total of 16 years as an operator.

Selectmen voted (2-1) to assess the minimum fine of \$250.00. Selectman Pye added that it was a valid recommendation to post a warning sign at the intersection of Popham and Small Point Roads.

3. Review the amended Phippsburg Community Access Television Policy & Guidelines.

Selectmen reviewed the guidelines and had no issues with them.

4. Discuss purchasing a sweeper attachment for the Transfer Station tractor to be used for parking lots and road intersections.

Administrator Young explained that the Transfer Station Attendants and Road Commissioner would like to purchase a sweeper attachment for the John Deere tractor. This had been discussed in the past since the town has to hire an outside contractor to sweep the municipal lots and road intersections. The initial cost would be offset by a savings over the next few years.

After consultation with Russ Alexander (Transfer Station Attendant), Curtis Doughty (Road Commissioner) and Chief Totman (Fire Chief) it was recommended that a hydraulically controlled, front attached sweeper with rollers be purchased for the amount of \$9,695. The cost would be split evenly between the Transfer Station and General Road accounts.

Selectmen voted (3-0) to approve the purchase of the recommended sweeper attachment.

V. Selectmen/Administrator Comments and Announcements

1. Administrator Mike Young

Announced upcoming meetings and events.

VI. Adjournment - Selectmen voted (3-0) to adjourn at 6.52 p.m.