

Selectmen's Meeting Minutes

Tuesday, May 7, 2002

Attendance: Mark Acker, Chairman; Betty McDermott; Ada Brown; Charles Leavitt; Dana Desjardins; Peter Leavitt, Appeals Board; and Don Willard, Town Manager.

1. Call to order. Mark Acker opened the meeting at 7:00 pm.
2. Consideration of previous minutes dated April 16, 2002.

MOTION: Ada Brown motioned to approve the Minutes as written. Seconded by Charles Leavitt.

VOTE: Unanimous.

3. Request from Ernest and Shirley Fielder for reconsideration of reimbursement of legal expenses in Fielder vs. Town of Raymond.

DISCUSSION: Ernest Fielder opened by saying that he was requesting a partial reimbursement for the expenses incurred from the Land Use case about the enclosing of the deck on their house. He said that they had applied to Jack Cooper for a permit and he denied them saying that the Town had a 20 year policy of not allowing the enclosing of decks which were less than 100 feet from a lake. They then applied to the Appeals Board which also denied them. Mr. Fielder continued that it was stated that the DEP would probably allow it. Shirley Fielder said that she had asked the Town Manager for a meeting with the Selectmen to see if they would overrule the Appeals Board and Don Willard had informed them that it would not be possible but that they could go to Superior Court. Mr. Fielder continued that subsequently they had found that there was a law which provided for mediation. He said that since they had won their court case and the Town did not choose to appeal that decision that they should be able to seek reimbursement for their expense. Mr. Fielder said that Mr. Cooper told them that if the Appeals Board would not change their decision in light of the court case, he could not issue a building permit. Mr. Fielder said that the court case cost them about \$6,000 and it proved that there was no reason in the Ordinance for the Code Enforcement Officer or the Appeals Board to deny them. Mr. Leavitt asked if they had been represented by council. Mr. Fielder replied yes. Mr. Willard noted that the Selectmen couldn't override an Appeals Board decision, only the Superior Court could do that. He continued that he did not know about the law concerning the mediation option and that the Town Attorney didn't inform him that this would be an option in this case. Geoff Hole later said that the Fielder case would not have been subject to this law because a criteria for this option was that the applicant had to have "suffered significant harm". Mr. Fielder noted that he was not aware of this law at their first meeting. Mrs. Fielder said that she wanted to deal with this through mediation instead of going to court. She continued that she had talked with other towns' code enforcement officers and Selectmen and found that those towns would have allowed roofing over the deck. She felt that her case was not a hardship asking for a waiver but an administrative appeal and was told to apply as such. She had regret that this case wasted taxpayer money. Peter Leavitt opened by saying that the Appeals Board decisions do not set a precedent but each application is weighed on its own merit. The Appeals Board also does not make "deals" but makes judgments. The decisions are made by the ordinance and not by policy. Mr. Leavitt said that Mrs. Fielder had asked for his recommendation prior to her application and he said that he had told her that she would ask for an administrative appeal since she was denied by the Code Enforcement Officer. He added that Raymond's ordinance was more restrictive than the State's. Mr. Willard read the letter dated May 2nd from the Town Attorney regarding Title 5, Section 3341. The letter said that mediation would not be applicable because there is no "suffering of significant harm". He followed by saying that he had not been aware of this statute and that he always tried to give good information and advice when asked. Mrs. Fielder felt that the Town's people should work together and settle its problems. She would prefer to discuss rather than go to court. Mr. Leavitt felt that they had experienced the working of their rights and didn't feel that there should be any further responsibility of the Town. He added that the intent of the ordinance is to limit encroachment onto the lakes. Mrs. Fielder felt that this could have been settled without court and

asked that she have some consideration of what she had to spend. Ada Brown said that since this case the Town of Raymond has been made aware of an area of its ordinance which needs to be changed. Because of this she felt that some consideration might be possible.

MOTION: Ada Brown motioned to consider a rebate of \$2,000 for some reimbursement. Second none.

DISCUSSION: Mr. Acker didn't think that the Town should reimburse for this type of case. He announced that since there was no second and no further motion, no action would be taken.

4. Renewal of a liquor license for the Olde House Restaurant, 104 Webbs Mills Road, Raymond.

DISCUSSION: Deputy Fire Chief Chris Champagne had reviewed the progress which has been made. He had a letter on file for the remaining issue which is to have another fire exit built which must be finished by September 1, 2002 as a condition of approval.

MOTION: Betty McDermott motioned to approve the liquor license with the condition that a fire exit be constructed by September 1, 2002. Seconded by Dana Desjardins.

VOTE: Unanimous.

5. New liquor license application Richard Dyke, Keith Dyer, and Kevin Perro d/b/a Mr. D's Supper Club, 1227 Roosevelt Trail, Raymond.

DISCUSSION: Don Willard said that Deputy Fire Chief Chris Champagne had first inspected on May 2, 2002 and that there is a letter on file from Keith Dyer, a principle of the business, of what needed to be done. On May 7, 2002 Deputy Chief Champagne reinspected the facility and found progress made. He recommended approving the liquor license with the condition that everything on the list to follow be finished within 30 days.

- The kitchen hood fire suppression system must be inspected and tagged by a service company. The open box on the system must be covered.
- The rear exit from the kitchen must have an out swinging door with "panic" hardware.
- The dining room cannot have an exit through the kitchen. The exit sign in the dining room should be removed and emergency lights installed. The second option is to build a fire protected corridor from the dining room to the kitchen exit.
- The fire alarm system must comply with Life Safety 101.
- A Knox box must be installed outside of the front entrance.
- Mount and service portable extinguishers per code.
- Correct water leak in storage-water heater room.
- Mount sign outside of front entrance alerting firefighter's of the false front and truss roof.

Dana Desjardins asked about the electrical and plumbing inspection. It was discussed that the State inspectors would take care of that.

MOTION: Betty McDermott motioned to approve the liquor license with the condition that all remaining issues be rectified including plumbing and electrical inspections and that they have an occupancy permit. Seconded by Mark Acker.

VOTE: Unanimous.

6. Junk Yard Cleanup Update: Code Enforcement Officer Jack Cooper.

DISCUSSION: Mr. Cooper reported that the Main Street location meets the ordinance. The Raymond Hill property owner will be served court papers. This is waiting for a court date. The Tower Road property owner will be served court papers in Massachusetts since he has refused our certified mail. There are also two or three other locations which are being investigated.

7. New Road name consideration: Levy Lane and Whitney Way: Code Enforcement Officer Jack Cooper.

MOTION: Betty McDermott motioned to approve the road name of Levy Lane which is the road to the new senior housing called Jordan Bay Place and which was named in honor of Ben Levy who was instrumental in developing senior housing in Raymond; also Whitney Way which is off Webbs Mills Road across from the Gore Road. Seconded by Charles Leavitt.

VOTE: Unanimous.

8. Communications and other business.

a. Portland Water District Waterline.

DISCUSSION: Mr. Willard reported that the waterline was being installed at about 500 feet per day. They expect the Route 302 line to be finished in early June.

b. Regional Business Park Concept.

DISCUSSION: Mr. Willard explained that at the June 4th Selectmen's meeting the concept of a regional business park will be discussed with the Lake Region Development Council and representatives from Windham.

c. RFP for Transportation Corridor Study.

An RFP for this study will be receiving applications from participants. The Route 302 and You Committee and others will be studying Raymond's needs and solutions for transportation.

d. Annual GPCOG Assembly on June 18, 2002.

Mr. Willard informed the Board that an invitation to the Selectmen has been received for the annual meeting of GPCOG on June 18th. He indicated that any and all Selectmen are invited.

e. Cape Road Improvements.

Mrs. Brown asked when the work will begin on the Cape Road. Mr. Willard answered that the tree work has begun and that the road work would begin in early June.

f. Raymond Beach Docks.

Mr. Desjardins asked when the docks would be installed. Mr. Willard said that they had delayed because of the level of the lake but would ask Nathan White what his plans are.

g. Public Safety Building.

Mr. Desjardins questioned the extra charge for establishing power at the new building which will apparently cost \$8,000. Is this responsibility the Town's or the Glenn Builders? Mr. Leavitt said that if this expense is an oversight the amount could be covered by the contingency fund. Mr. Willard felt it was a part of the design/build package bid.

h. Founders Day.

Mrs. McDermott announced that because of lack of interest the only event for the 2002 Founders Day will be the Road Races.

i. Mr. Acker's last meeting.

Mr. Acker noted that this meeting will be his last as Selectmen and said that he had enjoyed his term. Mrs. Brown said that he would be missed on the Board.

9. Review and authorize May 7, 2002 Treasurer's Warrant.

MOTION: Betty McDermott motioned to approve the Treasurer's Warrant in the amount of \$268,979.26. Seconded by Charles Leavitt.

VOTE: Unanimous.

10. Adjourn.

MOTION: Ada Brown motioned to adjourn. Seconded by Mark Acker.

VOTE: Unanimous.

ADJOURNMENT: Mark Acker adjourned the meeting at 8:05 pm.

Louise H. Lester
Town Clerk