



BOARD OF SELECTMEN
***MINUTES**
April 5, 2011

SELECTMEN'S MEETING

Present: Chairman Joe Bruno, Vice-Chair Lonnie Taylor, Charly Leavitt, Sam Gifford and Mike Reynolds.

Staff: Louise Lester, Town Clerk; Hugh Coxe, Contract Planner; Chris Hanson, Code Enforcement Officer; Shana Mueller-Cook, Town Attorney; Craig Messinger, Fire Inspector; Chairman Matt Schaefer and Peter Leavitt, Zoning Board of Appeals, and Danielle Loring, Recording Secretary.

Other: Susan Bussiere (CMP), Dana Desjardins, Attorney Lee Lowry, Jeff Pomeroy, Mark & Bonnie Jensen and Liz McLaughlin.

- 1) Call to order:** Chairman Joe Bruno called the meeting to order at 7:00pm and a quorum was declared.
- 2) Minutes of previous meeting dated March 8, 2011**

MOTION: Mike Reynolds motioned to accept the minutes for the March 8, 2011 meeting as submitted; seconded by Lonnie Taylor.

DISCUSSION: Mr. Leavitt wanted the record correct to include his birthday wish to Edgar Gorham, Selectmen for the Town of Randolph. He reminded the public that the minutes of the meeting were a condensed version of the meeting and that the DVD was the official record. He added that DVD's could be borrowed at the Town Office, Raymond Village Library and viewed online on the Town website.

VOTE: UNANIMOUS APPROVAL (5/0)

3) New business.

a) Request for Letter of "Non-Action" Pursuant to a Shoreland Zoning Matter (Map 033, Lot 002B)- Leo & Elizabeth Belill, Represented by Attorney Leslie Lowry

Attorney Lee Lowry introduced hi,self as representing Leo and Elizabeth Belill in the sale of their home at 158 Dryad Woods Road. At the time of review by the mortgage company, the property was found to be in violation with the Town's Shoreland Zoning Ordinance, in the fact that it did not have enough lake frontage within 100 feet of the high water mark. After having their appeal denied in front of the Zoning Board of Appeals, it was suggested to them that they obtain a letter of non-action/consent agreement with the Town of Raymond.

Mr. Hanson, CEO, gave the history on the lot and explained that the only way to make the lot conforming would involve land swapping with abutters or moving the house back. Mr. Bruno wanted to know why the appeal had been denied and Mr. Hanson said that they did not meet the criteria for hardship, as outlined by

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the ordinance. Mr. Bruno then wanted to know if the Belill's had been misinformed and Mr. Hanson explained that it was an oversight by the former CEO, buyers and the builder. Mr. Leavitt wanted to know what the projected costs were to move the house and Mr. Lowry said that based on the estimates he had seen it would be around \$50,000.00.

Mr. Reynolds wanted to know what action the Town have to take if they did not grant the letter of non-action. Mr. Hanson explained that he would have to write a letter of violation for the property that required them to move the house but the consent agreement would stop the Town from doing such. Mr. Reynolds wanted to know what it would take to move the house and Mr. Hanson said that it would mean creating a new construction site. Mr. Gifford wanted to know if a CEO had inspected the property and Mr. Hanson confirmed that the property was visited on several occasions to inspect and issue permits.

Town Attorney Shana Mueller-Cook said that by entering into the consent agreement that the Town is agreeing not to enforce the provisions of the ordinance against the property and both present and future owners. In return, the Belill's agreed to pay the legal fees that were incurred. My. Taylor wanted it to be a condition that any new owners could not make alterations to the property because it was already non-conforming. Mr. Lowry said that he did not agree with punishing the buyer by adding such a provision because the building was conforming because it met all setback requirements, but it was the lot that was non-conforming in its dimensions. Mr. Leavitt said he did not agree with the word choice of "punishment" and felt it was more of an issue of "buyer beware" and wanted to add language about restricting encroachment on the lake and building expansion. Mrs. Mueller-Cook said that she would also add language that stated that any violation of the provisions within the agreement would void the agreement.

Appeals Board member Peter Leavitt said that he felt that rather than making a complex issue, that the Town should just require that all changes go before the Zoning Board of Appeals, because they would judge each case based on its own merit. Mr. Bruno said that he did not feel that the future owners should be restricted because of a Town error but that the agreement was not a "blanket approval." Mr. Gifford wanted to know if entering into the agreement would create a precedence for accepting all similar situations, and Mrs. Mueller-Cook' said that it did not and that each situation was dealt with on a case-by-case basis. Mr. Lowry clarified that the agreement would be recorded with the Registry of Deeds.

MOTION: Charly Leavitt motioned to approve the Consent Agreement for Non-Action for Leo & Elizabeth Belill, Map 033, Lot 002B at 158 Dryad Woods Road; seconded by Lonnie Taylor.

DISCUSSION: Mr. Taylor wanted to know if the agreement was voided by the transfer of ownership and it was clarified that it was tied to the land, not owners. Mr. Bruno asked for an amended motion to allow Mr. Willard to sign on behalf of the Town and Mr. Leavitt amended his motion and Mr. Taylor amended his second.

VOTE: UNANIMOUS APPROVAL (5/0)

b) CMP Smart Meter Presentation and Discussion- Suzanne Bussiere, Customer Service Adviser

Susan Bussiere from CMP explained that the Smart Meter Program had been going for two years and 160,000 meters had already been installed with 600,000 meters total to be installed. \$192,000.00 of the project had been funded by the US Department of Energy. She explained that the meters involved two way technology that operated on radio frequency.

In Raymond, there were 6 meters that were installed because they were going on all new homes and there were 3,261 total to be installed, of those there were 5 "opt outs." Mr. Bruno wanted to know how people

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would opt out and Ms. Bussiere responded that individuals could call the Public Utilities Commission (PUC) or CMP directly. Some people were also leaving notes on their meter. She added that enough people opted out that it would cancel out the savings and the carbon foot print reduction that the Smart Meters were creating. Mr. Bruno wanted to know what CMP's completion deadline was and Ms. Bussiere responded that they projected to be done in 2012 and were starting the process in June, 2011.

Mr. Gifford stated that he felt that it was important that the public have access to both sides of the issue. Mr. Willard explained that information had been gathered when the issue was first raised in January and it could be made available. He had heard concerns that people could interrupt signals to determine if a person was home and Ms. Bussiere said that there was a read out on the meter as there was with the standard meter. She continued that others could deduce that an individual was not home if the reading was unchanged, but this was the similar case with the current meters.

Peter Leavitt wanted to know how the project was going to effect the local job market. Ms. Bussiere said that 148 meter reading jobs were ending but that there were incentives for people to move up in the company, accept severance packages and take advantage of job training opportunities. Dana Desjardins wanted to know if the money came from the American Recovery Act and if the jobs were being outsourced to other states. Ms. Bussiere responded that jobs were created through contractors and installers and that the meters were being made in New Hampshire.

Mr. Bruno thanked Ms. Bussiere for her time and said that information would be available at the Town Office and on the website. Ms. Bussiere said that citizens were welcome to call her for information and thanked the Selectmen for their time.

c) Consideration/Update of Raymond Beach Management Plan- Jeff Pomeroy

Jeff Pomeroy said that he had spoken to Laurie Davis, DHHS Maine Health Inspector, and if everything with his plan stayed the same, she would be able to issue a permit. He continued that he planned on having a 50 gallon tank on the boat that would hold the gray water. When the holding tank gets full, he explained that he would tank it to land where he would have 275 gallon tank that he would empty into his private leach field, when full. For fresh water, he planned to have a 43 gallon holding tank on the boat and another 275 gallon reserve tank that would be connected by clear hose to the smaller tank to fill when necessary.

Mr. Bruno wanted to know if Mr. Pomeroy's plans had changed from the initial proposal and Mr. Hanson replied that the plans had changed from the portable stand that Mr. Pomeroy had wanted, that turned out to not be permissible, to a floating restaurant that would have to remain a functional, registered watercraft to not be considered a structure.

Mr. Bruno wanted to know if Mr. Hanson had any concerns with the operation and he replied that he had concerns with fresh water supply and gray water disposal. He was also concerned with a large scale operation at the end of a dock. He stated that all of the State agencies sign off on the project , then he will issue a peddler's license.

Mr. Bruno then asked what Portland Water District's (PWD) position was and Mr. Hanson said that they were concerned with water delivery. There was also another issue with how grease was going to be separated from the gray water before it was dumped in the leach field. Mr. Bruno wanted to know about power supply and Mr. Pomeroy said that he was going to have a generator on the back. Mr. Leavitt wanted to know if there was any way to plumb the gray water and Mr. Pomeroy explained that there was not because it would cause the boat to be classified as a structure and then would not be permissible.

Louise Lester said that there were concerns with having a catastrophe plan in plan in the event of an

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emergency. Mr. Hanson explained that this issue had been brought up but because the subject construction was a boat there was little outlining what Mr. Pomeroy had to have for fire suppression and ventilation. Mr. Leavitt wanted to know about getting rid of the fryers and Mr. Pomeroy explained that it was the bulk of his business plan and that the remaining foods that he would be preparing also contained grease and would require the same requirements for fire suppression. Fire Inspector Craig Messinger said that the Fire Department had no jurisdiction because it was considered a boat.

Mr. Reynolds said that he was pleasantly surprised by the progress that Mr. Pomeroy had accomplished in under a month but that the success of the project was going to depend on its reviews. Mr. Leavitt also commended Mr. Pomeroy for his creative and innovative idea. Mr. Willard suggested that if the Selectmen wanted the project to move forward, that they should impose conditions for Mr. Pomeroy to use as a guise moving forward.

Mr. Taylor said that he was still concerned with water quality and the possibility of water contamination from the cafe. Mr. Pomeroy explained that the water was going to be tested by PWD every Tuesday. Mr. Bruno made it clear that if the PWD test came back with unfavorable results that the beach would be closed until tests indicated it was safe. Mr. Willard suggested increasing the scope of tests in order to determine if the cafe was the cause. Mr. Willard also suggested coming up with a reasonable plan that would increase public safety and Mr. Pomeroy said that he was fine with that but meeting all of the same fire suppression requirements as a building would put him out of business. Mr. Leavitt suggested letting the Fire Department be involved with planning.

Mr. Bruno announced that they would hold a special meeting on April 12, 2011 at 4:00pm to go over the lease agreement with Mr. Pomeroy, legal counsel and department heads.

d) Consideration of Ordinance Changes as Submitted by the Planning Board- Planner Hugh Coxe

Contract Planner Hugh Coxe explained that changes that the Planning Board had made over the past year to meet State standards and as house keeping measures to the ordinances. There was brief discussion over some of the topics and history of the ordinances.

MOTION: Mike Reynolds motioned to send the ordinances to Town meeting for discussion with Hugh Coxe; seconded by Sam Gifford.

DISCUSSION: None.

VOTE: UNANIMOUS APPROVAL (5/0)

e) Consideration of Ordinance Changes as Submitted by Fire Department- Fire Inspector Craig Messinger

Mr. Messinger explained that the article pertaining to the Chimney Ordinance was a house keeping measure that moved it to the Fire Protection Ordinance and they were creating a Solid Fuel Burning Permit where a \$25 inspection fee would be imposed.

MOTION: Mike Reynolds motioned to approve Articles 6a and b as presented by the Raymond Fire Department; seconded by Lonnie Taylor.

DISCUSSION: None.

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f) 2011 Election Warrant- Town Clerk Louise Lester

Ms. Lester explained that there were several ways that the election warrant and cell tower referendum could be presented and she provided them examples of each. Mr. Willard explained that the ballot question was the summarized version of the cell tower amendment but that the eight (8) page article would be distributed to the public. Attorney Mueller-Cook confirmed that the ballot explanation served to be a neutral description with the yes or no answer.

Mr. Leavitt wanted to know when one of the paragraphs had been changed, if it violated the Wireless Communication Ordinance and Mr. Coxe explained that they were not bound to the those conditions because of the nature of the Conditional Rezoning Agreement. Mr. Leavitt wanted to know about how the Town's antennae effected the height of the tower because the ordinance said that they were considered part of the structure and Attorney Mueller-Cook said that language was not valid in this agreement.

MOTION: Mike Reynolds motioned to accept the Clerk's recommendation to have two (2) articles on the warrant under for election and referendum by secret ballot; seconded by Lonnie Taylor.

DISCUSSION: Mr. Peter Leavitt wanted to know if the cell tower issue was going to be discussed at Town Meeting and Mr. Bruno explained that it was not.

VOTE: APPROVED (4/1[CL])

****i) Discussion of Proposed Warrant Article to Form Road Improvement Study Committee- Town Manager Don Willard**

MOTION: Mike Reynolds motioned to add Article 7 for a Road Improvement Study Committee; seconded by Lonnie Taylor.

DISCUSSION: Mr. Charly Leavitt wanted to clarify that this item could be up for discussion at Town meeting and Mr. Bruno confirmed.

VOTE: APPROVED (4/1[CL])

g) Consideration/Approval of Printing Bid- Town Clerk Louise Lester

MOTION: Lonnie Taylor Motioned to accept the printing bid in the amount of \$456.65 from Xpress Copy to print the Town Warrant; seconded by Sam Gifford.

DISCUSSION: None.

VOTE: UNANIMOUS APPROVAL (5/0)

h) Consideration of Abatements- Board of Selectmen

MOTION: Mike Reynolds motioned to approve two (2) abatements:

One for William & Nancy Jordan, Account# J8001R, Map 011, Lot 042 in the amount of \$407.16; and, one for Valerie Morrison, Account# M9017R, Map 022, Lot 035 in the amount of \$448.20.

DISCUSSION: None.

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VOTE: UNANIMOUS APPROVAL (5/0)

MOTION: Mike Reynolds motioned to approve the denial of abatement for Paul & Linda Flahive, Map 66, Lot 42.

DISCUSSION: None.

VOTE: UNANIMOUS APPROVAL (5/0)

j) Request for Elected Official Recall Ordinance for 2011 Town Meeting- Jack Fitch and Frank McDermott

Mr. Reynolds explained that Jack Fitch and Frank McDermott had come to him and asked about Raymond adopting an ordinance that would allow for residents to recall elected officials. He said that this had been adopted by several towns over the last 10-15 years. They had requested that one be drafted for Raymond to be presented at the next Town Meeting. Mr. Bruno said that because neither gentlemen was present to explain their position on this matter that he would like to table it until they were present.

MOTION: Sam Gifford motioned to table the matter until a future meeting when Mr. Fitch and Mr. McDermott could be present; seconded by Lonnie Taylor.

VOTE: UNANIMOUS APPROVAL (5/0)

k) Executive Session pursuant to 1 MRSA § 405(6)(A): Personnel Issue: Violation Executive Session Rules

MOTION: Sam Gifford motioned to go into Executive Session pursuant to 1 MRSA § 405(6)(A) for a personnel issue regarding violation executive session rules; seconded by Lonnie Taylor.

VOTE: UNANIMOUS APPROVAL (5/0)

The Board went into Executive Session at 9:12pm.

MOTION: Lonnie Taylor Motioned to come out of Executive Session; seconded by Charly Leavitt.

VOTE: UNANIMOUS APPROVAL (5/0)

The Board came out of Executive Session at 9:34pm.

4) Old (unfinished) business.

a) Policy Review: Selectmen Bylaws & Policies- Adding a section from Maine Law Title 30-A

MOTION: Mike Reynolds motioned to add Title 30-A to the Bylaws under officers and duties; seconded Lonnie Taylor.

DISCUSSION: None.

VOTE: APPROVED (4/1[CL])

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5) Public Comment:

a) Deb Baker, 23 Valley Road

Mrs. Baker requested that the Town try to expand their communication with residents for matters that impacted the public, including materials for the June 7, 2011 Town Meeting.

b) Dana Desjardins. 64 River Road

Mr. Desjardins wanted to read Title 30-A out loud for the public. Mr. Bruno read it and said that it had been on the agenda before and was in the ePacket online for anyone to review. Mr. Desjardins wanted to know if it had been reviewed by legal counsel and Mr. Bruno explained that it was a Maine Statute.

c) Peter Leavitt, Raymond Hill Road

Mr. Leavitt said that he appreciated the Board's decision to table the Recall Ordinance until the residents could be present and stated that he thought the board members did a fine job of executing their duties.

6) Town Manager Report and Communications.

****e) Discussion/Approval of Cost-Share for Feasibility Study for possible shared use of JSMS from Contingency.**

Mr. Willard explained that he had been approached by RSU#14 members about the Town embarking a 50/50 match towards \$5000 for a Feasibility Study to see if the space requirements for the Town Office would be available if the Jordan-Small Middle School were to share facilities. Mr. Leavitt was concerned with spending the funding if it was not feasible because of the condition of the building, which would not be included in the study.

MOTION: Mike Reynolds motioned to approve funding for the feasibility study for possible shared use of Jordan-Small Middle School; seconded by Sam Gifford.

DISCUSSION: None.

MOTION: APPROVED (4/1[CL])

a) Confirm dates for meetings:

- **May 10, 2011**
- **Proposed Assessing Workshop with Contract Assessor Mike O'Donnell for April 19, 2011**

b) RSU#14 is wrapping up last of Budget Workshops

- **April 6, 2011 at 6:30pm at Raymond Elementary School Gym**
- **School Board will be Voting on Warrants and Notice of Public Meeting at May 4th Meeting.**

c) Deadline for Nomination Papers is April 29th at 4:00pm. See Town Clerk for details

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d) Deadline for Raymond Scholarship is April 30th at 12:00pm. See Town Clerk for details.

7) Selectmen Communications:

a) Mid-Maine Action Corp- Charly Leavitt

Mr. Leavitt explained the budget and services that were offered and explained that they were having a name change contest that included the schools.

b) Letter of Appreciation- Charly Leavitt

Mr. Leavitt was requesting that a letter of appreciation for Mr. Desjardins be sent because of his involvement in transitioning the dispatch center for Cumberland County.

8) Fiscal Warrants – Payroll and Appropriation Warrants – April 5, 2011

a) Payroll Expense Summary for 04/05/2011

MOTION: Lonnie Taylor motioned to accept the Payroll Expense Summary for April 5, 2011 in the amount of \$96,313.61; seconded by Sam Gifford.

VOTE: UNANIMOUS APPROVAL (5/0)

b) Treasurer's Warrant for 04/05/2011

MOTION: Lonnie Taylor motioned to approve the Treasurer's Warrant for April 5, 2011 in the amount of \$135,766.27; seconded by Mike Reynolds.

VOTE: UNANIMOUS APPROVAL (5/0)

9) Adjournment:

MOTION: Lonnie Taylor motioned to adjourn; seconded by Mike Reynolds.

VOTE: UNANIMOUS APPROVAL (5/0)

Chairman Joe Bruno adjourned the meeting at 9:53pm.

Danielle Loring
Recording Secretary

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