

**BOARD OF SELECTMEN  
TOWN OF DOVER-FOXCROFT  
MONDAY, AUGUST 17, 2015 ~ 6:30 PM  
DOVER-FOXCROFT MUNICIPAL BUILDING  
MEETING ROOM  
MINUTES**

**I. OPEN MEETING**

**A. Opening Ceremonies**

Chairman Edgerly opened the meeting at 6:30 PM and led the Pledge of Allegiance.

**B. Roll Call**

Present: Chairman Edgerly, Vice Chairman Freeman Cyr, Jane Conroy, Gail D'Agostino, Stephen Grammont, and Scott Taylor. Absent: W. Ernie Thomas.

Also present: Town Manager, Jack Clukey.

**II. CONSENT AGENDA**

**A. Treasurer Warrants**

1. Administrative Warrant #74PY, #4PY
2. Payroll Warrant #1, #3, #8
3. Administrative Warrant #2, #5, #10
4. Wastewater Warrant #6PY
5. Wastewater Warrant #7

**B. Cemetery Conveyance – Porter, Joan, Dover Cemetery Pond Section B. Lot 66, Space 1**

*Resolution #035-081715*

*MOTION: Freeman Cyr, seconded: D'Agostino, and voted unanimously (6-0) to approve the Consent Agenda. Motion passed.*

**III. APPROVAL OF MINUTES**

Board of Selectmen Regular Meeting –July 13, 2015

*Resolution #036-081715*

*MOTION: D'Agostino, seconded: Conroy, and voted unanimously (6-0) to approve the minutes of the Regular Board of Selectmen meeting of July 13, 2015. Motion passed.*

**IV. QUITCLAIM DEEDS**

**V. BOARD OF ASSESSORS/MUNICIPAL OFFICERS**

## **VI. OPEN SESSION**

### **A. Public Hearings**

#### **B. Open Session – Public**

Selectman D'Agostino disclosed that she has been working for two years with the group on the development of the proposed Citizens Bill of Rights Ordinance.

Vice Chairman Freeman Cyr disclosed that she also has been working for two years with the group on the development of the Citizens Bill of Rights Ordinance.

Dr. Lesley Fernow spoke regarding a petition to establish a “Community Bill of Rights for the people of Dover-Foxcroft, which secures those rights by prohibiting corporations and governments from engaging in the acquisition of land for, or the siting of, private and public-private transportation and distribution corridors.” The petition was submitted to the Town Clerk with over 300 signatures. Dr. Fernow said that she and a group of citizens have worked for two years on the ordinance to prohibit a distribution corridor in Dover-Foxcroft. Dr. Fernow said that the group’s work began specifically with the goal to prohibit the proposed east-west highway. Dr. Fernow said that the bill of rights is not a land use ordinance which is easily challenged by corporations in court. Dr. Fernow said that this document exercises powers given to the people by the Maine Constitution, and that attorneys all over the country advise that this type of ordinance is sustainable in court, and hopes that the Board will forward the proposed ordinance for a vote in November.

Lisa Laser urged the Board to place the proposed ordinance on a ballot for the election of November 3, 2015.

Dr. David Frasz said that he supports the idea of reasserting our rights as it sets a good precedent and thinks the ordinance should be placed on a ballot.

Carol Boothroyd spoke in favor of the ordinance and reminded everyone that at one time women did not have the right to vote.

Jamie Gaudion said that a wide spectrum of people from diverse backgrounds signed the petition.

Sidney Mitchell said that she serves with the group that developed the proposed ordinance and that the ordinance expresses that the community wants to remain rural and not have a corridor that moves goods that are not necessarily being delivered to Dover-Foxcroft.

Robert Dow said that the people who signed the petition are of the belief that the issue should be for the people to decide.

Paul Matulis said that he is speaking against the proposed bill of rights ordinance. He said that if it is meant to be a protest against the east-west highway it has gone too far, if it is meant to be a war against corporations, the way it is written puts the town at risk of litigation. He said that the proposed ordinance is indefensible. Mr. Matulis agreed that there needs to be a limitation of the power of corporations, but that this process should be dealt with in the State Legislature.

Lisa Laser said that the Legislature will not pass such laws and that it should be dealt with at the local level. Lisa Laser said that she was of the understanding that if a petition was

brought forward with the required amount of signatures that it would automatically be put to a referendum vote.

Town Manager, Jack Clukey, said that procedurally the Board has to ensure that an article placed on a ballot is consistent with State and Federal laws before taking the next step in placing the article on a ballot. He noted that the town is not at the deadline for deciding whether to place an article on the November ballot.

Dr. Lesley Fernow said that it is her understanding of municipal law that if the Board determines that a question is illegal such as something discriminatory, there should still be an opportunity for bringing it to the voters. Dr. Fernow said that if it is not clear whether the question is going to be placed on a ballot, from the group's perspective, there is a hardship in losing another month. Dr. Fernow said that the document is legitimate and that the citizen's should be allowed to vote on it.

Paul Matulis said that the Board should take the time it needs to get a legal opinion.

Carol Boothroyd asked to be made aware of any aspects of the proposed ordinance that are determined to be illegal when legal opinion is received.

Benjamin Cabot said that he realizes the Board has a difficult decision in getting a legal opinion and determining the next steps; however, the Board should also consider the numbers of citizens that signed the petition. He said that the people should be able to vote on the proposed ordinance, and that the legality can be flushed out during the process.

Jamie Gaudion said that in reviewing the document with a visiting law professor at the University of Maine, the professor's opinion is that the ordinance is valid.

Chris Maas asked if open discussion will be permitted during New Business when the Board is discussing this item later in the agenda. Chairman Edgerly said that open discussion is not permitted during New Business.

Chris Mass asked if the Board is bound by a legal opinion. Chairman Edgerly said that if legality is an issue then the Board needs to consult an attorney.

The Town Manager said that the previous legal opinion on the ordinance determined that the ordinance should be treated as a land use ordinance, but there has not been an opinion as to the full content of the ordinance.

Chris Maas asked if the Board elected to decline putting the question on the ballot what the recourse would be.

Dr. Fernow said that the group would recollect the signatures and submit the petition to a Notary.

Lisa Laser asked how far the town is willing to go without the ordinance to protect our water, lakes, forests, and land.

Chairman Edgerly said he was hoping that through a legal opinion, there would be common ground in assuring the legality of the document.

Dr. Fernow said that she doesn't have faith in the town's attorney and that this is a legitimate function of the citizens, to be able to change laws to protect themselves, a right under the Maine Constitution. She said the Board has the responsibility to protect the town and serve its citizens.

Peter Brenc said that he is against the east-west highway. He said that in Canada it is referred to as the "east-west free trade corridor." Mr. Brenc asked if the legal opinion will be shared with the public when it is obtained.

Dr. Swett said one principle to keep in mind is that under the US Constitution, the powers fall to the community and the rights of the people to determine the future.

Jamie Gaudion asked if the town's legal counsel consists of one individual or more.

The Town Manager said that the town's legal counsel is provided by the firm Eaton Peabody and counsel is provided by members of the firm according to the area of law an issue is related to.

Carol Boothroyd said that it is worthwhile to have lawyers who practice environmental law provide a legal opinion.

Peter Brenc asked if the town's attorneys also represent corporations, and that if this is the case, the town should be careful of getting prejudiced opinions.

Chris Maas said that conflicts of interests are reviewed with the attorneys as a general practice.

Other:

Mary Merchant expressed regret for Fred Muehl's resignation from the planning board. She said that she has attended planning board meetings and Mr. Muehl has done excellent work.

Nancy Matulis said that a majority of the crosswalks have not been painted, and that there is a need of repair to pavement on High Street.

Town Manager, Clukey, said that he expects the crosswalks to be painted by the end of the week as school is about to be in session and made note of the repair needed on High Street.

C. Open Session – Board of Selectmen

Selectman D'Agostino noted that a letter in correspondence dated 3/6/15 from Attorney John Pottle stated that there were substantial legal and policy questions with the proposed ordinance, and that the document originated with the Board of Selectmen which is in error as the document did not originate with the Board, but the committee working on the proposed Bill of Rights Ordinance.

Town Manager Clukey agreed and said that he would have Attorney Pottle issue a corrected letter.

Selectman D'Agostino spoke of the resignation of Fred Muehl from the planning board. She said that she has heard points of frustration with zone rulings. Selectman Conroy said that

she recently attended a planning board meeting and also has concerns for the planning board's proceedings. She also noted that there are two vacancies to fill.

D. Adjustments to the Agenda

**VII. COMMITTEE REPORTS**

Admin/Assessing, 081015: Vice Chairman Freeman Cry reported that the committee worked on issues that will be addressed later in the meeting.

Public Works/Wastewater, 081315: The Town Manager reported that the committee reviewed proposals for a consultant to work on the pavement management plan.

**VIII. UNFINISHED BUSINESS**

**IX. NEW BUSINESS**

A. Liquor License– Bears Den Restaurant/Motel

1. Renewal Application/Special Amusement
2. Request to Serve Outside Premises

Vice Chairman Freeman Cyr noted that a special request was not included for beverage and food service during the fair. The Town Clerk noted that an off premise permit has been issued separately by Code Enforcement Officer, Connie Sands as authorized by the Board of Selectmen.

***Resolution #037-081715***

***MOTION: D'Agostino, seconded: Conroy, and voted unanimously (6-0) to approve the liquor license renewal application and Special Amusement Permit for Bears Den Motel Restaurant and Tavern, 73 North St., Dover-Foxcroft. Motion passed.***

***Resolution #038-081715***

***MOTION: Taylor, seconded: Conroy, and voted unanimously (6-0) to approve the request from Bears Den/Brian Westman to serve bar/food items outside the premises in a designated area on Sunday, September 6, 2015 from 2pm – 5pm for their 20<sup>th</sup> anniversary celebration. Motion passed.***

B. Liquor License Special Request to Service Outside Premises - Pats Pizza

***Resolution #039-081715***

***MOTION: Taylor, seconded: Conroy, and voted unanimously (6-0) to approve the request from Robert Ade/Pats Pizza to serve bar purchases outside the premises in a designated area located at East Main Street on Saturday, September 12, 2015 from 8PM to 11 PM for "OktDoverFest". Motion passed.***

C. Application for Beano/Bingo Game of Chance – Sangerville Fire Department

**Resolution #040-081715**

**MOTION: Freeman Cyr, seconded: Taylor, and voted unanimously (6-0) to consent to the application for a license to operate beano/game of chance submitted by the Sangerville Fire Department for the Piscataquis Valley Fair dates of August 27 – August 30, 2015. Motion passed.**

D. Pavement Assessment Management Plan

Vice Chairman Freeman Cyr asked to hear thoughts on the committee's recommendation. Town Manager, Jack Clukey, said that the town solicited proposals from eight consultants and received five responses. He said that of the proposals received, two were within the budget, Gorrill Palmer and CES. He also said that Gorrill Palmer has done several pavement management consultant projects for much larger communities than Dover-Foxcroft.

**Resolution #041-081715**

**MOTION: Taylor, seconded: Freeman Cyr and voted unanimously (6-0) to accept the proposal submitted by Gorrill Palmer in the amount of \$11,000.00 for the pavement assessment management plan. Motion passed.**

E. Citizens' Petition – Community Bill of Rights Ordinance 2015 –

Establishing a Community Bill of Rights for the people of Dover-Foxcroft, which secures those rights by prohibiting corporations and governments from engaging in the acquisition of land for, or the siting of, private and public-private transportation and distribution corridors

Vice Chairman Freeman Cyr and Selectman D'Agostino reiterated their disclosures from earlier in the meeting regarding their past involvement with the Citizens Bill of Rights Ordinance.

There was unanimous consent to allow Selectmen Freeman Cyr and D'Agostino to participate in discussion and voting.

The Board discussed having a legal opinion before holding a special election for the proposed ordinance.

Town Manager, Jack Clukey, was asked by the Board to seek a legal opinion from an attorney. The Town Manager said he would speak with Attorney, John Pottle and if need be, he would ask the Attorney Pottle to defer to another legal counselor with experience in environmental issues.

Selectman D'Agostino said that Attorney Lynn Williams assisted the Town of Sangerville with a similar ordinance and suggested that she provide an opinion as well.

The Board discussed having the attorney providing the legal opinion present to share the legal opinion in an open meeting.

Vice Chairman Freeman Cyr suggested holding a special selectmen meeting once the legal opinion is received.

**Resolution #042-081715**

**MOTION: Taylor, seconded: D'Agostino and voted unanimously (6-0) to consult with a town attorney for a legal opinion on the proposed Community Bill of Rights Ordinance. Motion passed**

F. Wastewater Abatements

**Resolution #043-081715**

**MOTION: Taylor, seconded: Conroy, and voted unanimously (6-0) to approve the recommendation by Bill Littlefield, Wastewater Dept. Supervisor, for the abatement request submitted by Jonathan Webber, 58 Autumn Ave., Acct.# 882. Motion passed.**

**Resolution #044-081715**

**MOTION: Conroy, seconded: Taylor, and voted unanimously (6-0) to approve the recommendation by the wastewater committee for the abatement request submitted by Dan Sharrow, 13 Park St., Acct.# 523. Motion passed.**

G. Sewer Billing Commitment – 2016 1<sup>st</sup> Quarter

**Resolution #045-081715**

**MOTION: D'Agostino, seconded: Freeman Cyr, and voted unanimously (6-0) to approve the Sewer Billing Commitment 2016 1<sup>st</sup> Quarter, usage period April 1, 2015 – June 30, 2015. Motion passed.**

H. Planning Board Resignation – Fred Muehl

**Resolution #046-081715**

**MOTION: D'Agostino, seconded: Conroy, and voted unanimously (6-0) to accept with regret the resignation of Fred Muehl from the Planning Board effective immediately. Motion passed.**

Chairman Edgerly suggested that the town give Mr. Muehl a certificate of appreciation for his service on the planning board.

I. Town Manager's Report

Town Manager, Jack Clukey, gave the following report:

Regarding the recent announcement of the repurposing of the Mountain View Youth Center, there are at least two public meetings planned to be held by the Department of Corrections. These will be in the fall after Labor Day. Dates and time to be announced.

The daycare located in the municipal building has announced its closing at the end of the month. He said that the owner is exploring opportunities for selling the business but may be relinquishing the space by this fall.

The GlobEco project is moving forward. He said that three employees have been hired for the Dover-Foxcroft site and that the CDBG grant remains allotted for the projects and is still

pending award. He also said that the business is putting together the necessary documentation to allow the grant to be finalized.

The ribbon cutting event at the mill redevelopment project to celebrate the opening of the Mill Inn and Café was attended by several hundred people that visited and toured the site. He said that a second ribbon cutting and tour is planned for the fall to celebrate the completion of the project.

He has received notification that MDOT is planning work on the black stream bridge.

**X. CORRESPONDENCE**

-RSU 68 Board of Directors Meeting Minutes, 080415

-Maine Historic Preservation Commission, Re:Former Burgess Farm, 283 Shaw Rd., 072715

**XI. CLOSING REMARKS** (Open Session if necessary and time permitting.)

Lisa Laser thanked public works for help with a beaver.

Lisa Laser said that if it is not a conflict with her serving on the comprehensive planning committee, she would serve also on the planning board.

Selectman D'Agostino asked if public input would be allowed at the meetings regarding the repurposing of the Mountainview Youth Center or if the meetings would be for informational purposes only. Town Manager, Jack Clukey, said that the only information he has at this time from Representative Higgins is that there would be meetings in Charleston and Dover-Foxcroft.

**XII. EXECUTIVE SESSION**

**XIII. ADJOURN**

*Resolution #047-081715*

*MOTION: D'Agostino, seconded: Taylor, and voted unanimously (6-0) to adjourn at 7:59 PM. Motion passed.*

Respectfully submitted,  
Town of Dover-Foxcroft Board of Selectmen

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Elwood E. Edgerly, Chairman

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Jane K. Conroy

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Cynthia Freeman Cyr, Vice Chairman

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Gail D'Agostino

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Stephen G. Grammont

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Scott A. Taylor

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W. Ernie Thomas