

Town of West Bath
Public Hearing and Select Board Meeting Minutes
Thursday, February 17, 2022

Town of West Bath	Kathleen Lavalley, Chair	- Present
Select Board:	Suzanne Andresen	- Present
	Madelyn Hennessey	- Present

Town Staff Present: Kristine Poland, Town Administrator
Karly Perry, Town Clerk

Planning Board Members: Darlene Estabrook, Chair
Gerry Mitchell, Vice Chair

Board of Appeals Members: Barry Kempson

Public: Derek and Kathleen Dudzic, Perry Estabrook,
David Hennessey, Robert and Jane Weir,

A Public Hearing of the Select Board was held at the West Bath Fire Hall, 192 State Road, West Bath on Thursday, February 3, 2022, at 5:30 pm

Municipal Officer Hennessey opened the Public Hearing for proposed ordinance changes, then asked Darlene Estabrook, Planning Board Chair, to briefly review the first change regarding submittal deadlines.

Ms. Estabrook reviewed the format for changes with black text for existing language to remain and red text for amendments. Text with a strikethrough signifies language to be removed whereas language underlined is to be added.

She then went on to state that the proposed change increases the submission deadline from 12 to 15 days prior in order to all additional time for necessary notification to be made as well as Board review.

Barry Kempson, Board of Appeals member, asked if the deadline was calendar days or business days. Ms. Estabrook confirmed that the deadline is calendar days.

Municipal Officer Hennessey introduced the next change which addresses abutter notifications.

Ms. Estabrook stated that this change will ensure compliance with State statute and further directs notifications to be made by Town staff to ensure compliance.

Municipal Officer Hennessey introduced the next change which addresses signage.

Ms. Estabrook stated that this change is in response to community feedback, noting that there is a clause within the ordinance change that allows for existing signs as of April 1, 2022, to be grandfathered from this ordinance change.

Municipal Officer Hennessey introduced the next change which addresses lighting standards.

Ms. Estabrook explained that standard C. was removed due to its similarity with another one of the standards within the article, also noting that standard I. was expanded to specify lumens and distance from property lines.

Town Clerk Karly Perry noted that the Board of Appeals had questioned the reason that standard C. was removed, which Ms. Estabrook has clarified.

Municipal Officer Hennessey introduced the next change regarding lot coverage.

Ms. Estabrook stated that the article was not well labeled and that it includes the Urban Development Park (UDP) Zone and increases lot coverage allowance in response to conversations held by the Planning Board. This change includes typos within the language as well.

Municipal Officer Hennessey asked if the Select Board has reviewed this language, to which Municipal Officer Andresen stated that they had. Ms. Perry clarified that the change had not been formally presented to the Planning Board. Town Administrator Kristine Poland stated that the change had been included in their packet at the previous meeting. Municipal Officer expressed concern that the Select Board had not previously reviewed the change as a Board.

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Ms. Poland noted that Derek Dudzic (who owns the Wing Farm Subdivision) had previously presented concerns regarding this proposed change. Mr. Dudzic stated that his concern lies with the Planning Board not having copies of Wing Farm Subdivision Plans and that the Land Use Ordinance may not have been updated to reflect the terms of the subdivision.

Ms. Estabrook stated that she has not reviewed the plans for Wing Farm, then noted that the ordinance change applies not only to the subdivision but to the entire UDP Zone.

Municipal Officer Lavallee echoed Municipal Officer Hennessey's concern that the Select Board has not had ample time to review the change as a Board.

Ms. Estabrook stated that plans for Wing Farm should be reviewed by the Town Attorney to determine if they supersede the Land Use Ordinance.

Municipal Officer Andresen stated that she has reviewed the plans with Mr. Dudzic and in her opinion the current envelope allows for 60% lot coverage in accordance with the current Land Use Ordinance. Municipal Officer Lavallee expressed concern with a member of the Select Board acting on their own in this manner. Municipal Officer Andresen stated that she approached Mr. Dudzic on behalf of the Planning Board.

Municipal Officer Hennessey reiterated that she was uncomfortable and that there is no need to rush forward with a change. Ms. Poland suggested that the Board may postpone this ordinance change to the Special Budget Town Meeting in May.

Ms. Perry clarified that Municipal Officer Andresen is the Select Board Liaison to the Planning Board.

Mr. Dudzic expressed his concern in having to request a variance to build on lots previously approved by the Planning Board to allow for 60% lot coverage. Municipal Officer Hennessey confirmed that the Town needs to sort through material in order to allow Mr. Dudzic to move forward with plans purchased from the Town.

David Hennessey asked the Select Board to clarify with the Town Attorney, as plans were approved at Town Meeting, which is the governing body for the Town of West Bath.

Ms. Estabrook suggested that the Select Board could remove paragraph b. in order to move forward with typographical changes only.

Mr. Kempson asked for clarification on the chain of command for changes. Municipal Officer Hennessey reviewed procedure, that changes are usually proposed by the Planning Board and presented to the Select Board, who then determines whether or not to put forth changes at a Town Meeting [where registered voters would vote to determine whether or not changes be enacted].

Municipal Officer Hennessey introduced the next change regarding the table of land uses for retail businesses.

Ms. Estabrook noted that the remaining changes all address the Land Use Table, which determines permitted uses by zone. This specific change adds outdoor dining in the Business Commercial District and Indoor/outdoor dining with dancing and live entertainment in the UDP Zone (which is less intrusive to residential neighborhoods).

Municipal Officer Hennessey introduced the next change regarding the table of land uses for automotive service and open-air drive-in retail services/flea markets.

Ms. Estabrook stated that this change will allow flea markets within the UDP Zone.

Mr. Kempson asked if flea markets are defined within the Land Use Ordinance. Ms. Estabrook stated that they are not. Municipal Officer Hennessey introduced the next change regarding the table of land uses for automotive service and open-air drive-in retail services/sports facilities, which adds expands sports facilities to both indoor and outdoor facilities.

There was no comment on this change.

Municipal Officer introduced the final change regarding the table of land uses for industrial, wholesale, and transportation uses, stating that this change had been previously discussed by the Select Board as a point of clarification to the existing ordinance which allows for bottling of beverages to now include manufacturing as well.

There was no comment on this change.

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Municipal Officer Andresen asked Mr. Hennessey if the subdivision plans had been presented and approved at a Town Meeting. Mr. Hennessey confirmed that the entire plan was presented, and Town Meeting had voted to approve.

Mr. Dudzic approached the Board with his copy of subdivision plans which the Board briefly inspected. Mr. Dudzic stated that he is only asking that he be allowed to conduct business without needing to request a variance in order to build to the specifications of his plan. He also presented his sales agreement with the Town.

Municipal Officer Lavalley stated the need for the Town to consult with the Town Attorney and the importance that the Town Administrator be included in this conversation.

Municipal Officer Andresen added that the plans need to be reconciled with the Land Use Ordinance.

Municipal Officer Hennessey stated that the Select Board will decide during the Select Board Meeting whether to edit the warrant based on this discussion.

Ms. Estabrook asked to be included in discussions with the Town Attorney.

Mr. Estabrook asked if the purpose of the Special Town Meeting is to allow the Dudzics to move forward will that be accomplished if the Board choose to table changes to lot coverage. The Select Board agreed that the Special Town Meeting will also address previous ordinance changes not approved.

Ms. Perry announced that she has not received any comments regarding ordinance changes, with the exception of a clarifying question that changes will not impact the Marine Resources.

Municipal Officer Hennessey ended the Public Hearing at 6:32pm.

A Public Hearing of the Select Board was held at the West Bath Fire Hall, 192 State Road, West Bath on Thursday, February 3, 2022, at 6:40 pm

- I. CALL TO ORDER at **6:40 pm**
- II. ATTENDANCE AND ESTABLISHMENT OF QUORUM – **Yes**
- III. PLEDGE OF ALLEGIANCE WAS SAID.
- IV. CONSENT AGENDA
 1. Approval of Minutes:
 - a. February 3, 2022
 2. Approval of Warrant(s):
 - a. Municipal
 - b. School
 3. Upcoming Board of Selectmen Meeting(s):
 - a. Thursday, March 3, 2021, at the West Bath Fire Hall immediately following the Special Town Meeting which will be called to order at 5:30 pm.
Municipal Officer Hennessey moved to approve the warrants as presented, seconded by Municipal Officer Andresen. Select Board unanimously approved.
- V. SELECT BOARD COMMENTS/ANNOUNCEMENTS
None
- VI. BUSINESS ITEMS
 1. **Approval of the Special Town Meeting Warrant**

Municipal Officer Andresen suggested moving forward with all language as presented. Municipal Officer Hennessey countered that she does not feel comfortable having not had ample time to review the change regarding lot coverage.

David Hennessey clarified that Municipal Officer Andresen would like to move forward without attorney review of the Wing Farm Subdivision.

Municipal Officer Andresen stated her opinion that the ordinance changes will not override the subdivision plan.

Municipal Officer Lavallee asked Derek Dudzic if he believed he would be negatively impacted by excluding changes to lot coverage. Mr. Dudzic stated that this would be a question for the Planning Board.

Darlene Estabrook, Planning Board Chair, expressed concern that they Town Attorney may determine that the Land Use Ordinance supersedes the subdivision plans.

Gerry Mitchell, Planning Board Vice Chair, clarified that the ordinance changes have been reviewed by the Town Attorney.

Municipal Officer Andresen clarified that the proposed ordinance changes is not specific to Wing Farm, rather it is a change to the Urban Development Park (UDP) Zone which includes the Wing Farm.

Municipal Officer Andresen moved to consider recommending all ordinance changes.

Municipal Officer Hennessey addressed her concerns with the Select Board not having had the opportunity to review all ordinance changes prior to the meeting, to which Municipal Officer Lavallee agreed.

Town Clerk Karly Perry reviewed procedure for making motions, which should include an action such as approving or tabling an agenda item and not just considering an item. Town Administrator Kristine Poland added that motions should be made and then seconded, after which discussion can follow, and the motion can then be voted on.

**Municipal Officer Andresen moved to accept the warrant for the Special Town Meeting as presented, seconded by Municipal Officer Lavallee.
The motion passed with two in favor and one opposed.**

Ms. Perry asked if the Board is prepared to sign the warrant for Town Meeting. Mrs. Poland stated that perhaps the Board would like to discuss the matter further.

Perry Estabrook announced that he was in favor of the ordinance change in order to encourage development and add value to land within the UDP Zone. Discussion followed on the benefits to the ordinance change.

Municipal Officer Hennessey suggested that in the Board's discussion on goals, a policy may be developed outlining procedures to be followed for ordinance changes. Municipal Officer Lavallee agreed that there are internal issues which need to be resolved.

Municipal Officer Hennessey moved to approve the warrant for Special Town Meeting as presented, seconded by Municipal Officer Lavallee. Select Board unanimously approved.

2. Goal Setting

Municipal Officer Hennessey suggested that setting procedures (for ordinance changes) be a priority. Municipal Officer Lavallee added that suggested deadlines be attached to goals and reviewed at every meeting, expressing concern that goals are not being accomplished. Municipal Officer Hennessey suggested the procedures for ordinance changes be completed by September 2022.

Jane Weir asked if a calendar including deadlines could be made available to the public.

Municipal Officer Hennessey went on to review goals discussed at the May 26, 2021, Select Board meeting, beginning with Casella. Municipal Officer Lavallee confirmed that issues with the transfer station including early morning noise is ongoing and unresolved.

Municipal Officer Hennessey reviewed discussion regarding a noise ordinance, to which Mrs. Poland stated that the Board would need to determine what types of noises they wish to address.

The Select Board agreed that Casella should be invited to a future meeting. Mr. Estabrook testified to noise made consistently by Casella prior to 3am.

Municipal Officer Hennessey reviewed discussion regarding Sabino Landing, which she stated is being addressed. Municipal Officer Andresen questioned Municipal Officer Hennessey on statements made at the review of the landing regarding tidal activity. Municipal Officer Hennessey stated that her comments were based on personal observations from having lived in the area throughout her lifetime.

Municipal Officer reviewed the goal to update the Comprehensive Plan, which is currently underway. Mrs. Poland complimented the Comprehensive Plan Task Force on their work.

Municipal Officer Hennessey reviewed the goal to establish a Road Committee, which has been completed.

Municipal Officer noted that derelict boats have been removed from Mill Cove and confirmed that no new boats have appeared.

Municipal Officer Andresen asked for an update on the abandoned camper, to which Mrs. Poland stated that she was advised not to enter the camper and has not yet determined the vehicle identification number, noting that demolition will require funding. Municipal Officer Andresen stated that the Tax Collector has information regarding the owner, to which Mrs. Poland stated that she did not have this information. Mr. Estabrook recommended having the camper inspected by the Road Commissioner, while Ms. Estabrook suggested contacting the Sheriff's Department.

Municipal Officer reviewed previous discussion on updating the Harbors and Waterways Ordinance, to which Mrs. Poland confirmed that she has made edits to the previous ordinance. Municipal Officer Hennessey suggested that the Select Board review changes at the March 17, 2022, Select Board meeting.

Mrs. Poland stated that she has made changes to the Marine Resource Ordinance as well, noting that these are not amendments to the ordinance, but rather revisions. Mrs. Poland suggested that changes to the ordinance be reviewed along with the Harbors and Waterways Ordinance. Municipal Officer Hennessey suggested that the Board discuss enforcement during this meeting as well.

Municipal Officer Hennessey stated that the fees and penalties schedule has been updated.

Mrs. Poland stated that the Human Resources Manual has been amended, but not approved. She noted that West Bath School is updating their paid leave policy and suggested that the Town policy should be consistent with theirs. Municipal Officer Andresen suggested job descriptions be updated and that current employees be included in this conversation. Municipal Officer Hennessey suggested that this be completed by September 2022 as well. Discussion followed on whether or not this goal would be attainable under that timeline. Municipal Officer Hennessey suggested Mrs. Poland submit changes for attorney review. Mrs. Poland agreed, then noted that the warrant for Budget Town Meeting and the Casella contract would be the priority.

Municipal Officer Hennessey reviewed previous discussion regarding moorings, to which Mrs. Poland stated that TRIO is working on a module to improve tracking, which will be more cost efficient than other options. Mrs. Poland stated that she has offered for West Bath to be a pilot town for the module.

Municipal Officer Andresen reviewed previous discussion regarding city sewer at the Wing Farm Subdivision, stating that she has done research regarding fees imposed by the City of Bath, but lack of ownership as the park is developed. Municipal Officer Hennessey suggested that Mrs. Poland consult the Town Attorney. Municipal Officer Lavalley suggested that the Town work with the City of Bath.

Municipal Officer Andresen asked Mr. Hennessey if water and sewer were addressed when approving the subdivision. Mr. Hennessey stated that responsibilities are spelled out in the plans, to which Derek Dudzic countered that it is not well stated. Discussion followed on ownership of the sewer and water lines. Municipal Officer Hennessey stated that the town is receiving income from the development of the Wing Farm Subdivision and can absorb the costs of any resulting damage.

Mr. Hennessey suggested that Federal guidelines be researched to determine the original guidelines of the industrial park.

Municipal Officer Lavalley spoke to the need for better clarification and organization in order to avoid revisiting issues in the future to recall determinations.

Mr. Estabrook suggested that the Town discuss expansion within the UDP Zone with the City of Bath. Municipal Officer Hennessey added that this could be included with discussion regarding Town boundaries.

Mrs. Poland stated that the revaluation will be a time-consuming process to staff. Municipal Officer Andresen asked if Mrs. Poland has completed training on Vision software, to which Mrs. Poland stated her decision not to move forward with training, citing the time, effort, and expense that it would entail. Municipal Officer Hennessey suggested that this discussion be better suited for executive session.

Municipal Officer Hennessey noted that the Broadband Committee is underway. Municipal Officer Andresen added that the survey by Comcast should be completed within two weeks.

Municipal Officer Hennessey noted that the fee structure for moorings has not been addressed to which Mrs. Poland suggested including in discussion of the Harbors and Waterways Ordinance.

3. Town Administrator's Report

Mrs. Poland presented ballot clerk appointments to serve during municipal elections.

Municipal Officer Andresen moved to appoint the following as ballot clerks: Glenis Elliot, Wayne Elliott, Joyce Hennessey, Madelyn Hennessey, Sarah Hennessey, Glenda Lamarre, Cynthia Morris, Robert Morris, Kathleen Perry, Suzan Steer, Margaret Totten, Richard Totten, James Atherton, Catherine Powers, Jane Weir, John Wolfe, Debra Bruce, Diane Delano, Kathleen Dudzic, Peter Lamarre, Kathryn McLean, Jay Pappas, and Ashliegh Randall, seconded by Municipal Officer Hennessey. Select Board unanimously approved.

Mrs. Poland presented the Board with information regarding electrical work to be done ahead of the installation of heat pumps. Mrs. Poland asked the Select Board if they would prefer to address work within this year's budget. Municipal Officer Andresen suggested waiting until next year in order to utilize ARPA funding, to which Municipal Officer Lavallee agreed that Mrs. Poland should research if funding is available.

Mr. Hennessey asked if this project would be put out to bid, to which Mrs. Poland stated that of the three requests for an estimate only one response was received, however it would be up to the Select Board.

Mr. Estabrook suggested that the Select Board consider whether this would be the time to install a generator at Town Hall as well.

4. Future Agenda Items

None

VII. PUBLIC COMMENT

Mr. Estabrook voiced a complaint regarding noise created by Fournier Steel, acknowledging that this is an established business, and noting that this is an instance that could be addressed by a noise ordinance.

Mr. Dudzic confirmed that the Town Attorney will review Wing Farm Subdivision plans and asked how he would be impacted by her determination. Municipal Officer Lavallee suggested that Mrs. Poland contact Mr. Dudzic with the attorney's findings. Mrs. Poland stated that her goal would be to create documentation that will reconcile the subdivision plans with the Land Use Ordinance.

Mrs. Estabrook stated that the attorney's findings will determine the next step.

Barry Kempson stated his concern as to whether the approval at Town Meeting approval supersedes the Land Use Ordinance.

VIII. EXECUTIVE SESSION

Municipal Officer Hennessey moved to enter into executive session pursuant to 1 M.R.S.A. §405 (6)(A) to discuss the terms of the Town Administrator's contract, seconded by Municipal Officer Andresen. Select Board unanimously entered into executive session at 7:56 pm.

IX. ADJOURNMENT

Select Board adjourned by unanimous acclamation at 9:15 pm.

A true attested copy,

Karly A. Perry, Town Clerk