

**Camden Select Board
Minutes of Meeting
August 16, 2011**

PRESENT: Chairperson Martin Cates, Vice Chairperson Morgan Laidlaw, John French, Jr., James Heard, Donald White, Town Attorney William Kelly and Town Manager, Roberta Smith. Also present were members of the press and public.

Contents

- 1. Public Input on non-agenda items.** Dan Bookham, Director of the Penobscot Bay Regional Chamber of Commerce explained this year's 3rd festival which is September 2-4. There will be Fireworks on Friday, September 2nd and activities will be posted at www.CamdenWindjammerFestival.com or call 1-800-223-5459 for additional details. Tim Sample will be at the Camden Opera House on Saturday, September 3rd which is a benefit to help pay for the fireworks.

Mr. Bookham also explained for the first time ever there will be a Navy vessel called the John L. Hall and the Chamber is working with Steve Pixley and the Navy to make sure this goes smoothly. The Herald Gazette and the Free Press will give a list of tour dates. The Chamber is looking for people to play basketball against the crew of the Navy ship and if anyone is interested, please contact Dan Bookham at dbookham@camdenme.org.

Susan Michaud from Theo & B Camisole & Company appeared before the Board representing the Downtown Business Group and explained she had spoken to Steve Wilson, Code Enforcement Officer and he suggested that she appeared before the board because she had concerns about signage. The CDBG is trying to make people aware that there are side streets with retail businesses and restaurants at those locations. The group has approached businesses like Camden National Bank to see if the CDGB could put a fixed sign board on their building, to inform the interested party, (such as the restaurant owner or business) they could then buy a removable sign to put a brief description and have those signs on the corners of those streets to educate the public that there is more to see and do on the side streets. She explained her business is on Bay View Street and several times a day she thinks of herself as the Chamber of Commerce because there is no signage and it is something that has not been allowed and the CDBG wanted to know how they came make it allowed.

Martin Cates recommended attending a Planning Board meeting and request an ordinance change.

- 2. Bid Award: Route 105 Boat Ramp.** Roberta Smith stated the town received three bids for the Megunticook Lake Boating Facility Improvements on Rt 105 and the low bidder was Farley & Son, Inc. in the amount of \$86,579.44.

Don White made a motion to recommend to award the bid to Farley & Son, Inc in the amount of \$86,579.44 contingent upon final Planning Board approval that's anticipated

on September 1st and scheduled to go forward as soon as possible after Labor Day and authorize Roberta Smith to sign the contract once the Planning Board has approved. John French seconded this motion. The motion passed on a 5-0-0 vote.

- 3. Final review of renewal of Chamber of Commerce lease agreement for the town-owned building at the Public Landing for a November town meeting vote.** Dan Bookham was present to answer any question that the Select Board had regarding the Chamber of Commerce lease. Roberta Smith explained the plan is that this would be a long term 20 year lease and if it takes a town vote it would be on the ballot November 4th and would schedule it for a public hearing for September 6th.

Don White made a motion to accept the draft of the revocable lease agreement and pass it on for public hearing for September 6th. Morgan Laidlaw seconded this motion. The motion passed on a 5-0-0 vote.

- 4. Review of RMRA Trail Work Request for Proposals.** Jeff Kuller, Parks and Recreation Director was present to review the process to design and prepare to build a multi-use trail at the Ragged Mountain Recreation Area and to ask for the Select Board's support and authority to negotiate a construction contract with a contractor to get the trail built as soon as possible. Jeff started by giving some background information about the trail and he stated this trail is a component of the Ragged Mountain Recreation Area Redevelopment Project which is part of the \$6 ½ million project. It would be funded through two primary sources: 1. A Recreational Trails Program Grant of \$35,000 was awarded by the State of Maine and those funds must be spent by December 31, 2011 or they will be forfeited and 2. The rest of the cost of the project would be coming primarily from funds raised from the Ragged Mountain Recreation Area Redevelopment Project which has been a line item that plan since the beginning and the amount is currently at \$70,000 and there are basically \$105,000 that have been authorized towards the development of this trail. The trail has been through an extensive planning process and review process. It initially began when they hired a group called Morton Trails, from Thetford, VT which was hired to design a multi-use, multi-season trail at the Ragged Mountain Recreation area to further enhance year round recreation at the facility.

Morton Trails specialty is Nordic skiing, but Nordic ski trails are great for mountain biking, hiking, strolling, running and a variety of uses. The trail has now been approved by Camden's Planning Board, the Maine Department of Environmental Protection (a Permit-By-Rule was approved), and the Army Corps of Engineers because there was a question about the impact on wetlands, but the Corps ruled that it was not significant enough to warrant their closer scrutiny.

Jeff explained it has been through the Ragged Mountain Recreation Area Land Use Committee, Parks & Recreation Committee and the Planning Board process and they approved this project.

Several weeks ago they put out a request for qualifications to several contractors in the area to see if they would be interested in building this type of trail and invited them to a site walk. In the end two contractors submitted their qualification for review. One was

a group from Skowhegan called Applied Forestry which is a commercial land clearing, logging, excavation and forestry consulting company working throughout New England for ten years. The second contractor was Farley & Son Landscaping. Jeff explained he is recommending moving forward and negotiating a contract with the group from Skowhegan because after meeting with them it was obvious that the Applied Forestry Group had a vastly superior experience in doing trails of this style. Their principle machine operators also groom Nordic ski trails and that's a piece of what this trail will be used for. Because of the timing of this Jeff explained they are trying to get this done as early in the fall as they can because they would like to seed the trail surface with grass and or mulch to minimize any erosion issues.

John French question why this process was not put through the bid process. Jeff Kuller stated there are several unknowns and the trail doesn't have every culvert listed and it's a cost issue and a time issue. Jeff explained they are looking for someone with a lot of experience to make the right decision and it will be a more efficient and effective process. John French suggested giving this job to a local company such as Farley & Son Landscaping or putting this project out to bid.

Roberta Smith explained the primary reason isn't the interest of time, the primary reason is the cost and the difficulties of having someone do all the detail specification for building this type of trail and because of the sensitive nature of the property that the board will want to hire someone with the most experience with building these type of trails and to do a good job. Ms. Smith explained that is why the decision was made based on qualification rather than low bid based.

Don White asked Jeff Kuller to share the price that Farley & Sons had quoted and that figure was \$85,000 to do the project, which did not include additional gravel and it did not include culverts and the price from Applied Forestry was \$108,000 inclusive.

Dorie Klein, a member of the public, came forward to thank Jeff Kuller for his presentation and the up to date information on this process. She has participated in this project as much as she could, and she had several concerns. One of her concerns is since the award was granted in January 2010 and we have known about this grant for about two years and it is unfortunate that we are up until the midnight hour making a discussion to do something. In addition to that, she said it was interesting how a couple of times both Jeff and Will Gartley mentioned that this will be "field determined" or that will be "field determined" and there are a lot of things that have not yet been determined and it is a huge, huge project. She explained that it was interesting how in two weeks since the last meeting the contribution from the Ragged Mountain Redevelopment Group grew from \$45,000 as a contribution to \$70,000 as a contribution in two weeks. She had concerns with that and believes it is a real thing to expect it will cost a lot more and having walked that entire trail herself, she can't understand how this project could be build for \$80,000 to \$85,000 and personally she doesn't think it can be.

Dorie's Klein has had a consultant by the name of Morton Mustwilder come to her house to look at her property, which is adjacent to the lower two loops of the proposed trail. Mustwilder is from the State of Maine Conservation Group and Dorie encouraged the

Board to contact and consult him in terms of the forest and when the trail is cut or bulldozed to have him help with marking those trees in a way that will preserve the best trees for the Town of Camden because this is the Town of Camden's property.

Dorie also recommended that Farely & Sons be considered for this project because they are local and they are skilled. She appreciates John French's concern that this project should be based on reputation and not on a dollar amount.

Jeff Kuller wanted to respond to one thing Dorie Kline said, which was the Budget from the Redevelopment Plan went from \$45,000 to \$70,000 in two weeks and that is not a true statement. The budget has been on the Snow Bowl website since the last revision which was back in March and it shows that there is a \$70,000 line item for trail development.

Don White made a motion that the Select Board take Jeff Kuller's recommendation and that we as a Select Board are not obligating the community to any future construction and that this project be allowed to move forward on the qualifications aspect. Morgan Laidlaw seconded this motion. The motion passed on a 4-1-0 vote. (French abstained)

Town Attorney, Bill Kelly wanted clarification for the record that what the Board is intending is for Roberta Smith, Jeff Kuller and Bill Kelly to move forward and discuss and try to negotiate a contract with Applied Forestry so long as there is no new town money within the funding available. Morgan stated that was his interpretation.

5. Further consideration of Naming Opportunities submitted by the Capital Campaign Committee, a subcommittee of RMRA.

Bob Gordon, Co-Chair of the Ragged Mountain Recreation Area Foundation came forward to speak about the Naming Opportunities submitted by the Capital Campaign Committee, a subcommittee of RMRA and to thank everyone for the support the foundation has received and they have moved it forward and put together a list of the actually naming opportunities. He wanted to get the Boards endorsement to move the project forward with the proposed list in order to begin the fundraising. Once the money is raised then, and have the names the committee with submit that to the town for final approval. Bill Kelly is working on the specific language in the town policy, but as far as the concept, they have developed a list of items that they are seeking for naming opportunity. Once the pledge is made then they would document it and bring it forward to the Select Board for final vote and approval.

Jeff French made a motion allow the Capital Campaign Committee authority to move forward with their fundraising efforts. James Heard seconded this motion. The motion passed on a 5-0-0 vote.

6. Review of Fire Truck Bids. Chris Farley was present and explained the truck committee's recommendation was for the purchase of an apparatus. The truck committee started meeting in January 2010 and the committee started looking at what the needs of the department were and there was a truck scheduled for replacement in FY12, FY18 and FY22, in terms of engines and the committee decided it wasn't

necessary to replace all of them. The truck that was scheduled to be placed in FY18 will be replaced now and the truck that was scheduled for FY22 will be phased out over time. The committee's recommendation is to go with truck by Pierce Manufacturing. The original price was just under \$190K and after meeting with the manufacturing representative, he was able to bring the price down to \$557,560.

John French made a motion to buy the truck and move it to the budget committee for their recommendation and move it to a Public Hearing for a vote on November 6th. Don White seconded this motion. The motion passed on a 5-0-0 vote.

- 7. Consideration of transfer of license agreement of Harbor Dogs.** Morgan Laidlaw, husband of Susie Laidlaw removed himself from the discussion. Susie Laidlaw came forward to explain she is as the point of lightening her load at home and wanting to transfer ownership of Harbor Dogs to two of her current employees, Maggie McGaw and Laura Gertner. They have managed Harbor Dogs for the past three years and are close friends of Susie and Morgan Laidlaw. She explained she is asking the board to consider giving the new owners of Harbor Dogs a five-year lease, because without that it is hard to pass on a business.

John French wondered if the board should consider if we give someone else the opportunity for this space instead of passing it on.

John French made a motion to grant a new owner of Harbor Dogs a 3-5 year lease if they should purchase the property. Don White seconded this motion. There was no vote.

The board suggested the buyers request the financing be contingent on a multi-year lease between them and the town and once the financing is secured, the buyers would return to the Select Board to discuss the future agreement to operate Harbor Dogs at the public landing.

- 8. Request of John Conrad for public landing easement & boundary line agreement.** Tim Pease, attorney for John Conrad came forward to discuss the boundary line issue that has developed between the Town of Camden and the estate of Rebecca Gene Conrad. A survey was done in August of last year by Gartley & Dorsky which revealed that from the Town's view, according to that survey, the key boundary line was 55 feet instead of 66 feet. The Conrad's always believed that the key boundary line was always 66 feet and their deed showed that. The deed which was drafter in 1969 which said 66 feet was the key length of the boundary line. In 1969 and 1970 some improvements were made to the property at 8 Bay View Street and to the rear of the property a couple of decks were added and over the years additional improvements were made including last year a small set of steps were added to the back part of the property, along with some small private parking spaces.

Tim Pease wanted to ask the Select Board's blessing to go forward to a public hearing and to eventually get on the town's agenda for a meeting and a vote in November to enter into an easement agreement between the Town of Camden and the Conrad's.

Tim Pease explained the deed the Rebecca Conrad and John Conrad received in 1969 said 66 feet and based on the strength of that they made certain improvements to rear of the property. If the Town were to insist on going with this survey, it could force the Conrad's or whoever owns this property to take down part of the deck, part of the building or part of the steps and for what purpose? In the past, Mr. Conrad discussed a revocable license, but that affects the marketability. The tax maps have recognized 66 feet as the boundary for several years and the Conrad has paid taxes as if they owned the entire 66 feet length. The Conrad's feel an easement is appropriate as opposed to a boundary line because an easement allows a town to maintain ownership of the property and an easement allows the Conrad's to continue uses that they have had over the last 40 years.

Roberta wanted to make it clear that the Town of Camden has never ever proposed that any owners of any property shown encroaching on the Town property would have to tear down their buildings and the Town has made that clear to Mr. Conrad. All the Town has asked to do is document those encroachments by some sort of easement or license, so it is clear that the encroachments are there with the Town of Camden's approval.

Bill Kelly addressed a couple of legal points. When he was first referred to by Tim to the claims of Mr. Conrad he asked for information from a surveyor that would justify the boundary line moving to support the 66 foot call and the other thing Bill did was to go back to the Town's surveyor and there was extensive discussion, which was prompted by Mr. Pease and his claims as to where this line is and what happens in the change of title. At some point, someone just put 66 feet into the deed. The next question is, "what happens when someone builds over the line, such as this section" and Bill Kelly stated that he didn't think Tim intended to say it, but he stated they built out to the 66 foot mark and Bill Kelly clarified they did not build out to the 66 foot mark. There is a line that goes across the easterly portion of the Conrad building. Mr. Kelly explained what the law says is that when a municipality, when somebody builds within the town's property, then in fact, they can claim that footprint, as long as the building has been there for 40 years. Mr. Kelly stated he felt the survey was accurate and if they have that there for 40 years, then they probably own the footprint where the three story structure are, but as far as the rest of it goes, it could be put to town vote.

Tim Pease explained if the Town of Camden wants to have an easement, then the Town needs to have an easement drafted up and the Conrad's would pay for that to be done and he would present that to Bill Kelly to make sure the easement language is satisfactory. They would be asking to continue the existing footprint because if it burned down, they wanted to rebuild as it is today.

Martin Cates questioned why with no easement language on the table how does the Board define exactly what we are trying to do. Bill Kelly explained you would typically have a draft and that document as the proposed document with the warrant article that says shall the Town of Camden grant an easement to Rebecca Gene Conrad as described in a draft document. It would include a specific document with a description so that people know what they are voting on.

Bill Kelly explained they are encroaching beyond their property boundary and the 66 foot call come out of thin air and somebody changed their deed for some reason. There is no evidence as to why, it just happened.

Tim Pease explained he was asking the Board for an easement that is in yellow. To continue the existing structures and uses that is there now in their existing location.

Morgan Laidlaw wanted (for the minutes) clarification between this triangle and what occurred with the brick patio at Paulina's Way Restaurant. Bill Kelly explained, "the only difference legally is there is a portion of the Conrad building which is extending onto the town property that the law treats differently then no structures that extend, so the town's position at Paulina's Way was it's the town's property, which she put a patio on it when she didn't have the right to do that, but the town gave her the license to continue to do that. The second thing the town gave them was license because the utilities go underground over to her property."

Howard Gallagher came forward to give additional information and to address some of the concerns. He explained that the Conrad's were responsible for the construction that took place in 1969-1970, which brings it over the 40 year time frame, which should put this structure in the Conrad's domain. The Conrad's have paid taxes on the property since 1969 and prior to that it was 1948, which stated the property was 66 feet on that and both deeds referred to it going to the corner of the building. The existing corner of the building is now at 55 feet and the deed prior to that was 1879, which goes back to 55 feet and from the 1875 deed on there was the great Camden fire in 1895 which burned most everything downtown. From the previous deed there was another fire on the waterfront, which he mentioned because it was his opinion there might have been a building off of the back of the building where Christina's Way is now, that would have added the addition 11 foot which would have made the monument to the survey the 66 feet to the corner of the building, which is how it is stated in every deed.

Roberta Smith explained, "The whole issue of the underground utilities was put in here without a license and this is where we all started and why we ended up doing this survey in order to determine the licenses. When the town did the survey we had them locate the apparent location of where the utilities, power and gas came across to the corner and it could serve both buildings. This was what the town was initially looking for was a revocable license agreement that documented what was buried in the town property and that was how the town discovered the major encroachment of this patio. The only item outstanding is with the Conrad property is with the utility and the encroachment of the building."

Billy Kelly mentioned the town set up a square footage cost for the license at Christina's Way and there is an annual fee that goes with the square footage of the patio.

Roberta Smith explained there are three issues and those are the release deed for the building encroachment that has been there for 40 years, a revocable license agreement for the underground utilities and the steps. Then the question of whether the Board wants to grant anything for the parking that would encroach on the town lot. Bill Kelly stated, "For consistency if you are going to do that in a physical area, to be fair to

Christina's Way, the town would need to charge a square footage price." Bill Kelly also explained that more narrowly, whether the Board will authorize a warrant article to put to a vote is what this is really about in terms of an easement request."

Tim Pease stated his hope was that the Board would at least leave it up to the voters. He reminded the Board that the Conrad's have paid property taxes on the entire property for the last 40 years and to now turn around after they have paid taxes and to now give them a license and charge them a square footage price on the same property the town taxes on over the last 40 years. Mr. Pease felt this is a fairness issue and this should go before the voters for an easement on the entire area in yellow. The issue for the revocable license for the utilities that he was not prepared to talk about tonight.

Roberta Smith wanted clarification from Tim Pease that he was not asking for a release deed for the building encroachment and if he was only asking for one question be put before the voters. He explained that a portion of the structure is now owned by the Conrad's and a release deed is simply a formality. He wanted to ask for an easement for the entire area in yellow to the extent that it's not already owned by the Conrad's through operation of law.

Bill Kelly stated the home owner should want a release deed for this property because any surveyor is going to find that it encroaches. Bill wanted to know why they are declining suggesting that by operation of law they own it without the release deed he wasn't sure and he felt it would be worthwhile to clean it up and it is silly not to clean it up.

John French asked in the interest of the evening, would it be helpful for Bill Kelly to have a conversation with Tim Pease to clean up both of these. Mr. French explained he didn't know where this was going to go. Bill Kelly stated there are two possible things that could occur.

1. Is a release deed for the triangular portion of the deck that encroaches into the town property, which could be a warrant article and a second warrant article for an easement for everything else in the yellow.
2. Release deed for the triangle that encroaches into the town property and a license for the utility line and a license for the steps.

Don White made a motion that the piece in question that they have owned for 40 years be dealt with, with a release deed and that an easement over the other portion of triangle be drafted and both be put before the voters. There was no second motion.

Bill Kelly stated that a couple things come to mind if this is going to happen. The scope of the use within that, is it exclusive and is it an easement for what purpose. We know they have steps going up and did the motion include they have the right to park there or put structures on it or improve it, the Board should identify what uses the easement would be for.

Don White withdrew his motion because there wasn't a second motion. Don White made a motion to table the issue until another meeting until there is additional information.

Bill Kelly stated if that is what Don wants to entertain, then they should ask the Conrad's to prepare their draft easement for the Boards consideration, so you know what they want. He suggested having the Conrad's describe it in sufficient legal details.

John French suggested tabling this discussion for another meeting until there is additional information.

Roberta explained in the interest of other business that is on the agenda, the reality is in order to put something before the voters in November there needs to be something that can be agreed upon to take to a public hearing on September 6th. She explained that Billy Kelly could come up with something in terms of a release deed for the building encroachment and take that and resolve it. She felt there wasn't a way to come to terms in time to figure out what to do with the request for parking since the board doesn't have the details of the request and the Board could address that at another time or wait and deal with the release deed. A decision needs to be what is going to go before the voters on November 4th, so a public hearing and a notice needs to be sent to the papers this week.

Don White made a motion to have Bill Kelly draft language to be brought before a public hearing on September 6th creating a release deed to the property in question for the encroachment of the building. Morgan Laidlaw seconded this motion. The motion passed on a 5-0-0 vote.

9. Consideration of request from Pop!Tech to sue the Village Green for technology demonstrations during the 2011 Pop!Tech Conference from Wednesday, October 19 through, October 25.

James Heard made a motion to approve the request from Pop!Tech to use the Village Green for technology demonstrations during the 2011 Pop!Tech Conference from Wednesday, October 19th through, October 25th. Morgan Laidlaw seconded this motion. The motion passed on a 5-0-0 vote.

10. Consideration of the following applications for a victualer and/or lodging license:

- a. Kipp Wright, d/b/a Abigail's Inn at 8 High Street for a renewal victualer and lodging license**
- b. Ostrowski, Inc., d/b/a The Elms B & B at 84 Elm Street for a renewal victualer and lodging license**
- c. Ostrowski, Inc., d/b/a Blackberry Inn at 82 Elm Street for a renewal victualer license**
- d. Karen Brace, d/b/a The Good House at 50 Elm Street for a new victualer and lodging license**

John French made a motion to approve a-d. Don White seconded this motion. The motion passed on a 5-0-0 vote.

11. Committee Reports

- a. **Discussion regarding committee survey results.** Roberta wanted to give this information to the Select Board for homework and she asked the board what date would work best to discuss the results. John French suggested waiting until after Labor Day and Morgan Laidlaw suggested the board meet on September 13th at 6pm. Roberta also mentioned there will be another special meeting on August 30th which will include the discussion on Laite Beach about what to do with the pavers and to talk about the carry forwards and she explained an agenda will follow.

12. **Manager's Report:** The crosswalks have been postponed again because MaineDOT is having an issue with the pavement on the hill near the Library, so they need to address that before they start the project and after Labor Day the Boat Ramp and Laite Beach project will begin.

John French made a motion to adjourn as Select Board and reconvene as Board of Assessors. Morgan Laidlaw seconded this motion. The motion passed on a 5-0-0 vote.

Wastewater Commissioners

1. **Approval of the Certificate of Commitment for wastewater charges for the period of April 9 2011 to July 9, 2011**

James Heard made a motion to approve the Certificate of Commitment for wastewater charges for the period of April 9, 2011 to July 9, 2011. John French seconded this motion. The motion passed on a 5-0-0 vote.

Don White made a motion to adjourn as Wastewater Commissioners and reconvene as Select Board. Jim Heard seconded this motion. The motion passed on a 5-0-0 vote.

At 9:40 pm John French made a motion to adjourn the meeting. Don White seconded this motion. The motion passed on a 5-0-0 vote.

Respectfully submitted,

Melissa A. Geary
Recording Secretary