

WISCASSET SELECT BOARD,  
TAX ASSESSORS AND OVERSEERS OF THE POOR  
DECEMBER 17, 2019

Present: Kim Andersson, Chair Judy Colby, Kathy Martin-Savage, Vice Chair Ben Rines, Jr., Jeff Slack and Town Manager John O'Connell

Chair Judy Colby called the meeting to order at 6:02 p.m. Ben Rines asked that when the board adjourns, it does so in honor and memory of Kerry Leeman.

1. Pledge of Allegiance

2. Approval of Treasurer's Warrants

**Jeff Slack moved to approve the payroll warrants of November 22, November 29, December 6 and December 13, 2019. Vote 5-0-0.**

**Kathy Martin-Savage moved to approve the accounts payable warrants of November 26, December 3, December 10 and December 17, 2019. Vote 5-0-0.**

3. Approval of Minutes

**Kathy Martin-Savage moved to accept the minutes of December 3, 2019 with the applicable changes already discussed and approved. Vote 5-0-0.**

4. Special Presentations or Awards – none

5. Committee Appointments – none

6. Public Comment

The owner of the Woods Lodge expressed concern about the brewery planned on the property adjacent to the Lodge, specifically noise created by patrons leaving late which would disturb her guests and hurt business. She asked that the ordinance be changed to limit hours. She said that most tasting rooms close at 8 or 9 p.m. She added that the owner of the planned brewery has stated that the tasting room would be open until midnight. Judy Colby asked that the ORC investigate the possibility of limiting hours. Chief Hesseltine said that the State allows establishments serving liquor to be open until 1 a.m. He added that the police would deal with complaints if problems occurred, and the problem could also be dealt with when a renewal of the business license is requested.

7. Department Head or Committee Chair

a. Town Clerk Linda Perry-2020 Federal/State Election Schedule: The Town Clerk advised the board that the March 3, 2020 Presidential Primary was not considered during the past budget process and the cost of that election will affect the Election and Clerk's budget.

b. Tax Collector Molly Bonang – Update on delinquent Personal Property taxes: Bonang’s memo outlined the process she is taking with delinquent taxpayers. She will be taking a class on small claims court proceedings.

c. Fire Department Updates – Peter Rines: John O’Connell reported that Bob Bickford has been elected and appointed as Fire Chief until the next town meeting. He also reported on the progress in replacing flooring in the fire station.

d. Department Head Monthly Reports: Kim Andersson mentioned that Erin had taken a train-the-trainer course for EMS providers. Rick Gaeth thanked the board for its support, said that two interviews with engineering firms had taken place and another was scheduled. John O’Connell thanked Gaeth for the enormous success he had achieved in less than a year.

## 8. Unfinished Business

a. Revisit Business License Application for Al Cohen, Big Al’s Outlet, Inc. DBA Big Al’s Fireworks Outlet, 300 Bath Road: Judy Colby said the original license was issued in 2012 and renewed in 2015 and had met all requirements for a business license. Kathy Onorato, Administrative Assistant, said that because of the change in town clerks over the years, the original application in 2012 had not been located. Jon Pottle, attorney for the Bryants, who oppose the license, was advised by Mary Costigan, attorney for the Town, that the business license being discussed was for the business on Bath Road only and that a separate business license was not required for the storage building on JB’s Way. In response to Jeff Slack’s question, John O’Connell said that according to the State Fire Marshall, the appropriate distances between the buildings had been met.

Costigan advised the board to review the criteria, which she provided, for a business license, and if all criteria are met, to table the vote on the business license until after the public hearing on the Consumer Fireworks License. **Jeff Slack moved to table the vote on the business license in order to hold the public hearing on the Consumer Fireworks application. Vote 5-0-0.**

b. Approval of Modification to Utility Receivable Agreement (Main Street Project State WI#021834.00): This had been discussed previously with the board and covers the manhole covers on Route 1. Ben Rines, Jr., asked whether the board had previously voted on the agreement in March 2018. The matter will be researched and will be on the agenda in January.

## 9. Public Hearing

a. Annual License for Sale of Consumer Fireworks-Big Al’s Outlet, Inc., DBA Big Al’s Fireworks Outlet, 300 Bath Road: **Ben Rines, Jr., moved to go into a public hearing on the annual license for the sale of consumer fireworks. Vote 5-0-0.** Judy Colby allotted five minutes per speaker.

Mary Costigan said the discussion was only on the sale of consumer fireworks from the Bath Road location. One of the criteria for determining compliance is compliance with the state law for off-site storage. The only issue is whether it complies with the state law and meets the criteria for state approval.

Chris Neagle, attorney for Al Cohen, said the application for 2018 is necessary because the Bryants have filed a lawsuit on the lack of a 2018 and 2019 license. Once the licenses are issued the Bryants cannot

file an appeal. He said the setback (from the fireworks store to the restaurant on the adjoining lot) is 64 feet, exceeding the required 60-foot setback requirement. The application meets all the standards in the ordinance and has Fire Chief approval. The Conex boxes, heavy metal shipping containers used in commercial and consumer fireworks business, are easily moved. No town permit is necessary as they are not a building or a mobile home. The board does not have to interpret the State Fire Marshall law as he has given Cohen an approval. The National Fire Protection Act says that fireworks can be stored for up to 90 days. According to the State of Maine Fire Marshal, fireworks can't be stored for more than 90 days at a retail store; however, the Conex boxes can be used at a warehouse. Al Cohen said the 2018 application had been turned in to the clerk on time but was not given to the board.

John Pottle representing Tom and Katie Bryant said there is no documentation of the 64 feet between the fireworks store and the restaurant on the adjoining property: the measurement at the last meeting was less than 64 feet to the stairs on the restaurant, and the addition of the stairs predated the fireworks store. Pottle said there are specific steps for compliance which include storage of fireworks. The statute says you can store only in a permanent building, and Conex boxes do not meet the requirements of the statute. Regarding the application for a 2018 license retroactively, the applicant was not in compliance at the time of the application because of the Conex boxes at the Route 1 location. He said the municipal permits exclude compliance with storage and handling. The statute says that you can only store fireworks in a fixed building and the Conex boxes do not meet that criteria. He added that dangers to the public and being a public nuisance require insurance, and warehousing was specifically excluded in the insurance coverage. Consequently, Big Al's outlet does not have insurance on JB's way. There is no permit for the Conex boxes that have been there for 3-1/2 years. Pottle said according to the Attorney General, a storage only outlet is not authorized and the legislation was limited in what was allowed. The statute said that a storage only outlet is not authorized. He asked the board to look at the matter and be thoughtful in making the decision on the license.

Cecilio Juntura said the porch on his restaurant was built in 1994 before the fireworks store was built. He said Big Al's building is 10 feet from Juntura's property line.

Chris Neagle said the State Fire Marshal's office approval covered all Big Al's buildings. The State has seen all insurance covering all properties and all requirements have been met. In 2012, the Planning Board gave approval and determined that the store met all requirements including the 60-foot setback.

Jon Pottle said that the warehouse was not part of the insurance certificate and pointed out that the insurance did not cover the warehouse. He added that there can be a difference between what is approved and what is actually built. The current court case is on appeal in Superior Court regarding the decision by State Fire Marshal's office.

Al Cohen said that he has multiple insurance companies involved in coverage on his buildings and liability.

Katie Bryant pointed out a violation in the storage of a propane tank. Regarding storage on JB's way she said obtaining a town license based on the state license doesn't prove anything. She said it was an egregious violation and that the State did not inspect the warehouse so is unaware of the violation and is lax in enforcement.

Neagle said the storage building is not included in the application, only the premises on Bath road. The state does not license storage spaces. He added that the Conex boxes are approximately 250 -300 feet from the Bryant's garage and 500 feet from the house.

Ben Rines asked what would happen if something went wrong at the 30-foot distance. He was advised that the Fire Marshal would have to answer that question; laws and rules were based on the assumption that the public would be safe at that distance. He also asked if the town would be liable if something happened and was told it would not. If the Taste of the Orient applied for a building permit within 60 feet of the fireworks store, it would be the responsibility of the Planning Board whether to issue the permit. **Kathy Martin Savage moved to close the public hearing. Vote 5-0-0.**

Judy Colby said that according to the State Fire Marshal, if the town is stricter than the State about the distance between buildings, the town requirements would prevail. Mary Costigan reviewed the questions she had given the board regarding the consumer fireworks license and the board found that the application met all the following criteria:

- A. The location of the sale of consumer fireworks is on a lot that is conforming as to size and on which retail sales are allowed.
- B. The sale of consumer fireworks complies with all federal, state and local laws, ordinances, rules and regulations.
- C. The applicant received a conditional use permit from the planning board for the property on which the sale of consumer fireworks is located.
- D. The applicant does not have a business license.
- E. The applicant has not been convicted of a Class A, B, or C crime
- F. The applicant through the use of fireworks, consumer fireworks or in any other way has not created a danger to the general public.
- G. The applicant has complied with all federal, state and local laws, ordinances, rules and regulations.

Regarding the applicable state law 8 M.R.S. 223-A, the board found that:

- A. The applicant is 21 years of age or older.
- B. The applicant has the necessary federal permit to sell fireworks.
- C. The applicant complies with storage and handling requirements
  - 1) the fireworks are stored and sold in permanent, fixed, stand-alone buildings dedicated solely to the storage and sale of fireworks.
  - 2) The building is constructed, maintained and operated and fireworks are stored in compliance with NFPA 1124, relevant building codes, zoning ordinances , and other municipal ordinances.
  - 3) the building is located at least 60 feet from another permanent building and at least 300 feet from a structure at which gasoline, propane or other flammable material is sold or dispensed.
- D. The application has been approved by the police chief, fire chief and code enforcement officer.

Peter Rines said that the danger of the fireworks store is potentially the same as propane tanks. He said Big Al's store is a brick building with a sprinkler system and the applicant had done his due diligence

Chris Juntura said Big Al's had not complied with town ordinances regarding buffers at property lines and that the planning board could attach conditions to approval regarding buffers between properties.

Judy Colby confirmed that the application for a permit did not involve JB's Way, as a permit is not needed to store fireworks at that location. **Judy Colby moved to accept the State Fire Marshall requirements for the issuance of the fireworks permit as evidence of compliance. Vote 5-0-0.**

**Kathy Martin-Savage moved to approve the business license for Big Al's Fireworks Outlet for 2018. Vote 5-0-0. Kim Andersson moved to approve the fireworks license for 2018 and 2019.** Ben Rines, Jr., said the ordinance was weak and there were concerns but he was voting to approve. Kim Andersson said she was voting for the motion, but she would be concerned if the storage building was in her back yard. **Vote 5-0-0.** The chair called for a five-minute recess. The meeting resumed at 8 p.m.

Peter Rines, outgoing fire chief, reported that the floor replacement in the fire house was going well and that a part had been found for an old truck for \$2700, and he felt they had dodged the bullet in not having to replace the truck. He said it was a pleasure working with the board and staff. Judy Colby thanked him for the time and effort he had put in at the Fire Department. He introduced Bob Bickford, the new chief.

## 10. New Business

### a. Business Licenses

- Chantel Jacobs, DBA Coastal Maine Cuts. 106 Main Street
- Holly B. Noble, DBA Wiscasset Veterinary Hospital

**Kathy Martin-Savage moved to approve both applications for a business license. Vote 5-0-0.**

b. Administrative Consent Agreement, Air Quality Violation (Former Huber's Market): John O'Connell said it was tough to meet all the regulations for a training burn; however, there had been violations. A consent agreement with the DEP was submitted to the board for approval which requires payment of a fine of \$1,000. **Kathy Martin-Savage moved to allow the Town Manager to execute the consent agreement with the DEP and pay the \$1,000 fine out of contingency. Vote 5-0-0.** Peter Rines said a check-off list of the DEP requirements for a controlled burn was now in place.

c. MDOT Utility Receivable Agreement (future Route 1 improvements State WIN #023805.00)-Estimated cost \$61,500: John O'Connell said the agreement was for replacement of manhole covers at a cost of \$61,500 which will be due the year after next. **Jeff Slack moved to authorize the Town Manager to execute the MDOT Receivable Agreement for State WIN #023805.00. Vote 5-0-0.**

### d. Monthly Financials

- Department year to date expense report
- H.M.Payson Statement of Accounts

### e. Request for Qualifications Opening

- Airport Planning and Engineering Services : Bids had been received from Stantec in Brunswick and Aviest in Caribou.

f. Community Action Plan and Analysis of Brownfield Clean-up Alternatives-Set date for public meeting (January 22, 2020 suggested): The meeting was set for Thursday, January 23, 2020 at 6 p.m.

## 11. Town Manager's Report

- a. A Request for qualifications and fees had been sent out to auditors.
- b. Investment Committee meeting is scheduled for January 16 at 4:30 p.m.
- c. Cenergy Update – The Planning Board had met with Steve Barrett, consultant on the solar project, on November 25. Ed Polewarczyk, who attended the Planning Board meeting, said Barnett has 12 years of experience and has generated documents that the FAA uses for requirements for solar projects. Polewarczyk’s comments included: his impression that the project would be sold when it is in operation, the FAA’s permitting process will take a year, the project will connect with the high voltage lines, there will be a single axis rotation on the panels from east to west, interconnectivity costs have not been determined, the benefits on the amount of energy generated may or may not be viable with snow, nighttime and pollen, the payback period may be extended to possibly 40 years, although the panels are good for only 20 years, and there is the possibility the project could be sold or the project owners could walk away. John O’Connell said that Cenergy has submitted modified plans: Site 1, up to 35 acres for 1.5MW AC Solar, two-year lease option \$500, then \$1,000 per year; Site 2, up to 35 acres for 1X5MW AC Solar, two-year lease option \$500, then \$1,000 per year. **Jeff Slack moved to allow the Town Manager to sign the two separate agreements. Vote 5-0-0.**
- d. Potential Ordinances Proposals/Revisions for June: The following are issues that might require changes or additions to the town’s ordinances and will be submitted to the Ordinance Review Committee for action before the Town Meeting: abandoned mobile homes, solar farm ordinance, Certificate of Occupancy, Historic Preservation Ordinance draft, potential marijuana ordinance, illegal junkyards, business license process, and requirement for building code.
- e. Wastewater Treatment Plant Updates
  - Engineering Services interviews: two interviews have taken place, a third is scheduled later in the week.
  - Maine Rural Water Association Conference: Rick Gaeth and Rob Lalli will attend.
- f. Staffing Updates
  - Officer Jonathan Barnes graduates from Maine Criminal Justice Academy
  - Robert Bickford appointed Fire Chief
- g. Main Street Pier Safety Updates: MMA in its risk assessment recommended stopping vehicular access to the pier and installing wire netting on the perimeter. Regarding the sale of Christmas trees on the pier, evidently no one who was authorized gave approval.
- h. **Jeff Slack moved to give the Town Manager permission to sign a sludge contract with Cassella. Vote 5-0-0.**

12. Assessors’ Business

- a. Abatements (Assessors’ Agent recommended)
  - Richard A. and Nancy Lutes, Map R01, Lot 020-00-\$374.12
  - Juan Dermody and Sarah Mosher, Map R06, Lot 15 - \$398.00
  - Norman Sherman, Personal Property - \$63.68

**Ben Rines, Jr., moved to approve the abatements for Richard A. and Nancy Lutes for \$374.12; Juan Dermody and Sarah Mosher for \$398; and the personal property abatement for Norman Sherman for \$63.68 as recommended by Assessors' Agent Ellery Bane. Vote 5-0-0.**

b. Personal Property (Prior Tax years)

- David Laemmle, Personal Property Account #79 for \$16.20 (2013)
- Peter West, Personal Property Account #47 for \$19.44 (2013)
- Edward and Scott Simpson, Personal Property Account #133 for \$34.25 (2018)

**Ben Rines, Jr. moved to approve the Personal Property abatements of David Laemmle for \$16.20; Peter West for \$19.44; and Edward and Scott Simpson for \$34.25. Vote 5-0-0.**

11. Other Board Business

Ben Rines, Jr., asked if the old street signs had been located by the highway crew and was informed that they had been found.

Judy Colby said with all the upheaval over the past few years regarding the downtown project, she was happy to see the fantastic job done by 30 volunteers in decorating the downtown for the holidays. She said Pikes Industries had received a letter from a little boy which said, "Thank you for downtown. It is great. I love it." Kudos were given to Peter Rines as DJ. Judy Colby wished all a Merry Christmas and Happy New Year and a safe holiday. John O'Connell said all town offices would close at noon on Christmas eve.

12. Adjournment

**Kim Andersson moved to adjourn the meeting at 8:45 p.m. Vote 5-0-0.**

