MINUTES

BOOTHBAY HARBOR

SELECTMEN’S MEETING

 AUGUST 27, 2018

In addition to these typed minutes, video recordings of all Selectmen’s meetings are available to be viewed at BRCTV and audio recordings are available to be listened to at the Boothbay Harbor Town Office.

ATTENDING: Denise Griffin, Vice Chair

 Russ Hoffman

 Mike Tomko

Trisha Warren

 Wendy Wolf, Chair

 Julia Latter, Finance Officer

**Chair Wolf called the Board of Selectmen’s meeting to order at 7:00 pm.**

Pledge of Allegiance: The Board of Selectmen and members of the audience.

PUBLIC HEARING:

Chair Wolf explained the order of the agenda that evening would begin with a public hearing to discuss the November 6th referendum vote to see if the voters would approve making amendments to the Comprehensive Plan.

Chair Wolf asked everyone in attendance, if they had not already done so, to sign in at the door (attached).

Chair Wolf expressed appreciation for the time spent by the members of the Planning Board and the Advisory Committee as well as to the many residents who attended the meetings concerning proposed changes to the ordinances for the east side of the harbor.

 Chair Wolf stated since the Advisory Committee had handed over their recommendations to the Planning Board, the Select Board has received subsequent drafts of their discussions. At the August 23rd Planning Board workshop Chairman Hamblen reviewed the recent responses from the DEP, one of which points out the town's comprehensive plan speaks to the Maritime/Water Dependent District being maintained which does not seem to be consistent with the proposed changes to the ordinances.

Consequently, at the Selectmen's meeting on August 13th the Select Board voted to put a referendum question on the ballot of the November 6th election asking the voters whether the comprehensive plan should be amended to be consistent with the zoning plan (for the east side).

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Chair Wolf introduced town attorney, John Cunningham, who was present to help answer questions from the voters that evening.

Chair Wolf emphasized that the referendum vote was not a vote to approve the proposed ordinance changes but whether the town should move forward with the process of amending the comprehensive plan. After hearing the comments from the floor that evening the Select Board would decide to either proceed with the referendum vote or to drop the referendum vote.

Chair Wolf opened public comments from the floor (from Boothbay Harbor residents, voters and tax payers).

1. Patty Minerich read a lengthy letter in favor of dropping the referendum vote and submitted a petition signed by forty-two residents requesting this. The petition also requested having Lincoln County Regional Planner, Bob Faunce, return to the deliberations of the Planning Board to plan ordinance changes to the east side consistent with the Comprehensive Plan.

2. George Doran asked when Attorney Cunningham had revisited the Comprehensive Plan and if it was cast in stone.

Attorney Cunningham responded that due to attorney/client privileges there were some things he could not say. However, Attorney Cunningham stated he could say that under the law, if there is any divergence between the Comprehensive Plan and a zoning issue, the Comprehensive Plan wins out. Unbeknownst to him the DEP made the same comment. The Comprehensive Plan is supposed to reflect the opinions of the town's people and what is best for the town and how the town should be developed. It is understood that the Comprehensive Plan should be revisited on a regular basis and changed whenever necessary.

3. Dave Racicot stated the Comprehensive Plan is not only approved by the town but is also governed by state regulations which protect and promote Maritime/ Water Dependent zoning so the proposed Mixed Use zoning changes for the east side are in conflict with the Comprehensive Plan as well as with state regulations.

4. Mark Skinner had concern about the expense of amending the Comprehensive Plan after just three years if the referendum question to amend it should be approved when there might be no need to do so.

5. Bill Logan stated he felt the process to develop ordinance changes for the east side should stay with the Planning Board and that the Select Board should rescind its vote to have the referendum question to amend the Comprehensive Plan on the November ballot.

6. John O'Connell expressed concern about amending the Comprehensive Plan.

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Attorney Cunningham responded whenever the town wants to take an action that runs the risk of not complying with the Comprehensive Plan they can either amend the Comprehensive Plan or postpone the action until the Comprehensive Plan comes up for its regular review process. The importance of an issue might necessitate changes sooner than scheduled. It is a matter of prudence to make sure a proposed ordinance change fits squarely within the Comprehensive Plan.

7. David \_\_\_\_\_\_\_ pointed out the benefits of economic development for the town in Florida where he winters and wondered to what extent the road blocks were for the town.

Attorney Cunningham responded it was a state issue.

8. Darrell Gudroe asked if a referendum question was necessary.

Attorney Cunningham responded that it was only meant to see if the voters were in favor of amending the Comprehensive Plan.

Darrell wondered why a vote to hand over the communication between the Select Board and the Town's counsel concerning the Comprehensive Plan to Attorney William Logan (on behalf of Paul Coulombe) was taking place after the Public Hearing rather than before it.

Darrell stated the final decision for the east side development should not be determined with any one developer in mind nor should the Comprehensive Plan have more value than it has had in the town's history.

Attorney Cunningham responded that the request under the "Freedom of Access Act," from Attorney William Logan had come in **after** the Public Hearing had already been called which dictated the order of the agenda.

9. Ken Fitch stated he felt it would be better for all to have the Select Board drop the referendum vote and let the Planning Board continue with other alternatives rather than to continue on the track they are on since there is a potential for litigation. "The Comprehensive Plan dictates what the zoning ordinances should be. This issue is fracturing this town. I think we all see the need for change but change that is consistent with the Comprehensive Plan to maintain the working waterfront. Let's work together."

10. Julie Roberts pointed out how much the annual real estate taxes of the Rocktide Inn had increased since being converted into the Boothbay Harbor Oceanside Resort, due to the amount of money invested into it, which is a substantial boost to the town's tax base. "No one wants to lose the working waterfront or own the town" but this process has been going on for nine months and "it is time to stop saying they need more time."

11. Cory Tibbetts stated he agreed with Ken Fitch...there has got to be a way to make it work.

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12. John Seitzer felt, based on comments that evening, they needed a town planner to come up with a plan for the whole town.

13. Judy Stone stated the lobster fishery in Maine has been increasing in revenue and feels everyone wants to make this a better place to live. "The proposed zoning ordinances need to be made to align with the Comprehensive Plan, not the other way around."

14. Lynne Seitzer felt that many people in town were happy with the Comprehensive Plan and that it was worth reading.

15. Tom Minerich asked if someone could build a restaurant at the Sea Pier under the current Maritime/Water Dependent zoning ordinance.

CEO, Geoff Smith, responded they could as long as it has the proper setbacks and meets all of the requirements.

16. Paul Coulombe stated he also agreed with Ken Fitch, that a referendum vote is premature. Paul stated the Comprehensive Plan encourages multi-use as well as promoting and protecting the working waterfront and asked Attorney Cunningham if he could comment on that.

Attorney Cunningham responded that he could not.

Paul Coulombe stated that his motives are not for financial gain but economic viability for the community as a whole. Paul stated no one supports the working waterfront more than he does. Not one additional fishery was developed on the east side in the last thirty years. If there was multi use he could update businesses on the east side to increase revenue for the town, making sure the fisheries stay intact, and make it a better place for everyone to live.

17. Kate Rice stated they all want change...**responsible** change that will bring young families here.

18. Darrell Gudroe stated after talking with some of the lobstermen, he found out that the inner harbor is not a good place to operate from.

Darrell wondered if the email communication between the Select Board and Attorney Cunningham would also be available to the general public.

Attorney Cunningham responded that it needs to remain confidential unless the town decides for him to release it.

19. Tom Cotter commented how Charlotte, NC lost it's character after high rises were built along the water and hopes Boothbay Harbor does not lose theirs.

20. Alex Weise stated he also agrees with Ken Fitch and was sorry to see the town being torn apart.

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21. Tom Myette stated no one is denying that the proposed ordinance changes and the Comprehensive Plan should be in alignment but felt it should be done in one vote.

22. Bill Logan asked if there was any problem with the proposed ordinances for the east side going back to the Planning Board to see if they could find a way to make them comply with the Comprehensive Plan.

Attorney Cunningham did not see any problem.

23. Mary Ellen \_\_\_\_\_\_ wished there could be clarification of the next steps that would be taken if the referendum question is not on the November 6th ballot.

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Chair Wolf closed public comments so the Select Board could discuss whether or not to have the referendum vote after listening to all of their heartfelt comments.

Selectman Hoffman stated he was in favor of having the referendum vote on the ballot in November to move the process along but had heard some good points on both sides.

* The Comprehensive Plan should not be made more than it is (but since things are moving so quickly these days it should be reviewed and updated).
* The Planning Board should keep working until the proposed changes are aligned with the Comprehensive Plan.
* The Comprehensive Plan is a good document to guide the town.
* A town planner is a good idea.
* Paul Coulombe says he wants to maintain the working waterfront.
* The town needs to work together (which might need compromise).

Selectman Hoffman, while sorry for a delay to see some of the tired properties on the east side updated, wants to work together "to work through this."

Selectman Tomko thanked everyone who had attended and wants "to work for the benefit of all."

Selectman Warren stated even though she was the one who made the motion to put the referendum vote on the ballot in November did not want a divide to develop between the people. Selectmen Warren felt since the majority did not want the referendum..."so be it."

Vice Chair Griffin did not have a comment.

Based on the majority of comments heard, Chair Wolf **motioned** that the Board of Selectmen not call for a referendum concerning possible amendments to the Town's Comprehensive Plan at this time. Selectman Tomko **seconded**. The motion passed **unanimously**.

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NEW BUSINESS:

Chair Wolf stated (as mentioned earlier) that Attorney Bill Logan, on behalf of Paul Coulombe, under the "Freedom of Access Act," had requested the Select Board authorize the Town's counsel to release the email communication between the Board and the Town's counsel concerning the Comprehensive Plan.

Chair Wolf **motioned** that the Board of Selectmen authorize the Town's counsel to release to William W. Logan, Esq., in response to his "Freedom of Access Act" request, the email communications between the town's counsel and the Select Board concerning the Town's Comprehensive Plan, provided that (1) the Town does not thereby waive the attorney/client privilege with respect to any other documents and (2) the delivery of such communications shall be agreed by Mr. Logan to satisfy his request.

Chair Wolf amended her **motion** to release the communications of the Planning Board as well as the Select Board. Selectmen Tomko **seconded**. **Unanimous approval**.

FINANCIALS:

Finance Officer Latter reviewed the financial totals with the Board.

MINUTES:

Vice Chair Griffin **motioned** to approve the minutes of the August 13th meeting. Selectman Tomko **seconded**. **Unanimous approval**.

LICENSES:

(None)

ONGOING BUSINESS:

1. Chair Wolf stated she'd attended the CSD Board of Trustees and School Committee workshop about repair issues of the schools on August 15th to plan for the schools futures. They discussed financial stability when caring for the physical condition of the buildings to keep them safe and maintained while abiding to the restrictions of the charter. The new superintendent is interested in having two Select Board members involved in future discussions.

2. Chair Wolf stated the Select Board had recently worked with Habitat for Humanity on a town acquired property at 35 Campbell Street. Habitat will renovate the house and build a second house on the property to provide affordable housing. (They had hoped to build two additional houses but there was not enough square footage.)

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PUBLIC FORUM:

1. Kate Rice reported that at a recent staff meeting at the Boothbay Region Elementary School, Facilities and Transportation Director, David Benner, brought them hope and relief by stating he believes the schools will stay open.

WARRANTS:

Selectman Warren **motioned** to approve the warrants upon careful review. Selectman Hoffman **seconded**. **Unanimous approval.**

EXECUTIVE SESSION:

The Board went into Executive Session at 9:14 p.m. under MRSA Title 1, 405, 6 (A) - Personnel Matters.

The Board came out of Executive Session at 9:24.

No decisions were made.

MOVE TO ADJOURN:

The meeting was **adjourned** at 9:25 p.m.

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