

BOOTHBAY HARBOR
SELECTMEN'S MEETING MINUTES
VIA ZOOM
March 14, 2022

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

ATTENDING: Michael Tomko - Chair
Tricia Warren – Vice Chair
Alyssa Allen
Denise Griffin
Kenneth Rayle

Julia Latter, Town Manager

Chairman Tomko called the Board of Selectmen's Meeting to order at 7:03 p.m.

Introductions of the Board of Selectmen.

TOWN MANAGER'S ANNOUNCEMENTS:

1. The final Budget Meeting will be Wednesday, March 16th at 4:30 p.m. Latter thanked the Budget Committee and the Board of Selectmen for their dedication through the process.
 2. Absentee ballots will be available as of April 6th for the following 3-year terms:
 - 2 Selectmen and Overseers of the Poor
 - o Alyssa D. Allen
 - o Michael J. Tomko
 - 1 School Committee Member of the Boothbay-Boothbay Harbor CSD
 - o Margaret Lembo-Splaine
 - 1 Trustee of the Boothbay-Boothbay Harbor CSD
 - o Ronnie R. Campbell
 - 1 Trustee of the Boothbay Region Water District
 - o Merritt R. Blakeslee
 - 1 Trustee of the Boothbay-Boothbay Harbor Cemetery District
 - o Patricia M. Minerich
- Boothbay Harbor Sewer District 3-year term:
- 1 Trustee of the Boothbay Harbor Sewer District
 - o Deryl P. Kipp

Voting for the officers listed above will be held in the Fire Station at the Municipal Building on Friday, May 6, 2022, from 8:00 a.m. – 6:00 p.m. Town meeting will be held on Saturday, May 7, 2022, at 9:00 a.m. at the Boothbay Region Elementary School.

3. Public Works Foreman, Nicholas Upham, is scheduled to do an update during Department Head Reports at the next scheduled meeting. Upham will be giving a brief overview of winter operations.
4. There are three positions available and are noted on our website, www.boothbayharbor.org. Positions available are for parking enforcement, a shared town planner with the town of Damariscotta, and a part-time/per diem front desk position.
5. Property taxes were due on March 8th and interest began on March 9th.

6. Since the last meeting Code Enforcement Officer Geoff Smith and Will Gartley have discussed the issue regarding the setbacks for the footbridge. It has been discovered that the most nonconforming point in terms of sideline setbacks is the end of the caps which currently extend one foot beyond the deck framing. Geoff was able to give the ok for using that and not encroaching on the setbacks on adjoining properties which solved the problem of widening the footbridge one foot.
7. Latter presented the board the MaineDOT Ship grant agreement. Latter asked the board to approve and authorize her to sign on behalf of the Town of Boothbay Harbor. A motion was made to approve and authorize the town manager to endorse the MaineDOT SHIP grant agreement on behalf of the Town of Boothbay Harbor for the Footbridge Renovation Project as written. Motion seconded and unanimously approved. Approved 5-0.
8. Gary Stone from The First National Wealth Management will be scheduled for the first meeting in April to present an overview of the past year.

TOWN DEPARTMENT REPORTS: NONE

SELECTMEN REPORTS: NONE

FINANCIALS: Overview of financials given by Manager, Julia Latter for Finance Officer, Kathleen Pearce.

MINUTES: Approval of February 28, 2022, meeting minutes. Approved 4-0. (Selectperson Griffin absent from the meeting).

LICENSES: Liquor License – Renewal license for Cap’n Fish’s Cruises, 42 Commercial Street (Malt, Wine, and Spirits). Approved 5-0.

NEW BUSINESS:

1. A Wharves and Weirs Hearing for Bristol Lobster Sales, Inc., represented by Stockwell Environmental Consulting Inc., Map 10 Lot 20, 53 Roads End, Boothbay Harbor was held earlier. They proposed to rebuild and enlarge the wharf over the existing dam with an overall dimension of 24’ x 85’. The project also includes the construction of new concrete decking over part of the pound to increase the work area for the fisherman and business employees. The maximum dimensions are 75’ x 45’. The application met all three approval requirements. A motion was made to approve the application with the condition that curbing and railing will be added to the new dock built over the pound. Motion seconded and unanimously approved. Approved 4-0. (Chairman Tomko abstained from the vote due to conflict of interest, as an abutter to the property).
2. Latter presented the updated draft ordinances and asked the board to approve them and set a public hearing for March 28, 2022, at 6:30 p.m.

[Board of Selectmen - Voting]

To see if the town will vote to amend the current Code of the Town of Boothbay Harbor as follows: Section 2-5, Board of Selectmen, subsection A, is amended to read as follows:

§ 2-5 Board of Selectmen.

A. The administration of all fiscal and municipal affairs of Boothbay Harbor, except as otherwise herein provided, with particular reference to the town manager plan, shall be vested in the Board of Selectmen, consisting of five members. The Board of Selectmen shall exercise its powers in the manner herein provided and shall also serve as the Overseers of the Poor. The members of the Board of Selectmen shall constitute the municipal officers of the Town of Boothbay Harbor for all purposes

required by law and, except as otherwise herein provided, shall have all the powers and authority given to the Board and perform all duties required of municipal officers of towns under the laws of this state. Members of the Board of Selectmen shall be elected at large by the qualified voters of the Town of Boothbay Harbor for terms of three years. At the first meeting following the Annual Town Meeting, the Board of Selectmen shall elect a Chairman and Vice-Chairman among its members to serve one-year terms. A majority of the members of the Board of Selectmen shall constitute a quorum required for the transaction of any business of the Board. Any action of the Board of Selectmen shall require the affirmative vote of at least a majority of the full Board of Selectmen, without regard to the number of members present and voting, excepting only, that when the Board of Selectmen is acting as the municipal officers pursuant to the Maine Wharves and Fish Weirs Act (as the same may be amended, recodified, or replaced from time to time), then in that case the affirmative vote of a majority of those members of the Board present and voting shall be sufficient.

[The intent is to clarify the voting requirements of the Board of Selectmen.]

A motion was made to approve the proposed ordinance as submitted. Motion seconded and unanimously approved. Approved 5-0.

[Amusement Devices, Coin-Operated – License Fee]

To see if the town will vote to amend the current Code of the Town of Boothbay Harbor as follows:

Section 73-6, Amusement Devices, Coin-Operated – License required; fee; is amended to read as follows:

§ 73-6 License required, fee.

It shall be unlawful for any person, firm, corporation or association to keep for public patronage or to permit or allow the operation of any coin-operated amusement device in or on any public premises or location under his or her or its charge, control or custody without having first obtained a license therefor from the Clerk of the Town of Boothbay Harbor. Said license shall be issued by the Clerk upon the payment to the Town Treasurer of the annual fee, as established by the Boothbay Harbor Board of Selectmen, of twenty-five dollars (\$25.) for each machine located at said premises, and said license shall expire on June 30 of each year.

[The intent is to provide for establishment of the fee by the Board of Selectmen.]

[Amusements – Permit Fee]

To see if the town will vote to amend the current Code of the Town of Boothbay Harbor as follows:

Section 74-5, Amusements, Fee, is amended to read as follows:

§ 74-5 Amusements, Fee.

The fee for a special amusement permit shall be \$20 as established by the Boothbay Harbor Board of Selectmen.

[The intent is to provide for establishment of the fee by the Board of Selectmen.]

A motion was made to approve the above-proposed ordinances as submitted. Motion seconded and unanimously approved. Approved 5-0.

[Signs – Internally Lit; and Fees]

To see if the town will vote to amend the current Code of the Town of Boothbay Harbor as follows:

I. Section 146-5, Signs, General Standards, subsection M, is amended to read as follows:

§ 145-5 General standards.

M. Illumination. Unless otherwise noted or permitted in the district requirements, only fully shielded (to control the area of illumination), external, indirect or nonglaring lighting shall be permitted in all districts. The following signs are prohibited: internally lit signs, neon lights, kinetic or moving signs, whirligigs, streamers and rotating or flashing signs; except for internally lit signs of Boothbay Region High School and Boothbay Region YMCA and such other internally lit signs for a public or quasi-public purpose as the Planning Board may approve.

Tabled for further discussion.

II. Section 146-12, Signs, Fees, subsection A, is amended to read as follows:

§ 145-12 Fees.

A. The fee, which shall be submitted with the application, shall be \$50an amount per sign established by the Boothbay Harbor Board of Selectmen. This fee and the application is good for a period of five years, at the end of which period renewals are required.

[The intent is to provide for exceptions for internally lit signs and for the establishment of fees by the Board of Selectmen.]

A motion was made to approve the proposed ordinance as submitted. Motion seconded and unanimously approved. Approved 5-0.

[Enforcement of the Land Use Code]

To see if the town will vote to amend the current Land Use Code as follows:

Section 170-20 Enforcement, subsections A and C, are amended to read as follows:

§ 170-20 Enforcement.

A. Notice of violations. If the Code Enforcement Officer shall find that any of the provisions of this Land Use Code are being violated, s/he shall notify ~~by certified mail~~ the person responsible for such violation, indicating the nature of the violation and the state/local regulations regarding fines, and order the action necessary to correct it. S/he ~~shall~~may order discontinuance of illegal use of land, buildings, structures, additions, alterations or structural changes thereto or discontinuance of any illegal activity.

B. Fines. Any person being the owner or occupant of or having control or use of any building, structure or premises, including any business, corporation, organization or contractor, who violates a provision

of this Land Use Code, ~~shall be guilty of a civil offense, and upon conviction, shall~~may be punished by a fine of not more than \$2,500 and not less than \$100 for each offense (Title 30-A, § 4452). Each day that such violation continues after notification shall constitute a separate offense. In the event that the Code Enforcement Officer gives a violator a specific period of time in which to correct such offense, the number of offenses shall be calculated from the date of original notification.

[The intent is to allow for discretion in enforcement actions.]

[Revocation of Permits]

To see if the town will vote to amend the current Land Use Code as follows:

Section 170-15 Revocation of Permits, subsection A, is amended to read as follows:

§ 170-15 Revocation of permits.

- A. Stop-work order. Should the Code Enforcement Officer find that information supplied to obtain a building permit is in error or the work permitted has been exceeded, the Code Enforcement Officer ~~shall~~may issue a stop-work notice revoking the permit. This action shall be accomplished by means of a verbal notification to the applicant or working crew or by posting of a stop-work notice at the entrance to the site or attaching the notice to the structure itself. This action shall be followed up by a written notice of violation as required herein.

[The intent is to allow for discretion in the issuing of stop work orders.]

A motion was made to approve the above-proposed ordinances as submitted. Motion seconded and unanimously approved. Approved 5-0.

[Appeals Procedure – Administrative Appeals]

To see if the town will vote to amend the current Land Use Code as follows:

Section 170-108 Board of Appeals, subsection D(2)(a), is amended to read as follows:

§ 170-108 Board of Appeals.

D. Power and duties.

(2) The Board of Appeals shall have the following powers and duties:

- (a) Administrative appeals shall be an appellate hearing. If new facts or evidence are available, the matter shall be referred back to the Planning Board or Code Enforcement Officer for a new decision based on the additional information. Administrative appeals: to hear and decide where it is alleged there is an error on any order, requirement, decision or determination made by the Code Enforcement Officer or by the Planning Board. ~~The action or inaction of the Code Enforcement Officer or Planning Board may be modified or reversed by majority vote of those present and voting. This may include enforcement actions~~Any order, requirement, decision, or determination made, or failure to act, in the enforcement of this Code is not appealable to the Board of Appeals.

[The intent is to clarify the procedures for administrative appeals.]

A motion was made to approve the proposed ordinance as submitted. Motion seconded and unanimously approved. Approved 5-0.

[Schedule of Dimensional Requirements]

To see if the town will vote to amend the current Land Use Code as follows:

Section 170-28, Schedule of Dimensional Requirements, is amended by deleting therefrom the second label reading “Minimum Land Area per Dwelling Unit or Use (square feet)” that appears in the tenth row of the schedule. The first appearance of that label, in the second row of the schedule, shall remain.

[The intent is to remove a confusingly duplicated label within the Schedule of Dimensional Requirements.]

A motion was made to approve the proposed ordinance as submitted. Motion seconded and unanimously approved. Approved 5-0.

[Subdivision Applications]

To see if the town will vote to amend the current Land Use Code as follows:

Section 170-104 Subdivision applications, subsection A, is amended to read as follows:

§ 170-104 Subdivision applications.

A. Preapplication.

(1) Procedure.

- (a) The subdivider shall submit for informal discussion a sketch plan and other data relative to the proposed subdivision which may be of assistance to the Planning Board in making its determination.
- (b) The sketch plan shall be submitted to the Board at least 21 days prior to ~~a regular~~the first Board meeting ~~of the month~~ during which the subdivider wishes to be heard. Ten copies of the sketch plan shall be submitted.
- (c) The Code Enforcement Officer shall determine whether the sketch plan ~~application~~ is complete and shall not schedule the application for Planning Board review until it is found complete and any applicable fees and taxes are paid.
- ~~(d) At said meeting, the Board and the subdivider shall arrange for a joint inspection of the site with the Board.~~
- ~~(e) Within five days after the next regularly scheduled Planning Board meeting following the preliminary site inspection, the Board shall inform the subdivider in writing that the plans and data as submitted or as modified do or do not meet the objectives of these standards. Specific suggestions, in writing, to be incorporated by the applicant in the applicant's subsequent submissions shall be made where deemed necessary.~~
- ~~(f) The applicant shall be limited to one preapplication meeting and one clarification meeting with the Planning Board prior to the submission of an application for a major or minor subdivision.~~

(2) Submissions.

- (a) The sketch plan shall show, in simple sketch form, neatly done and to scale the proposed layout of streets, lots and other features in relation to existing conditions. The sketch plan shall include the information listed below.
- [1] Boundary lines of the property to be developed.
 - [2] ~~Easements: location, width, and purpose~~Proposed name of the subdivision, north arrow, scale, and name of the owner/subdivider.
 - [3] ~~Streets on and adjacent to the tract: name and right-of-way width and location~~General topography, streams, drainage ways, and wetlands.
 - [4] ~~Walks, curbs, gutters, culverts and other known and located underground structures within the tract and immediately adjacent thereto~~Proposed streets, number of lots, and general layout.
 - [5] ~~Existing utilities on and adjacent to the tract~~Names of all abutters.
 - [a] ~~Location of all proposed and existing sewers and water mains.~~
 - [b] ~~Location of fire hydrants, electric and telephone poles.~~
 - [c] ~~Streetlights.~~
 - [d] ~~If proposed and/or existing water mains or sewers are not on or adjacent to the tract, indicate the distance to and size of nearest ones.~~
 - [6] ~~Soil test data adequate to show that the subsurface soil conditions on the tract will accommodate the proposed development~~Proposed utilities.
 - [7] ~~Type of land use on and adjacent to the tract.~~
 - [8] ~~Proposed name of the subdivision or identifying title. This name shall not duplicate or closely resemble the name of a subdivision already existing or proposed in the Town.~~
 - [9] ~~The date, North point, graphic map scale, name and address of the record owner and subdivider, and the names of adjoining property owners.~~
- (b) ~~General subdivision information shall describe or outline the existing conditions of the site and the proposed development as necessary to supplement the drawing required above. This information shall include:~~The application shall contain any additional information necessary to provide a clear understanding of what is proposed and what is possible, including, but not limited to, such information as may be requested by the Planning Board.
- [1] ~~Data on existing covenants.~~
 - [2] ~~A medium intensity standard soil survey.~~
 - [3] ~~Available community facilities and utilities.~~
 - [4] ~~Information describing the subdivision proposal such as:~~
 - [a] ~~Number of residential lots;~~
 - [b] ~~Typical lot width and depth;~~
 - [c] ~~Playgrounds, park areas, open lands and other public areas;~~
 - [d] ~~Proposed protective covenants; and~~
 - [e] ~~Proposed utilities and street improvements.~~
 - [5] ~~The name, address and phone number of the owner of the property and the applicant, if different, and the street address, map and lot of the property to be subdivided.~~
- (c) After reviewing the sketch plan, the Planning Board may:
- [1] Ask for additional information;
 - [2] Vote to conduct a site visit, and/or
 - [3] Vote to accept the sketch plan; however, such a vote to accept will in no way imply subsequent approval of the preliminary or final subdivision plans.

[The intent is to simplify the pre-application procedures for subdivisions.]

A motion was made to approve the proposed ordinance as submitted. Motion seconded and unanimously approved. Approved 5-0.

[Appeals Procedure - Fees]

To see if the town will vote to amend the current Land Use Code as follows:

Section 170-109 Appeals procedure, subsection A(6), is amended to read as follows:

§ 170-109 Appeals procedure.

A. Filing of Appeal.

- (6) All variances and administrative appeals by an aggrieved party shall be accompanied by a fee payable to the Town of Boothbay Harbor as established by the Boothbay Harbor Board of Selectmen, including also costs necessary to advertise the hearing twice in the local newspaper and to notify abutters via certified mail.

[The intent is to clarify the fees for processing appeals.]

A motion was made to approve the proposed ordinance as submitted. Motion seconded and unanimously approved. Approved 5-0.

[Site Plan Review Application]

To see if the town will vote to amend the current Land Use Code as follows:

Section 170-66 Site plan review application, subsections A(3) and A(9), are amended to read as follows:

§ 170-66 Site plan review application.

A. Procedure.

- (3) The Code Enforcement Officer shall initially review the application and determine whether ~~it is complete or not~~ additional information is required before forwarding the application to the Planning Board. ~~If the application is found to be incomplete, the Code Enforcement Officer shall, within 10 days, notify the applicant in writing of the information needed to complete the application.~~ Upon the applicant's submission of such additional information ~~and upon the Code Enforcement Officer's determination that the application is complete,~~ the Code Enforcement Officer shall forward the application and supporting documents to the members of the Planning Board and place the project on the agenda of the next regular Board meeting, occurring not less than 14 days after the application was determined to be complete.
- (9) Site plan review approval shall expire after a period of three years after the date of approval if substantial development, as determined by the Code Enforcement Officer, has not begun or after a period of five years after the date of approval if development is not complete. A statement to this effect must appear on all approved plans.

[The intent is to clarify procedures for site plan review.]

A motion was made to approve the proposed ordinance as submitted. Motion seconded and unanimously approved. Approved 5-0.

[Schedule of Uses – Mobile Food Vendors]

To see if the town will vote to amend the current Land Use Code as follows:

Section 170-27, subsection E, Schedule of Uses, Footnote 19, is amended as follows:

¹⁹ A mobile food vendor is defined as a seller of food, beverages or other items intended for immediate human consumption from a mobile van, truck, cart, or other conveyance. Each such mobile van, truck, cart, or other conveyance requires approval as a separate use.

[The intent is to clarify the approval of “mobile food vendors” within the Schedule of Uses.]

A motion was made to approve the proposed ordinance as submitted. Motion seconded and unanimously approved. Approved 5-0.

[Art Gallery, Museum, or Library]

To see if the town will vote to amend the current Land Use Code as follows:

I. Section 170-113 Words and terms defined, subsection B, is amended to include the following items, inserted alphabetically into the list of defined terms:

B. As used in this Land Use Code, the following terms shall have the meanings indicated:

ART GALLERY, MUSEUM, OR LIBRARY

The phrase “art gallery, museum, or library” means a privately operated facility intended for public access to view, read, listen to, and or watch audio-visual materials (which may include related presentations, such as meetings, forums, and lectures). However, a facility intended primarily for the viewing of plays and/or movies or similar material, such as a theater, shall not be considered an art gallery, museum, or library. Art galleries, museums, and libraries are examples, but all other such facilities are included within this definition. Such a facility may make sales of materials related to its function, either for profit or on a nonprofit basis.

LIBRARY

See “Art Gallery, Museum, or Library”

MUSEUM

See “Art Gallery, Museum, or Library”

II. Section 170-27, subsection E, Schedule of Uses, is amended to include the following line, inserted alphabetically into the section of the table labeled “Institutional and Public Uses:

	GR	SR	DB	LC/M	WW	GB	RP
Institutional and Public Uses							
<u>Art gallery, museum, or library</u>	<u>P</u>		<u>P</u>	<u>P</u>		<u>P</u>	

[The intent is to identify “art gallery, museum, or library” within the Schedule of Uses.]

A motion was made to approve the proposed ordinance striking the language privately operated. Motion seconded and unanimously approved. Approved 5-0.

A motion was made to schedule a public hearing for ordinance review on March 28, 2022, at 6:30 p.m. Motion seconded and unanimously approved. Approved 5-0.

OLD BUSINESS: Covid discussion – Selectman Griffin mentioned that a lot of businesses are now going mask free but urges people to still be careful.

PUBLIC FORUM: NONE

WARRANTS: Motion was made to approve the warrants upon review. Motion seconded and unanimously approved. Approved 5-0.

EXECUTIVE SESSION: An executive session was held under MRSA Title 1, Chapter 13, §405 6 (A), Personnel.

The board came out of the executive session at 9:32 p.m. under MRSA Title 1, Chapter 13, §405 6 (A), Personnel.

MOVE TO ADJOURN: The meeting was adjourned at 9:33 p.m. after unanimous approval. Approved 5-0.

