

Draft BOARD OF APPEALS – TOWN OF ELIOT, MAINE

April 16, 2015

ROLL CALL

Present: Chairman Bill Hamilton, Ellen Lemire and Associate Member Charlie Rankie.

Absent: Vice-Chairman Peter Billipp, Ed Cielezsko, Jeff Cutting and Associate Member John Marshall.

Others Present: Code Enforcement Officer, Heather Ross.

APPROVAL OF MINUTES

Chairman Hamilton stated that Mr. Rankie would be a voting member at the meeting and that a quorum was represented.

Charlie Rankie moved, seconded by Ms. Lemire, to accept the minutes of December 18, 2014, as amended. All were in favor.

OTHER BUSINESS

Chairman Hamilton stated that he did not have any other business on the agenda for the evening.

Ms. Lemire stated that the appeal period for the BOA begins on the date of the vote, not on the date of the written decision. She stated that the issue had recently been revisited and it had been reaffirmed that the date of the vote begins the appeal period.

Chairman Hamilton stated that the BOA has always acted in accordance with that rule. Ms. Lemire concurred. Chairman Hamilton stated that, apparently, other boards may not have acted in accordance.

Mr. Rankie asked for clarification. Ms. Lemire stated that when the BOA makes a decision, the appeal period is not based on when the Notice of Decision is received but is based on the date of the vote. Chairman Hamilton added that it has been reaffirmed by the Maine Supreme Court. Mr. Rankie asked if that was germane because it affected the appeal period. Chairman Hamilton concurred.

Mr. Rankie stated that it may be important to point out the start date of the appeal process to the appellant. Chairman Hamilton stated that when the vote is taken at the end of the meeting, the Chairman usually states that the appeal process starts at that time. He added that that is usually part of the BOA closing statement to the appellant.

Ms. Lemire asked if there were any cases coming up in the future. The CEO stated that she did not have anything at the moment but that there was one building permit application that had been denied two weeks ago which may be appealed.

Ms. Ross stated that she will be out of town for the next regularly scheduled BOA meeting in May. She asked if the BOA would want to consider either having the meeting a week later or postponing it until June.

Chairman Hamilton stated that he would also be out of town at the time of the May BOA meeting. Ms. Ross stated that the meeting could be postponed until June. Chairman Hamilton stated that once an appeal is submitted, the BOA needs to act on it. Ms. Ross and Ms. Lemire agreed that the appeal would need to be heard at the next regularly scheduled meeting. Mr. Rankie stated that Mr. Billipp would then need to chair the meeting.

Chairman Hamilton stated that having Mr. Billipp act as Chair would certainly be doable. Ms. Lemire stated that both the CEO and the Chairman would be absent. Chairman Hamilton agreed that it would be difficult. He asked if the appeal would be an Administrative Appeal and Ms. Ross stated it would be. She added that the people whose building permit was denied had stated that they would be making an appeal after speaking to their attorney but that she had not heard anything back from them as yet.

Ms. Lemire asked if it would be possible to ask the appellants to hold their application. Chairman Hamilton stated that the appellant was probably eager to have a decision made. Ms. Lemire concurred but added that she was uncomfortable hearing an Administrative Appeal in the absence of the CEO. Chairman Hamilton agreed that it would be difficult to make a decision.

Chairman Hamilton stated that he wondered if it would be possible to reschedule the May meeting for a week or two later than the regularly scheduled date. Ms. Lemire stated that the Board of Selectmen has its meetings on Thursdays at 5:30 PM and that those meetings have been lasting for two to three hours.

Mr. Rankie stated that the problem with rescheduling anything was that people have multiple commitments. He suggested that the BOA wait to see what happens and deal with whatever comes up at that time. Chairman Hamilton stated that he preferred to be proactive. Ms. Lemire concurred.

Ms. Ross cited Section 45-50, Appeal Procedure, as stating, "Following the filing of an appeal with the board of appeals, and before taking action on any appeal, the board of appeals shall hold a public hearing on the appeal during their next regularly scheduled meeting or sooner at their discretion, provided sufficient time exists from the date of the filing to the regularly scheduled meeting, to meet the notification requirements of subsection (a) and administration of the same." She added that the notification requirements include notifying any abutters of the appeal.

Mr. Rankie asked if it would be appropriate to make the date of the next regularly scheduled BOA meeting be in June. Chairman Hamilton stated that he would welcome a motion to that effect.

Mr. Rankie moved, seconded by Ms. Lemire, to hold the next scheduled meeting of the BOA on June 18, 2015. All were in favor.

Mr. Rankie stated that it would be prudent for the BOA to reschedule due to the absence of both the CEO and the Chairman in May. Chairman Hamilton concurred and stated that rescheduling would result in more fairness for the appellant. Ms. Lemire concurred.

Mr. Rankie stated that there were a couple of items in the minutes of December 18, 2014, that would be worth mentioning. He stated that a vote for the Charter would most likely be in November, not in June. He stated that during the December meeting, there had been discussion about recall. He added that the Charter Commission had debated at length about the percentage of voters from the last Gubernatorial Election needed for a recall vote. He stated that the percentage would be 10%, not the 35% stated in the minutes.

Mr. Rankie stated that if anyone wanted to follow what happened in the meeting of the Charter Commission with the BOA and the Planning Board, the minutes of the January 14, 2015, of the Charter Commission were posted under the Town website and contain a fairly reasonable accounting of the meeting.

Chairman Hamilton asked for the date of the next Charter Commission public hearing. Mr. Rankie stated that a date had not yet been set. Mr. Rankie added that the Commission preliminarily had discussed meeting with the committees and commissions to brief the people who held the leadership roles in the Town about what was happening with the Charter. He stated that there would be plenty of notice prior to a meeting.

Chairman Hamilton asked if anyone further items of business. There were none.

ADJOURNMENT

Ms. Lemire moved, seconded by Mr. Rankie, to adjourn the meeting. All were in favor. The meeting was adjourned at 7:14 PM.

Respectfully Submitted,
Linda Keeffe
Recording Secretary

Approved by: _____
Bill Hamilton, Chairman

Date Approved: _____