

**TOWN OF LOVELL
PLANNING BOARD
MINUTES OF THE SPECIAL MEETING
DECEMBER 8, 2010**

Noting that a quorum of the Board was present, Chairman Ryan called the meeting to order at 7:00 pm.

Members Present: Members of the Planning Board present were: Joel Hardman, Bill McCormick, Chairman Ed Ryan, and Dean Stearns. Members absent were: Walter Grzyb, Ron Masse (who arrived at approximately 7:30 pm), and Kevin McDonald.

Also present was Lovell CEO Ron McAllister, Lovell Selectman Turf Ramsden, and Lovell Town Attorney A. Kingman Pratt and a member of the public, Ms. Lynda Legere, an interested observer of the process.

APPROVAL OF THE MINUTES OF THE NOVEMBER 18, 2010 SPECIAL MEETING

A motion was made by Mr. Hardman to approve the minutes of the November 18, 2010 meeting that had been distributed to the Board previously. There being no questions or discussion, and with one editorial change, the motion was approved unanimously by a show of hands of those of the Board eligible to vote on this matter.

**ITEM #3 – CONDITIONAL USE APPLICATIONS -- PUBLIC HEARING
FARNHAM AND MARQUIS APPLICATIONS**

Chairman Ryan explained that this Special Meeting of the Board was to establish a Public Hearing on the Conditional Use Application of Ms. Farnham and Ms. Marquis, neither of whom were present, that has been discussed in one form or another at every meeting of this Board since July. At the Special Board Meeting on November 18, 2010, a motion was approved by the Board that concluded that the application was substantially complete and to establish a Public Hearing date to garner additional comments from the public on this application, for consideration by the Planning Board.

The remaining open issue at that time was the requirement that the Applicant must notify property owners within 200 feet of the subject lot of the particulars of the to-be-held Public Hearing, and that the Applicants were not inclined to carry out those procedures. The process worked out with Town Attorney Pratt was for the Board to obtain signed waivers of notice from the owner of each of the properties in question, in lieu of the return certified mail receipts required by the Ordinance. Since to date, only three signatures had been received of the eight required, Attorney Pratt took exception to the Board's understanding that an option that it had was to approve the Conditional Use and defer its effective date until the passage of some predetermined reasonable period of time.

Attorney Pratt believed that the Board could not legally assume negative assurance into non-replies and that the option being bandied about, still required either a signed waiver of notice or a return certified mail receipt. He was of the firm belief that Board

procedures did not fall into the same category of uniqueness, as the particulars surrounding each Conditional Use Application and thus he found it unwise for the Board not to consistently adhere to its own promulgated procedures.

Attorney Pratt determined that at this point the return certified mail receipts from the non-replies were a must and that, if the Board approved, he and Chairman Ryan would develop a complete communication plan with the non-replies and the Applicant. Pursuant to the plan, the *Finding of Fact* on this Application would be sent to the non-replies with an explanation that if there is no response or objection received by the Board within a 30-day period of the date of the mailing, the Application would automatically be effective. It would be further explained that if objections are received there might be another public hearing on this matter. At the same time a letter will be sent to the Applicants, explaining that their permit would not be effective until all objections have been resolved or upon the expiration of the 30 day period without objection.

A motion was made to approve the Conditional Use Application, subject to Chairman Ryan receiving the return certified mail receipts and not receiving a material objection to the approval within the 30-day deferral period described above. In addition the approval would be subject to two additional restrictions, i.e. the provision that goods for sale must be stored inside the facility during the hours that the facility is closed, and that there shall be no hazardous materials stored, used or sold at the facility.

The motion was passed with one abstention (Mr. McCormick because of a potential conflict of interest arising from his position as President of the GLLT, the owner of record of a property within 200 feet of the subject lot.)

This concluded the Public Hearing portion of this Special Meeting of the Board.

**ITEM #4 -- OLD BUSINESS -- PLANNING BOARD RULES AMENDMENTS
-- SOLID WASTE MANAGEMENT ORDINANCE
REVISIONS
-- BEACH ORDINANCE REVISIONS**

Chairman Ryan had developed a new draft of the various Ordinance revisions and the amendment to the Board Rules and Regulations, taking into consideration the comments received to date and at the Public Hearing on December 1, 2010. It was the Chairman's opinion that the changes now being proposed are in some instances material changes and he was therefore of the view that another Public Hearing on these revisions was in order. It was determined that the Public Hearing should be on January 5, 2011, the date of the Board's Regular Meeting for January

- The Solid Waste Management Ordinance was amended to delete "*adjacent*" and add "*other towns*". The term "*burden*" was not dealt with at this time.
- The Ordinance Regulating Town Beaches and Town Landings was amended:
 - Para. 3B – Farrington Pond Landing was added
 - References to Farrington Beach have been changed to Pleasant Point Beach to avoid confusion and to bring its name into sync with today's more common usage.

- Para. 4. – was further amended to make the intent clear that mooring or beaching at a Town beach is not to be construed as a permanent or even semi permanent right.
- Para. 5 – The entire concept of a non-resident Lovell employee having the same lake, beach and landing rights as taxpayers and landowners was dropped in its entirety.

In addition, specificity regarding use of the beaches by recreational swimming program participants was added as well as provisions for parents/guardians accompanying participants.

- Para. 9 – possible provision for visitors of the permitted Island property owners was discussed but not included.
- Para.15 – The second line re “...*provided that such regulations do not contravene any provisions of this Ordinance ...*”. was deleted as being an unnecessary admonition to the Selectmen.

ITEM #7 -- NON-AGENDA ITEMS – PARKING ON CHURCH STREET

Chairman Ryan introduced this subject briefly at the December 1, 2010 Board Meeting on the basis that the Selectmen wanted the Planning Board to look at the possibility of changing the one side of the street parking from the Southwesterly side to the Northeasterly side. It was also tangentially discussed at this meeting but there were more questions than answers.

- Why is this change necessary? It was stated that emergency vehicles have a difficult time getting through on those couple of evenings when there is a program at the Brick Church, i.e. basically two hours, two nights per month during the summer months.
- There already is parking on only one side of Church Street. If the emergency vehicle issue is truly the issue, why isn't the current one side parking enforced?
- How does changing the side on which one side parking is permitted help?
- Board members indicated that the terrain on the Northeasterly side made parking off of the road more difficult in spots.

No board action was taken on this non-agenda item.

There being no further business, a motion was made to adjourn at 8:26 PM and was approved unanimously by the Board through a show of hands.

Respectfully submitted,

William J. McCormick, Jr.
Lovell Planning Board Recording Secretary

