

**TOWN OF LOVELL
PLANNING BOARD
MINUTES OF THE REGULAR MEETING
MAY 4, 2011**

Noting that a quorum of the Board was present, Chairman Ryan called the meeting to order at 7:06 pm.

Members Present: Members of the Planning Board present were: Joel Hardman, Ron Masse, Bill McCormick, Kevin McDonald, Chairman Ed Ryan and Dean Stearns.

Member absent: Walter Grzyb. Also absent was Lovell CEO Ron McAllister, due to an injury.

Present as a member of the public was Lovell Selectman Turf Ramsden.

Chairman Ryan noted that due to the absence of Mr. Grzyb, Mr. Masse, as First Alternate, would be the fifth voting Board member, should the need arise.

**APPROVAL OF THE MINUTES OF THE APRIL 6, 2011 REGULAR
MEETING OF THE LOVELL PLANNING BOARD**

A motion was made by Mr. Masse to approve the minutes of the April 6, 2011 regular meeting, which had been distributed to the Board previously by the acting Board Secretary, Mr. Hardman. There being no questions or discussion, the motion was approved unanimously by a show of hands of those of the Board eligible to vote on this matter.

ITEM #4 -- OLD BUSINESS -- BEACH AND DUMP ORDINANCES

Mr. Hardman indicated that at the request of Chairman Ryan, he had met with the Selectmen and reviewed with them the proposed revisions to the two ordinances that were not approved at Town Meeting, remanded to the Planning Board and discussed at the Board's regular April meeting.

As far as the Beach and Landings Ordinance was concerned, the Selectmen were in agreement with basically the only change that was proposed i.e. the elimination of Paragraph # 4.

In regards to the Dump (Solid Waste Management Facility) Ordinance, the Selectmen suggested preferred language that made it clear that the Town Meeting approval requirement related only to the initial contract and that subsequent changes to terms and conditions (which would be reviewed annually) to that contract do not have to be approved or ratified at Town Meeting.

Mr. McCormick expressed the view that the condition in the proposed ordinance ***“...to ensure that the Town of Lovell receives all of its costs for the use of the facility by the contracting town.”*** is basically a meaningless and unenforceable concept standing alone. He went on to state that in his opinion ***“costs”*** can only derive meaning when married to another term such as a strict definition, a recognizable standard or even to a costing model that was part and parcel of an existing contract or one that might be approved at a future Town Meeting. To that end and to simplify the language so that it would be decipherable by a third party, he suggested that Paragraph #2 of the Ordinance stop at the word ***“condition”*** which is just prior to the quoted language above.

As a member of the public, Selectman Ramsden expressed his agreement with the proposed change.

Following on to that comment was a fairly long, wide ranging discussion regarding the methodology currently being employed to calculate ***“all of the costs”***, and questioned where in any Town Ordinance did the Planning Board derive its authority to set business fiscal requirements and yet leave the definition open to almost any interpretation that would suit the needs of anyone wanting to take either an offensive or defensive issue with the contract. A void that seems deigned to ensure future controversy.

Another suggestion was made indicating the apparent desirability to maintain a certain consistency in language throughout the various Town Ordinances regarding ***“who”*** is permitted to use a Town facility. It appeared that given the time and effort that went into crafting the ***“user”*** language in Paragraph #5 of the Beach and Town Landings Ordinance, that language should be used in this Ordinance as well. It was felt that this language coupled with the overriding limiting language already included in the proposed Ordinance of ***“Deposits of refuse other than waste generated within the Town of Lovell, or generated within any contracting town, shall be prohibited.”*** would ensure that ***“users”*** of the facility would be sufficiently contained.

At the conclusion of these discussions, none of these proposed changes, other than those furnished to Mr. Hardman by the Selectmen were deemed appropriate. With that, Chairman Ryan, asked for a motion to approve that each of the two Ordinances described above be the subject of a Public Hearing to be held at the next regular meeting of the Board On June 1, 2011.

On motions made by Mr. Masse, the Beach Ordinance was unanimously approved by a show of hands of the Board.

The Solid Waste Facility Ordinance was approved by a vote of four to one, with Mr. McCormick casting the one dissenting vote.

ITEM #6 -- NEW BUSINESS -- MASS GATHERING ORDINANCE

Chairman Ryan introduced this subject by explaining that the Selectmen had asked him to have the Planning Board look at the Mass Gathering Ordinance. He explained that the existing Ordinance lacked the specificity that would be required to properly control a mass gathering and to adequately provide for the safety and welfare of the gathering

participants. In addition, the current Ordinance simply concludes, without explanation or justification, that the Board of Selectmen “...*may reject any application if they deem it in the best interests of the Town.*”

Chairman Ryan further explained that the Selectmen’s concept was to provide additional specificity by constructing a matrix of the variables associated with mass gatherings such as the type of gathering, the number of participants, the number of hours/duration that the gathering is expected to last, and curfews, along with all of the requirements to ensure adequate sponsor preparedness in regards to public safety, fire protection and emergency aid services – which could then be scaled to the specifics of each mass gathering.

To that end Chairman Ryan furnished the Board with the Public Assembly Ordinance of Scarborough to give the Planning Board some idea of the type items that may/may not be included in the updated Lovell Ordinance. It is worthy of note that the existing Lovell Ordinance consists of roughly 16 lines of text and the Scarborough Ordinance encompasses 17 pages of single space type.

Mr. McCormick inquired how the updating of this Ordinance fell under the “*Powers and Duties of the Planning Board*” spelled out in Section 9.8 of the Lovell Zoning Ordinance. He then questioned that if this work of the Board is deemed to be outside of its legally empowered Powers and Duties, would it ever be upheld in a court of law and would the Board Members be covered by the Town’s Insurance Policies?

The very wide ranging discussion that followed touched on other related issues including primarily the upfront need for expert assistance from a wide range of stakeholders in the proposed Ordinance, including legal expertise in U.S. Constitutional (First Amendment) Law and the various Maine Laws governing provisions for the public safety, environment, etc., representatives of the Police Departments serving Lovell, the local fire department, local EMT groups, and last but not least, some person or persons that might be able to provide insights into the views of potential sponsors.

Chairman Ryan asked Selectmen Ramsden to discuss the funding of these costs with the other Selectmen and report back to the Board at the June 1, meeting.

No action was taken by the Board on the issues discussed under Item #6 above.

There being no further business, a motion was made to adjourn at 8:44 PM. Such motion was approved unanimously by the Board through a show of hands.

Respectfully submitted,

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

