

Submitted by:

TOWN OF PHIPPSBURG  
SELECTMEN'S MEETING

Approved by Selectmen:

John M. Young  
Administrator

MINUTES  
February 10, 2010

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

### **I. Meetings and Hearings:**

1. Meet with Juanita Wilson, Assessing Agent, to consider an administrative abatement.

**The following 2006 through 2008 certificates of abatement were approved:**

- **Carsley (Personal Property Account #80) - abatements of \$106.96 plus \$131.02 interest (PP assessment value of \$2,100). This assessment was on a camper trailer which was moved out of town without informing the Assessing Agent. This is deemed uncollectible.**
2. Meet with Lee Rainey, Code Enforcement Officer, to discuss issuing a "Letter of Non-Enforcement" for an expired building permit held by Douglass Koehling (Map 43, Lot 021-1).

**This issue was taken out of agenda order. Mr. Koehling was not present but some of his neighbors were.**

**Mr. Rainey briefed the Selectmen on this issue and presented them with a recommended letter of non-enforcement and extension agreement.**

**In September 2009 Mr. Koehling had a septic design completed and obtained a building permit for property on Sam Day Hill Road. It was determined that he was actually on property owned by someone else so he moved onto property he owned with his father, who had passed away. He was going to build on this property but didn't want to start construction because the ownership of the property was being challenged in court by family members. The court recently ruled that the property did indeed belong to Mr. Koehling so he now intends to build in the spring. In the meantime he is living in a 34 foot fifth wheel with a small section of building next to it, which will be moved and become 1/4 of his new house. His building permit has expired and he does not have a septic design for his property. He is eligible for two camping permits totaling 150 days while he builds his home.**

**The neighbors in attendance had concerns over where the septic from the camper is going and the number of people living in the camper. Mr. Rainey replied that he had proof of temporary tank pumping from Ed Skillin, Inc. and that he was told there were only two people living in the trailer. The neighbors stated that the sewage was actually being dumped in the woods and there were more than two people living in the camper. They**

also questioned whether the ordinance allows Mr. Koehling to live in the camper until his house is built, even if given a permit extension.

The letter of non-enforcement and extension agreement drafted by the Codes Enforcement officer stated that the Selectmen would agree to bring no action against Mr. Koehling in regards to the expiration of permits and notice of violation provided that he:

1. Obtains a septic system permit for the property.
2. Renews his building permit (this will be done at no fee).
3. Relocates the building currently beside the camper onto the house site prior to July 1<sup>st</sup> 2010 (he has indicated that it is the starting piece of his proposed home).

Mr. Koehling will be allowed to stay on site as allowed under section 2.6 subsection 1 of the Land Use Ordinance dated 1993 providing all other requirements are met including ongoing documentation of wastewater disposal with a new starting date of February 10, 2010.

Selectman Douglass had a concern with the camper septic pumping schedule and the number of people that will be staying in the camper.

Mr. Rainey was asked by the Selectmen to amend the letter to include a pumping schedule for the septic as well as a requirement to show proof of pumping. He was also asked to limit the number of trailer occupants to whatever he determines is reasonable under the circumstances.

Selectmen voted (2-0) to table approval of the non-enforcement and extension agreement until the next meeting (after amendments are made). They added that the neighbors should call Mr. Rainey or Police Chief Skroski if there are any issues with Mr. Koehling.

2. Meet with Cindy Brouwer to discuss complaint and enforcement action concerning junk and septic system issues on the Perry property (Map 044, Lot 033).

The Selectmen reviewed a timeline of events provided by Ms. Brouwer.

They asked Ms. Brouwer if this would be a complaint about the performance of the Codes Enforcement Officer, Lee Rainey, because if so it would be discussed in executive session. If it was a complaint about the enforcement action then it would be discussed in open public session. Ms. Brouwer replied that she would let the Selectman make that call.

Ms. Brouwer explained that she is looking for the best solution for her and the Town and is not out to get anybody. She wants to discuss what has happened up to this point and what will happen on the future. She has waited for 1 year and 4 months to have the situation resolved and wants to know what will fix the Town's procedural system so this type of situation doesn't happen again. She wants to know what action is planned to properly enforce the violation.

Lee Rainey, Code Enforcement Officer, gave a brief synopsis of the case. The original complaint from Ms. Brouwer was about the debris on the Perry's property and their malfunctioning septic system. When he viewed the property there were no sewage issues evident. He let the property owners know about the issue with junk in their yard and nudged them along

to obtain compliance. The owners removed four cars from the property as well as some other junk. Since then more stuff has accumulated on the property so the next step Mr. Rainey took was sending a written notice requiring that the property be cleaned up. Eventually he saw a small area of septic leachate and sent the owner a letter to have this issue corrected. Getting very little compliance he then had Police Chief Skroski deliver a second letter.

Mr. Rainey reported that the owner had the septic tanks pumped yesterday and there would be a site evaluator visiting the property tomorrow to inspect the system to determine if it needs to be repaired or replaced. He added that the septic system was installed in 1994 and he has sent Al Frick, Soil Consultant, the old design. He stated that there is a possibility that the system had not been installed correctly and that the property owners are aware that the Town has a septic system loan fund.

Selectman Douglass asked Mr. Rainey for a timeline. He replied that as soon as the weather breaks the owner will finish cleaning up the yard. He added that he has handled this situation the same as the one on the Clifford Road.

Ms. Brouwer asked that the Selectmen set a date for full compliance. In was her opinion that 80% of the junk could be cleaned up now. Mr. Rainey explained that he will be on site tomorrow concerning the septic and that since the owners have received both written notices it will be 30 days before the Town can take the issue to court. He added that the septic system malfunction is not a catastrophic failure.

Selectman Douglass stated that this issue started in October/November of 2008 and the owner has had over a year to cleanup his yard and it needs to get done now. Mr. Rainey replied that the owner has placed some stuff out next to the road for pickup and Ms. Brouwer added that she took 14 truckloads of junk off her property when she moved in that was left by the prior property owners. Selectman Douglass said that the owner needs to be aware that the Selectmen will start levying fines and that they could consider taking legal action to clean up the property and then recoup the costs.

Ms. Brouwer stated that any administrative consent agreement should have specific compliance dates and that the agreement is an intermediate tool and can be helpful if the Town has to go to court. Mr. Rainey replied that the Town has done these types of consensual agreements before.

Selectman Douglass stated that the Town tries to work with the landowners, however there should be a time frame set instead of trying to rely on good faith. The Codes Enforcement Officer needs to start issuing a letter right up front and then when the established time frame is up the Selectmen can decide to extend it or issue a citation, depending on whether substantial progress has been made.

Ms. Bouwer stated that she could tell from the smell that the Perry's septic was pumped today. In the past she had tested the system with red dye and was amazed at the amount of sewage coming down to her house. To her

**this is a significant problem.**

**Selectman Douglass asked Mr. Rainey if he had asked to go on the Perry's property and Mr. Rainey replied that he didn't have to because you could see the area from the abutting property. Selectman Douglass was concerned because Mr. Rainey did not see or smell any sewage but the neighbors did. Selectman Douglass asked Mr. Rainey if he should have dye tested the toilet and Mr. Rainey replied that normally you can see or smell a malfunctioning septic system. Selectman Douglass stated that the septic issue must be addressed prior to March 1<sup>st</sup> and Mr. Rainey replied that he will have a copy of a septic design by Monday.**

**Selectman Pye stated that the Perry's have had plenty of time to correct the issues and there needs to be a concrete action plan.**

**The Selectmen directed Mr. Rainey to draft a consensual agreement to have the property cleaned up by June 1<sup>st</sup> and if it is not cleaned up the Town will conduct the cleanup, bill back the property owners, and place a lien on the property until paid. They also asked Mr. Rainey to conduct monthly checks to insure progress. Mr. Rainey added that he would also send a copy of the letter to Ms. Bouwer.**

**At 7:00 p.m. the Board of Selectmen voted (2-0) to go into Executive Session pursuant to 1 M.R.S.A. 405(6)(A) to investigate a complaint against Lee Rainey, Code Enforcement Officer. Ms. Bouwer remained for the session.**

**At 7:47 p.m. the Board of Selectmen voted (2-0) to come out of Executive Session.**

**The Selectmen directed Mr. Rainey to keep a daily log as part of his duties and also to issue formal notices of violation first and then work with property owners for compliance.**

4. Meet with Dean Doyle, Shellfish Commission Chair, to discuss having a rotational shellfish conservation closure between the "Kennebec River" and "The Branch" in Small Point.

**Mr. Doyle was not present. However Administrator Young was directed by the Selectmen to inform Mr. Doyle that he should notify all of the harvesters that this issue needs to be brought up for vote by those attending the next Shellfish Conservation Commission Meeting. Then, if the outcome is in favor of a rotational closure, he should schedule to meet with Selectmen. This was the same procedure which was followed last year.**

## **II. New Business**

1. Review a letter from the Midcoast Regional Redevelopment Authority (MRRA) requesting financial assistance from Phippsburg.

**Selectman Pye stated that this request could be looked at from two different directions. First – the Town was denied a seat on the Authority and secondly – we are intertwined economically with the area. He added that he was curious what the dollar amount would be.**

**Selectman Douglass stated that the request should go through the regular review process as a donation and be voted on at Town Meeting.**

**Administrator Young will find out what amount the MRRA is considering and get the information to the Budget Committee. No further action taken.**

2. Consider renewal of the annual Liquor License for Spinney's Restaurant (G.D.L.D. L.L.C.).

**Selectmen reviewed the renewal application and voted (2-0) to approve. There have been no known complaints against the Restaurant in regards to the serving of alcohol.**

### **III. Selectmen/Administrator Comments and Announcements**

1. Administrator Young

**Administrator Young announced upcoming meetings and events.**

### **IV. Public Forum**

1. Tom Totman

**Mr. Totman announced the birth of his grandson, Thomas N. Totman.**

### **V. Review and Sign:**

1. Accounts payable and payroll warrants.
2. Selectmen's Meeting Minutes.
3. Certificate appointing Betsy Varian to the Budget Committee.

**Selectmen voted (2-0) to approve and sign all the above.**

### **VI. Adjournment - Selectmen voted (2-0) to adjourn at 7:59 p.m.**