

Town of Waldoboro, Maine
Select Board Meeting
Municipal Building – 1600 Atlantic Highway
Tuesday, August 28, 2018

1. Call to Order

The meeting was called to order at 6:09 p.m., preceded by an executive session. Town Manager Julie Keizer was present. Select Board members present were Chairman Bob Butler, Clint Collamore (until 7:55 p.m.), Jann Minzy, Abden Simmons, and Katie Winchenbach. Emergency Management Director Kyle Santheson, Fire Chief Paul Smeltzer, Planning and Development Director Max Johnstone, and planning consultant Bill Najpauer were present.

The audience included *Courier* reporter Beth Birmingham, Dan Bolin, Amelia Bragg, Bill Bragg, Gabriel Cooley, Mark Gifford, John Higgins, Carleton Johnson, John Lawrence, Craig Lewis, Calvin Morin, Tara Pelotte, Dale Smith, Scott Simpson, *Lincoln County News* reporter Alex Violo, Melvin Williams, and Freeman Zausner.

2. Pledge of Allegiance

3. Public Hearings

3.1 Liquor License Renewal for All-Play LLC d/b/a AllPlay Family Entertainment Center

On motion of Winchenbach, seconded by Collamore, Select Board members voted 5 - 0 to open a public hearing on renewal of a Class Three (vinous) and Class Four (malt) liquor license for AllPlay LLC to serve wine and beer. Police Chief Labombarde's memo of August 15, 2018, states that his department has no records of incidents at AllPlay, and he recommends approval of the liquor license renewal. There were no comments from the audience. On motion of Collamore, seconded by Winchenbach, Select Board members voted 5 - 0 to close the public hearing. On motion of Simmons, seconded by Winchenbach, Select Board members voted 5 - 0 to approve the liquor license renewal for AllPlay, with a condition to correct the application on p. 2 to show that the application is for malt and vinous privilege (beer and wine), not malt and spirituous.

4. Adjustments to the Agenda

A request was added to the agenda for an extension of the on-premises license for Odd Alewives Farm Brewery.

5. Citizen Comments

Carleton Johnson began to speak about the proposed purchase of a new ladder truck. He was told this will be discussed later in the agenda (Item 10.1), when his comments will be welcome. There were no other citizen comments.

6. Select Board Comments

Winchenbach said she has received several calls from Waldoboro residents concerned about the number of new applications for medical marijuana caregiver shops in Waldoboro. She suggested that we may need to do something to limit the number of new medical marijuana shops: perhaps change the ordinance, or call an emergency meeting. Najpauer explained that a change in the current State law will go into effect on October 9. Marijuana businesses opened before that date are grandfathered. Johnstone stated that there are no new marijuana caregiver shops on the September Planning Board agenda. The next time that the Planning Board could consider a new marijuana shop would be at the October 10 meeting, and it would not be allowed. Najpauer and Johnstone left the meeting at 6:20 p.m., at the end of this discussion. There were no comments from the audience.

Minzy reported that on Saturday Sept. 1 the Broad Bay Congregational Church is hosting a street party at the corner of Pleasant St. and Main St. to kick off their capital campaign. There will be music, ice cream, and a bouncy rig for children.

Butler attended the public event at the Historical Society on Sunday, Aug. 26. Glen Melvin and Abden Simmons spoke about the history of clamming in Waldoboro and current efforts to clean up the river. A lot of people attended. The clams were plentiful and good!

7. Town Manager's Report

Keizer reported that work on the Pine St. landing is nearly complete. It is a commercial use area, not just a recreation area. The contractors, Farley & Son, are excellent, the best she has ever worked with in 30 years. A float that the Town is interested in will be inspected soon. It probably will not be installed until next year. The ramp and gangway have to be in place before final inspection is done. There will be three picnic tables, a lighted flagpole, and a kiosk to display public notices and information. Re-paving will be done this fall when Dutch Neck and Gross Neck roads are re-paved. The Garden Club will do some re-planting.

- An RFP for LED street lights is out.
- Cross St. is still closed, until Oct. 17.
- Route 1 is still being re-paved, an ongoing process. Be patient!
- The solar array is producing energy.
- The Maine Water Company will be on the Select Board agenda next month regarding a rate increase.
- Police Chief Labombarde will be working as a youth information officer at the high school. A job opening as Police Chief will be announced tomorrow.
- Patrolman Larry Hesseltine has become Police Chief in Wiscasset. We are very proud of him and wish him well.
- Three beaver dams in the river will be removed. We hope this will bring a decrease in *E. coli*.

8. Consent Calendar

8.1 Approval of Minutes of August 14, 2018

8.2 Financial Warrants & Reports

8.3 Correspondence

Keizer read two thank-you letters recently received.

A letter from Sophie Cohen thanks members of the George Genthner Scholarship Fund committee for awarding her the scholarship, for which she is very grateful.

A letter from Laura McNelly of 1419 Old Route One praises Public Works Director/Road Commissioner John Daigle for being patient, understanding and polite when she called to complain that a road crew had severely pruned their 40-year-old lilac hedge and left the prunings for her to dispose of. The Town has the right to cut trees and bushes in the road right-of-way. Keizer said that Waldoboro has one of the best Public Works Departments in the State, if not the best.

Minzy acknowledged a letter from Jessie Jameson to thank whatever group gave her a scholarship.

8.4 Quitclaim Deeds and Discharges (none)

On motion of Winchenbach, seconded by Minzy, the Board voted unanimously to approve the consent calendar.

9. Old Business

9.1 Retire in Place Policy

Butler made a change to line 1 of subsection e: there should be a comma after "accrued", not a period, and a lower-case "a" in "and" at the end of line 1, so that all of subsection e is one sentence. In line 2 of subsection e he inserted the word "same" before "current policies". In subsection c, Minzy suggested changing "their" to "his/her". With these changes, on motion of Collamore, seconded by Minzy, Board members voted 5 - 0 to approve the Retire in Place policy as revised 2/13/18 and 8/28/18.

9.2 Order for Town Removal of Dangerous Building

The buildings owned by the heirs of Charles Call at 994/992 Winslows Mills Road were determined to be dangerous at a public hearing on July 11, 2017. By order dated July 25, 2017, the municipal officers found that the buildings were dangerous and a nuisance and ordered removal of the white building and sheds and remediation or removal of the red building. The property owners did not appeal this decision. The required work has not been done. Collamore asked if anyone is living there. Keizer said that the Code Enforcement Officer will take care of that in October or November, before winter. On motion of Winchenbach, seconded by Minzy, Select Board members voted 5 - 0 to authorize the Town Manager to complete the demolition and removal of said buildings and clean-up of the site by October 2018 or

before winter, and authorized the Town Manager, Assessor, and Town Attorney to take all actions necessary to recover the Town's costs as authorized by 17 M.R.S. §2853.

10. New Business

10.1. Discussion with Fire Chief Paul Smeltzer about Purchase of New Ladder Truck

Smeltzer thanked Deputy Fire Chief Dale Smith, Bill Maxwell, Andrew Santheson, Mark Gifford and Bill Bragg, who have been very involved with planning and research for this project and have traveled all over the Northeast and as far as Pennsylvania on their own time to inspect ladder trucks. John Daigle has reviewed the specifications for the proposed new ladder truck. We have been putting money aside for this purchase for three years. Smeltzer did not want the Town to have to pay off more than one debt service for an emergency vehicle at any given time. Engine 4 was paid off this year. Smeltzer has been relying on mutual aid from other fire departments for the past several years. This is iffy, as we never know for sure whether another town's ladder truck will be available, or how soon it will arrive when needed. Other towns have the same issues with volunteer personnel and equipment that we do. The truck Smeltzer is recommending for purchase is expensive, but is one of the less expensive models available. It should serve the Town for 30 - 40 years. He recommends buying new, as there are no used trucks available that have the equipment he wants. No increase in the mill rate is anticipated from the proposed ladder truck purchase. In seven years we must replace the 1989 truck, and that will affect the mil rate.

Ease of operation is a feature of the proposed new truck. It is single-axle, can be driven by more people, so there is no concern about driver availability. The new truck ladder can operate in all 360°, not just front and back. It can reach every window in the Sproull Block without having to move the truck. It can reach every window in the four-storey apartment house on Marble Avenue. We will be able to protect neighboring houses to the one that is on fire. Ladder trucks need to be level in order for the ladder to work. The proposed new truck has levelers on the sides and rear. It can level itself on the hill in front of the Waldo Theatre. The cost is around \$990,000.

Keizer thanked Smeltzer and the others for their work. During the recent gas explosion on Dutch Neck, a very high level of professionalism was shown by the fire chief, staff, EMS, and police. Smeltzer agreed that everyone at the scene was phenomenal.

Audience Discussion

- Carleton Johnson said he is a former long-time volunteer firefighter. He compliments Smeltzer on the work done to research available options for a new ladder truck. It is wiser to pay cash than to borrow. He is concerned by the apparent lack of an outside study of need. He wants assurance that we truly need the proposed truck. He would like to have an outside review of the Town's fire equipment.
- Keizer said the proposed purchase will be thoroughly reviewed by the Budget Committee and the Select Board. The Budget Committee will get involved with the debt service aspect of the purchase.
- Butler asked which is more important, a new fire truck or an expanded, modernized fire station. It will be difficult to back the new truck into the fire station. There is only a couple of inches of clearance.
- Smeltzer said we could look at tax-acquired properties more than five miles from the Fire Station, and consider having a fire substation there. There are grants available. An updated fire station would be great for firefighters, but it won't help rescue people from the third floor of a burning building.
- Tara Pelotte asked whether having the proposed new ladder truck might reduce the fire insurance rate for new businesses. Smeltzer said yes, it would make insurance cheaper, but not enough to pay for the cost of the truck.
- Dale Smith said the proposed new truck will be easier to drive than some of our current trucks. It gives us a better chance of getting people out of a third-floor window. It takes only two minutes to set up the ladder. Every year, the equipment gets more expensive.
- Carleton Johnson said that in the 20 years he was a volunteer firefighter, they never had to do a rescue from the third floor of a building. Consider the need. Is it worth a million dollars to buy this truck? There is ongoing maintenance, staff training. What means will we use to replace the proposed new truck?
- Katie Winchenbach asked whether other towns could team up with us to buy the proposed new truck, sharing the cost and the use. Keizer said that it is not viable to ask other towns to share the purchase cost in exchange for shared use.
- Smeltzer said we have never had a tank truck. All our trucks have a 1,000-gallon capacity. A tank truck has a 2,500-gallon capacity. He said that all our present fire trucks were made by American LaFrance. They are no longer in business. The metal in our trucks is thin. We can have repair work done, but no one will give us a certificate.

- A man at the back of the room said that a one-mill increase in tax rate would cover the finance charge to buy the new truck. He recommended going ahead with purchase.
- Bob Butler said we are not there yet. We could use the payment we have been making on the truck just paid off, add the money we have saved, and consider leasing a truck rather than purchase.
- Keizer said the next steps are to look at different funding options with the Budget Committee in late September and October, for a purchase next year. She said tonight's meeting is one of the best-attended Select Board meetings we have had in the 14 months she has been here. She thanked the audience for attending.

Discussion ended at 7:25 p.m.

10.2 Changes to Land Use Ordinance Article 7 Shoreland Zoning, Article 10 Non-Conforming Uses, and Definitions - Tabled

Planning Board chairman Scott Simpson was present, along with Town Planner Max Johnstone and planning consultant Bill Najpauer, to present proposed changes to Articles 7, 10 and 16 in the Waldoboro Land Use Ordinance. Copies of the proposed revision have been available to the public at the Town Office and Library. A public review of the proposed ordinance changes was held by the Planning Board on Wednesday, August 22.

Some of the changes are mandated by the State, which has made changes to the model ordinances. Towns are required to revise local ordinances to conform to the State's changes. Town regulations can be more strict than the State model ordinance, but not less strict. Planning Board members did not favor being more strict than the model ordinance. New text is shown by underlines. Deleted text is shown by ~~strike-throughs~~.

Land Use Ordinance Article 7 is Shoreland Zoning, dealing generally with structures and activities in the first 250' back from salt or fresh water. Article 10 is Non-conforming Uses, dealing generally with structures built before the ordinance was adopted, that do not conform to current regulations. For example, Article 10 C Non-conforming Structures contains much deleted text on pp. 10-2 through 10-6. Article 10 D Shoreland Area Expansions is all new text, on p. 10-7 through 10-10. There is a new table at the bottom of p. 10-8 that summarizes the requirements of Article 10 Section D 4 regarding alteration or expansion of legally-existing non-conforming principal and accessory structures that do not meet current setback requirements from water bodies and wetlands. Allowable changes are based on the footprint of the existing structure as of January 1, 1989. That is the date when significant changes were made to the State's model ordinance. Simmons commented that the proposed version is more user-friendly than what it replaces.

In Article 7, a long section about timber harvesting in the Shoreland Zone, Section F Land Use Standards subsection 16, on p. 7-18 through 7-20, has been deleted and replaced by a single sentence: "Timber harvesting must follow the Bureau of Forestry Option 1 guidelines in Maine Forest Service Rule - Chapter 21 Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas." Towns are given three options for timber harvesting regulations: they can follow State regulations, use a hybrid of State and local regulations, or use entirely local regulations (that must conform to State standards). Waldoboro has chosen the first option, to have the State regulate local timber harvesting in the Shoreland Zone. Butler asked whether there could be a reference to a State web site giving State regulations about timber harvesting in the Shoreland Zone. Keizer said we should avoid that. The revised Article 7 contains three new sections: 18. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal; 19. Exemptions to Clearing and Vegetation Removal Requirements; and 20. Revegetation Requirements.

Butler observed that there is no reference to the Dept. of Marine Resources in this version of the LUO. Najpauer said Waldoboro residents contact the local Code Enforcement Officer instead. Butler agreed that is a lot easier.

Manure Storage in the Shoreland Zone: Simmons said he has received an e-mail from Planning Board member Barbara Boardman, a farmer, who is concerned about manure storage in the Shoreland Zone, and how to minimize pollution of adjacent water bodies. Subsurface sewage disposal systems must have a minimum setback of 100' horizontal distance from the normal high-water line of a water body (p. 7-16). Manure storage is prohibited within 100 feet, horizontal distance, of a great pond or a river flowing to a great pond, or other water bodies, tributary streams and wetlands. "All manure storage areas within the Shoreland Zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water." (Subsection 15 Agriculture, b. Manure storage, bottom of p. 7-17). Simmons said that Boardman wants a larger setback from water bodies for manure storage. When he was on the Planning Board, he believes that the minimum setback for a leach field was 200' back from a water body. He asked whether there should be a maximum size limit for manure storage in the Shoreland Zone. The age of the manure also makes a difference. He said most people don't have any containment system for manure; they just dump it on the ground. He recommended a requirement of "no dumping of manure within 100' (or 200') of a water body" (specify which). Butler wants the ordinance to be more restrictive. The health of the Medomak is a priority in Waldoboro, more

important than crops or grazing. We recognize the value of the river to this area. We should increase the required minimum setback distance of manure storage areas. If a storage area is contributing polluted runoff to the river, we won't learn about it until it is too late.

Keizer recommended doing more research on manure storage, setback distances, and containment systems. She asked when is the "drop-dead date" by which the revised Shoreland Zoning article must be approved by voters. Does it have to be on the November ballot this year? She said that it will cost \$1720 to put the Shoreland Zoning article on the November 2018 ballot, and cost nothing to put it on the June 2019 ballot. Or, it could be voted on at a special election in 2019. This would give us time to resolve the problems. Najpauer said Waldoboro is not required to act on the revised Shoreland Zoning regulations this November. He said that manure storage regulations need to be looked at throughout town, not only in the Shoreland Zone. Butler favors having a special town meeting as soon as we get the agriculture issues resolved. Minzy asked what constitutes "storage" of manure. Najpauer said that the Shoreland Zoning ordinance regulates any placement of manure within 250' of the shore of a water body.

Simpson asked how many properties in Waldoboro have agriculture, tilling and livestock grazing. Can we get an idea of where in town this is occurring? Who has information about this? Najpauer said this is not going to happen by October. We have to involve the State Dept. of Agriculture. We could ask an agriculture representative and the Shellfish Committee chair and vice chair to be present at a Planning Board meeting on ordinance revision. Simmons again called for a 200' minimum setback of septic systems from water bodies.

Decision: There was a consensus not to place ordinance revision on the November ballot, to save money and also to give time for more thorough review and analysis. Butler made a motion to table the ordinance revision item, seconded by Winchenbach. Select Board members voted unanimously in favor of the motion to table.

Simpson reminded the Select Board that the Planning Board now has only five members, and requested appointment of two additional members soon.

10.3 Proposal for Upgrade of Internet Service and Phone Service with LCI

Keizer said the Town Office does not need new phones, only phone and internet service using LCI Communications. The phone service to the Town Office is intermittent. When someone calls the Police Dept., the call is not getting through reliably. Smeltzer said that he cannot make outgoing phone calls from his desk. Keizer wants to get rid of OTT Communications and go with LCI. We need 100 x 100 wi-fi. We don't have Spectrum for this building. Keizer said that she is going to go ahead with this, because she can under our purchasing policy.

10.4 Discussion on Firework Ordinance; 10-5 Discussion on Creation of Town Charter Committee; 10.6 Appointment of Select Board Member to Lincoln County Budget Committee: deferred to next meeting

On motion of Simmons, seconded by Minzy, Select Board members voted unanimously to defer discussion of these agenda items to the next Select Board meeting.

10.7 Acceptance of Criminal Forfeiture in the Amount of \$3,196.00

See letter of August 16, 2018 from the Office of the State of Maine Attorney General to Police Chief Labombarde re: State of Maine vs. Chamara Cox, Knox County Unified Criminal Court Doc. No. CR-18-302 - Criminal Forfeiture; Required Vote of Municipal Officers/Approval of Transfer of Forfeiture Assets. On motion of Simmons, seconded by Minzy, Select Board members voted unanimously to accept criminal forfeiture in the amount of \$3,196.00.

10.8 Discussion of Jefferson/Friendship Street Intersection with Main Street

Keizer said that a four-way stop at the intersection of Jefferson /Friendship Street and Main Street would never be approved by Maine Dept. of Transportation, because of the steepness of Main Street east of the intersection. Butler suggested making it No Parking on Main St. in front of the Cohen law offices. We can ask the State to come and look at the intersection. Keizer said that she and John Daigle will meet with MDOT to discuss the matter.

10.9 Extension of On-Premises License for Odd Alewives Farm Brewery

Select Board members voted unanimously to approve expansion of outdoor seating at Odd Alewives by four tables on the non-road side.

11. Adjournment

On motion of Winchenbach, seconded by Minzy, Select Board members voted 5 - 0 to adjourn the Select Board meeting at 8:15 p.m. The Select Board then re-convened as the Board of Assessors.

Select Board:
Town of Waldoboro, Maine

Robert L. Butler, Chair

Katherine W. Winchenbach, Vice-Chair

Clinton E. Collamore

Abden S. Simmons

Joanne Minzy