

Submitted by:

Approved by Selectmen: 9/29/2021
JWH
SB

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Adele M. Suggs
Admin Asst

**TOWN OF PHIPPSBURG
BOARD OF SELECTMEN MEETING MINUTES
September 8, 2021**

The Select Board convened at 5:00 p.m. at the Town Hall with Chair of the Municipal Officers House, Board Member Levene, and Administrator McLellan present.

Board Member Mixon was absent.

I. Adjustments

Vote: Board Member Levene motioned to add under New Business, a follow up discussion on a meeting she had with Codes Enforcement Officer, Lee Rainey. Adjustment was seconded by Chairperson House and passed by a vote of 2-0.

II. New Business

1. Spear v. Popham Hills LLC - Stipulation and Consent Judgement.

Chairperson House disclosed that Jessica Avery is her lawyer and has done some real estate transactions for her.

Present is Fred & Sue Beaman and Mary Lou & Richard Faye representing Popham Hills LLC.

The Town Attorney did not have time to come up with an opinion she is comfortable with for tonight's meeting but is reviewing the document.

There was a concern that the attorney representing DEP and informed the DEP, there were no violations because the adverse possession occurred prior to the ordinance. Therefore, the settlement agreement is NOT a violation. Codes Enforcement Officer, Lee Rainey, also had a concern that they are making one non-conforming lot more non-conforming. The Board wants to make sure everyone is ok with that. Attorney Jennifer Davis, who represents Hilary Speare addressed the board, and stated that the legal analysis done by the AAG agree that even though it is a lot that is non-conforming, it doesn't violate the Statute because the adverse possession existed prior to the ordinance being referred to. She further went onto say they wanted to do their due diligence because both sides believe that they satisfy the statute by their settlement agreement, but because both parties have been in contact with the Codes Enforcement Officer and the Town for years, they wanted to make sure the Town understood this issue and are OK with it. Neither party wants to enter into this agreement and find down the road have issues selling their property or having issues if they want to make changes to the buildings on their property because of non-conformance issues. All parties have been in contact with Mr. Rainey about this. Mr. Rainey has been reluctant to give an opinion, he understands where they are coming from and how they are approaching this, but he felt bringing it before the Board and have the Town Attorney review it would be the best way to proceed. If this issue is unable to be resolved, further steps will need to be taken with the Town; no one is looking to do that. They feel they have come up with a fair, reasonable, and just way of resolving it for both parties. That is why they are going through the right process of having the Town Attorney review the agreement and render her opinion. The best way to

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facilitate this matter is through the Town Administrator. The Town Attorney has all the information. Attorney Davis shared that they are currently in limbo with the Court. They understand what they have done and have an extension, but there is no deadline date yet. They anticipate they will hear something within a couple weeks. When they hear of a deadline date, they will contact the Town Administrator. Parties concern is that there is no question about their lot being legal and marketable, also the assessment and deeds of the lot with the change of the lot. Popham Hills LLC is losing 2,800 square feet of waterfront property. Adverse possession was not brought to anyone's attention until they had the property surveyed upon the death of the Hilt's. Confusion about lines in Popham is not a new question. This will be recorded in the Registry of Deeds, so if a title search is done, they would determine it would be ok to be a more non-conforming lot. Each party as a non-conforming lot now. The legal nuance is, based on the history of these parcels and the legal claims brought forward by Ms. Speare, is that the non-conformance results date back. What they are asking the Town Counsel is yes or no it dates back – preordinance, so in the future it would be as if it's not a more non-conforming lot, but just a conforming lot they have had for so many years. The Town Administrator will contact the Town Attorney tomorrow and have her look into it further.

2. Follow up discussion on meeting with Codes Enforcement Officer, Lee Rainey. Board Member Levene met with Mr. Rainey in August for their monthly discussion. One of his concerns is that there is a lot of backlog of paperwork that he needs help with. Board member Levene was asking if there was any money in the budget for Deputy Clerk, Pauline Flemmings to assist with some of the administrative and clerical work. The Board was okay with this but needs to keep an eye on the administrative salary lines. Ms. Flemmings will need to keep track of her hours. Administrator McLellan will run a printout of what has been expended to date and will speak with Mr. Rainey about how large the scope of work is.

III. Unfinished Business

1. Letter from Select Board to Maine DOT.

Administrator McLellan provided two different versions of this letter. The Board liked the bulleted letter better.

Vote: Chairperson House motioned to sign the above which was seconded by Board Member Levene.

Chairperson House and Board Member Levene will sign the letter tonight and Board Member Mixon will come into Town Hall to sign it tomorrow.

Motion passed by a vote of 2-0.

IV. Administrator/Members of the Select Board Comments and Announcements:

1. Traffic Delay – September 13th starting at 7 am due to fishway repairs

Administrator McLellan reminded those listening about the above fishway repairs. There will be a lane of traffic open and there will be a police detail moving traffic, but there will be delays.

2. Senior Health Fair Scheduled for Saturday, September 18th has been cancelled

Flu vaccines could not be secured. It is still encouraged to find where flu shot clinics are being held and

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get one.

3. Sunray Rabies Only Clinic - Saturday, October 16th - 9 am to 12 Noon - Town Hall (Face Masks are Required)

Jula Koehling, Animal Control Officer, is working on getting flyers distributed throughout Town and information will be available at Town Hall. Chairperson House asked if dogs could be registered on this day. Administrator McLellan will confirm this for next week.

Chairperson House congratulated Dillon Doughty. After a year and a half in the Army, he graduated at the top of his class with extinguished honors, and he is now Sergeant Doughty.

V. Review and/or Sign:

1. Payroll and Accounts Payable Warrants

Vote: Board Member Levene motioned to approve Payroll Warrant #24 & Accounts Payable Warrant #25 which were seconded by Chairperson House and passed by a vote of 2-0.

2. Select Board Meeting Minutes for July 21st & 28th, August 4th & 18th

Vote: Board Member Levene motioned to approve Meeting Minutes for July 21st, July 28th, and August 18th, which were seconded by Chairperson House and passed by a vote of 2-0.

August 4th minutes will be tabled until next week.

Adjournment

Vote: At 5:29 p.m. Board Member Levene motioned to adjourn which was seconded by Chairperson House and passed by a vote of 2-0.