



**BOARD OF SELECTMEN
Minutes*
December 6, 2011**

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

Absent: None.

Staff: John Rand, Conservation Commission; Louise Lester, Town Clerk; Nathan White, Public Works Director; Bruce Tupper, Fire Chief; Chris Hanson, Code Enforcement Officer; and Danielle Loring, Recording Secretary.

Others: Carrie Wallia, Loon Echo Land Trust; Ingo Hartig, OBO Sebago Rotary Club; Jeff Pomeroy, Black Ghost Cafe;

1) Call to order: Chairman Joe Bruno called the meeting to order at 7:00pm.

2) Minutes of previous meeting dated:

- **November 22, 2011**

MOTION: Lonnie Taylor motioned to accept the minutes from the November 22, 2011 meeting; seconded by Mike Reynolds.

DISCUSSION: None.

VOTE: UNANIMOUS APPROVAL (5/0)

Mr. Bruno said that they were going to pass items 3a and 4a on the agenda because the presenters had not yet arrived.

4) Old Business

****b)Loon Echo Land Trust: Greenprint Presentation- Carrie Wallia, Executive Director**

Carrie Wallia, Executive Director of Loon Echo Land Trust, explained the scope and progress of the Greenprint Project. She said that it was started in spring of 2010 when they approached seven towns to start a conservation regional strategy to try to get everyone on the same strategy. These towns came together and created a plan to accelerate up land conservation and have high quality lands conserved. They group then identified 150 individuals to be stake holders and gave opportunities for the public to attend the meetings held.

The result of these meetings were seven goals. Among which, water resources was at the top of the list along with preservation of plants and animals. Also included was the creation and protection of

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**Item taken out of order

working forests as well as lands with scenic value and the creation of maintenance of recreational trails, primarily having them closer to home and without any development to the natural resources.

She continued by explaining how the conservation diagram was set up. They had a specific action plan to bring towns together to focus on economic development and marketing all the recreational developments and to develop resources to bring conservation strategies together. She demonstrated that there were mapping projects that prioritizes layers based on regional preference and that there were many financing goals and strategies highlighted by the plan.

Ms. Wallia said that pamphlets and brochures would be available at the Town Office and that people could get the full Greenprint report off their website at www.loonecholandtrust.org. Mr. Bruno wanted to know whether there was or was going to be a trail map and Ms. Wallia responded that it would be available in the March or April, 2012 pamphlet. He continued that he was glad to hear that because the most important thing was to get the information out there. Mr. Willard added that the Raymond Revitalization Committee was also working on projects similar to Greenprint's, such as working to promote Morgan Meadows.

3) New Business.

****a) Request to Use Town Property for Annual Sebago Lake Rotary Club Maine Derbyfest 2012- Ingo Hartig**

Ingo Hartig, representing Sebago Lake Rotary, explained that the Fishing Derby has been going on for 11 years and they were looking to continue that and using Town property to do so. Mr. Willard explained that the Sebago Rotary Club was asking permission to use Tassel Top and Raymond Beach for Derby. As has been done in the past, Sebago Rotary Club and Town staff would be working with all the regional and local agencies to ensure safety and preparation.

Lonnie Taylor motioned to allow the Rotary Club to use Town property for the annual Derbyfest; seconded by Sam Gifford.

DISCUSSION: Mr. Leavitt clarified that they still needed to be approved by Tassel top Board of Directors and Mr. Willard confirmed and added that he would work with Mr. Hartig working on getting that approval.

VOTE: UNANIMOUS APPROVAL (5/0)

4) Old Business

****a) Consideration of Amendments to Black Ghost Cafe Lease Agreement- Jeff Pomeroy, Owner**

Mr. Bruno opened by stating that they had gotten Mr. Pomeroy's brief proposal but the Board had already received a determination from Chris Hanson, Code Enforcement Officer, on behalf of the Department of Environmental Protection (DEP). He felt that it was hard to make an amendment with that being said.

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Mr. Taylor added that his primary goal was to keep the beach clean and wanted to help Mr. Pomeroy make a living. His concern was how Mr. Pomeroy was going to get the vessel out of the water and felt that the Town should offer some assistance, since they were partnered with him legally.

Mr. Hanson explained that he had spoken with the DEP and Town Attorney to find out if the boat could stay in the water. The attorney says that the Shoreland Zoning Ordinance (SZO) indicated that there were clear definitions for uses because it did not matter how the boat was described, it mattered how it was being used and after seven months it was considered permanent and it would violate the SZO.

Specifically, Mr. Hanson said that he had talked to Mike Morse at the DEP and they considered it as a structure rather than a boat in an official ruling. They did not feel that it met the definition of a motor vessel because it was supported and attached to the dock. They said that if he wanted to continue his use, it would have to be functional and capable of transportation and not supported by piers or jacks. Mr. Pomeroy responded by mentioning other boats that were dry docked and Mr. Hanson said that those ones were apparent in their use whereas Mr. Pomeroy had jacked the cafe up the whole summer and it was obvious that it was not functional. Mr Hanson added that the attorney felt that the Town had given Mr. Pomeroy a lot of latitude when he was in obvious breach of the SZO.

Mr. Gifford asked for clarification on what was meant by being functional for transportation. He was unclear as to whether that meant it needed to have a motor because barges did not. Mr. Hanson said that he would find out but he was just relaying information from the DEP.

Mr Pomeroy stated that he did not ask to be there all winter, just a week after the Derby. Mr. Reynolds said that he understood but the seven month rule says that it needed to be out of the water in January, so they cannot go against DEP. Mr. Hanson warned that if the Town let the vessel stay in the water, it would be in violation with the DEP and he would also have to issue one. Mr. Taylor wanted to know what that meant and Mr. Hanson responded that it would be a fee of \$100 a day.

Mr. Bruno agreed that it needed to be out of the water but wanted to know where it was going to go and Mr. Pomeroy explained that he would move it off to the side of the beach parking lot. Mr., Leavitt said he saw that the boat being in the water was the short term issue but the long term issue was whether it was going to be functional and compliant next year. Mr. Hanson agreed and said that it needed to floating at all times next year and cannot be supported from the bottom.

Mr. Leavitt wanted to know if there were any issues with the ordinances to put the cafe on a trailer to use during the Derby, especially where Mr. Pomeroy has a Peddler's License. Mr. Hanson said that was fine. However, if the DEP considered it a structure in the water, then it was a structure on land and it needed to be away from the 100' of the high water line. He added that the concern from Public Works was not the storage, it was the work that needed to be done to cafe and where that was going to take place. Mr. Leavitt responded that it had been said that the Town could store the cafe until after the Derby and then it had to be hauled off to be worked on. Mr. Willard explained that the major concern was regarding the potential liability of them working on it on Town property.

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There was further discussion on how the cafe needed to be corrected in order to be functional the following year and whether it made sense to allow it to remain in the water. Mr. Pomeroy explained that any concerns about how the cafe was going to function during the Derby were moot because he was not planning on opening. He said that he was just concerned on how he was going to get it out of the water. Mr. Bruno wanted to know if the Board agreed that the boat needed to be out of the water.

Mr. White said that he thought that it could be done with minimal damage. Mr. Gifford suggested two weeks if that was enough. Mr. Hanson explained that he just needed to get the cafe beyond the high water mark. Mr. Pomeroy said that his plan was to get it out and wait until the ice froze then use his truck to bring it around to the boat launch and haul it off.

Mr. Leavitt asked Mr. Hanson if letting Mr. Pomeroy keep it in the water for two weeks was still in violation of the DEP and SZO and Mr. Hanson confirmed and added that as part of his annual review for the lease agreement the stipulation that the cafe needed to float and meet the DEP definitions of a water craft.

MOTION: Mike Reynolds motioned to give Jeff Pomeroy until December 25th to get the cafe out of water and on to the beach above the high watermark and then until February 28th to get it off the beach; seconded by Lonnie Taylor.

DISCUSSION: Mr. Leavitt said that he wanted to abstain because he had a problem with trying to subvert the SZO. He did not think that the Board had the authority to grant a waiver when they knew that Mr. Pomeroy was not in compliance. Mr. Bruno explained that with a plan of action in place that a violation could be avoided and Mr. Hanson added that the Board had the authority to grant letters of non-action.

Mr. Reynolds said that he understood his concern but the Board has been aware of many of the issues and trying to make an action plan to take care of it. The other issues that the Board had been tough on have tried to hide violations from the town. He added that he was willing to stand behind this decision because they were trying to help all parties. Mr. Bruno added that he was agreeing with Mr. Taylor they were in partnership with Mr. Pomeroy and were trying help him make money, however, if not out of the water by December 25th than he would be in violation.

MOTION: PASSES (4/0/1 [ab CL])

5) Workshop to Consider New Ordinances/Tax Acquired Properties:

****f) Consideration of Tax Acquired Properties**

Mr. Willard announced that the Raymond Conservation Commission has asked to postpone to have time to review properties. Mr Bruno said that the item was going to table until January.

****5a) Consideration of Adopting PACE Ordinance- Chris Hanson, Code Enforcement Officer**

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Mr. Hanson explained that PACE loans were partnered with Efficiency Maine to offer low interest loans with extended paybacks so Maine residents could make improvements on their homes. The attorneys says that they can draft a model ordinance to make it work with Raymond. However, the difference with this program is that the loan goes with the property not the owner.

Mr. Reynolds wanted to know who administers the loan and Mr. Hanson responded that PACE did and Mr. Rand confirmed that Efficiency Maine was the one who handled administration.

Mr. Bruno wanted to know about the financial health of Efficiency Maine and Mr. Rand said that the organization had gone through a restructuring within the last year, but not sure of the health of the trust. However, they were actively pushing the PACE loans and were very responsive when contacted. Mr. Bruno then wanted to know if the Town knew about surrounding communities and Mr. Willard he was not sure about their relative success rates but that Raymond had had three inquiries so far.

Mr. Leavitt said that he was concerned because the program required a small amount of administrative support from the town which included the issue of time involved with deed preparation.

Mr. Rand explained that one of the main road blocks of energy technology has been that individuals have not had the \$5,000-10,000 to have the retro fits required. The PACE program helped the average Maine resident get efficient energy and renewables. He suggested that the best idea was to see how many takers there were in surrounding towns. The time line would be to get it adopted in June and the Conservation Commission was willing to help out.

Mr. Reynolds said that he thought that it was a positive program and if Raymond does not participate then the residents automatically do not qualify. Mr. Bruno agreed but said that he need more information such as how many using were taking advantage of the program, and how much work was required by staff. He also wanted to know why the ordinance was necessary.

****5b) Consideration a Fireworks Ordinance- Fire Chief Bruce Tupper**

Mr. Willard explained that he had a few inquiries from residents saying that they interested in prohibiting the sale and use of fireworks. However, the law did not restrict the possession, but some towns have already enacted such ordinances.

Mr. Tupper continued that State law had made it legal to use fireworks starting in January, 2012. The Public Safety Department did not agree with the use but understood that it was a multi-sided issue and there are already people who use them even though they are not yet legal, but it was hard to enforce the issue because police were busy handling other matters which leaves it up to the Fire Department.

Mr. Tupper continued that if the Town enacted an ordinance then the issue would be who would enforce it. The Sheriff's Department would help but these complaints were not going to be a high priority. He has looked at the law and ordinances to see how they were enforced and there are already time limits on when fireworks could be used and he knew the police were already anticipating a high call volume for noise complaints. However, the Public Safety Department members were not deputy sheriff's and, therefore, not able to enforce such a law.

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Mr. Bruno asked the Board if they felt there was a need for a Fireworks Ordinance and Mr. Reynolds wanted to know if they could ban the sale of firework. Mr. Tupper responded that the Town could ban the sale and use but not the possession. There were regulations on where the business can be located as well as who can buy fireworks. Mr. Tupper said that he was interested in encouraging education about proper use and safety in firework use.

Mr. Leavitt wanted to know if there was an increase in injuries resulting from firework use in Raymond and Mr. Tupper said that he could remember one fire in eight years and maybe one injury. In the State, he believed there were eight in 2011 and New Hampshire had fifteen, where it was legal. He stressed that education and prevention were the keys to keeping those numbers low. The Legislature would review the law yearly and hopefully make changes accordingly.

Mr. Taylor added that they needed to also recognize that individuals were only allowed to purchase consumer fireworks, not the large display pieces. He agreed that the Town's focus should be on education and pass on enacting ordinance for now. Mrs. Lester wanted to know if the law dealt with the disposing of the fireworks and Mr. Reynolds said that they should be soaked in water.

Mr. Hanson added that he had had inquiries from individuals interested in selling fireworks. He explained that if the Town did not have an ordinance then it could be likely that there would be a dealer to locate there soon. However, the International Building Code and National Fire Protection Association had standards for building housing and businesses selling fireworks. These standards would also keep residents safe.

The Selectmen decided to wait on the Fireworks Ordinance to see what happened and give the State time to make adjustments if necessary.

****c &d) Recall Ordinance & Appointment Ordinance**

There was discussion on if the Recall Ordinance met the revisions that they had previously made. It was decided that in the event of a recall, a special election would be called if there was not already one scheduled within 90 days of the result. The Appointment Ordinance was going to be incorporated into the Recall Ordinance but would only apply for resignations or other instances other than a successful recall. Mr. Reynolds also requested that the dates be marked out to make sure that they coincided with one another as well as laws pertaining elections.

****e) Consideration of Sex Offender Ordinance**

Mr. Willard said that there were representatives willing to work with the State to get things changed because one of the major issues the Town faced with such an ordinance was enforcement. Mike McClellan, State House Representative, said that he would do whatever he could to help move this matter forward.

6) Public Comment: None

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7) Town Manager Report and Communications.

a) Confirm date for next regular meeting:

- **January 11, 2012**

8) Fiscal Warrants – Payroll and Appropriation Warrants – October 11, 2011

MOTION: Lonnie Taylor motioned to accept the Treasurer's Warrant in the amount of \$98,460.39; seconded by Mike Reynolds.

DISCUSSION: None.

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 8:57pm.

Danielle Loring
Recording Secretary

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