

TOWN OF ELIOT – BOARD OF APPEALS MEETING

June 19, 2014

ROLL CALL

Present: Chairman Edward Cielezsko, Vice-Chairman Peter Billipp, Secretary Bill Hamilton, Ellen Lemire and Associate Members Charlie Rankie and John Marshall.

CALL TO ORDER

Chairman Cielezsko called the meeting to order at 7:00 PM. He stated that there were no public hearings.

APPROVAL OF MINUTES

Ms. Lemire stated that motions, when referenced in the minutes, are supposed to be more formal than have been written in the current and previous minutes. She stated that they should be more obvious and easier to find in the minutes. She referenced the April 17, 2014 minutes as stating, "The minutes of the March 20, 2014 meeting were approved, as amended." Ms. Lemire stated that there was no reference to a motion to approve the minutes. She added that she had brought a copy of her Board of Selectmen minutes to demonstrate the format she uses as their recording secretary.

Ms. Lemire stated that the record of the vote is important when it comes to applications because there are times when the BOA members do not all agree. Chairman Cielezsko stated that the BOA minutes do itemize the motions and votes on applications but that the approval of minutes is more routine, where the vote is done as a whole group.

Chairman Cielezsko asked if the other BOA members would like to see more articulate motions. Mr. Marshall stated that if the BOA was dealing with someone who had brought an appeal, an informal reference to the motion and vote would be inappropriate. He stated that when the issue is one of housekeeping and where there is consensus, the less formal approach would be acceptable.

Mr. Marshall stated that when a motion is made when there is an appellant present, the wording sometimes should be formal and to-the-point. He stated that he thought that most of the time that was accomplished. He added that the recording secretary has to put down what the BOA member said, not what should have been said. He stated that he thought their record was pretty good in that regard.

Mr. Rankie stated that he thought Ms. Lemire's point was well-served. He referenced the April 17, 2014 minutes as omitting the motion, the second to the motion and the vote results in terms of the decision regarding a letter that was sent to the Board of Selectmen. He stated that the discussion had been a lengthy one and that he thought the decision should have been more formal when the BOA had spent so much time in discussion.

Chairman Cielezsko asked whether the BOA members thought all motions, both those referencing housekeeping and those where there is an appellant, should have the same level of detail. Mr. Billipp stated that he thought there should be more definition in order to be on a more level footing.

Mr. Hamilton stated that he thought it probably was useful to note who made a motion, who seconded it and what the tally was. Mr. Cutting concurred.

Chairman Cielezsko stated that there was consensus to sharpen up references to motions.

Mr. Rankie asked that the recording secretary listen again to the recording of the meeting because it was his recollection that he had stated that he would not let the topic (as to whether or not board members should be elected rather than appointed as part of the Charter) come up "until the end" unless he was overruled. (The minutes stated that "he would not let the topic come up unless he was overruled.") He stated that if the minutes accurately reflect what he had said, then he misspoke. Chairman Cielezsko stated the he remembered the statement as written in the minutes. Mr. Hamilton concurred. Chairman Cielezsko stated that the minutes would be left as written.

Motion and Vote:

A motion was made by Ellen Lemire, seconded by Peter Billipp, to approve the minutes of April 17, 2014, as amended. The vote was unanimous.

OTHER BUSINESS

Chairman Cielezsko referenced a letter from Tony Manero, dated April 18, 2014, which was sent to the Town Manager, the Board of Selectmen, the Chair of the Planning Board and the Chair of the Board of Appeals. He asked if each of the BOA members had read the letter; they concurred. Chairman Cielezsko stated that Barbara Thain had notified him that Mr. Rankie wanted the letter inserted into the BOA information packets. He

stated that there was no action taken by the Selectmen, nor by the Town Manager, so he was not sure what Mr. Rankie's concerns were.

Mr. Rankie called attention to Item #5 in the letter, stating that he would not have spoken if the letter had not been sent to the Town Manager and the Boards. He stated that he thought there was a misrepresentation as to what is appropriate and what is not appropriate. Mr. Rankie stated that Mr. Manero spoke at length about Mr. Hamilton and that the last two sentences of Item #5 state, "We should view with concern opinions which come from Town Officers and Board Members who use their positions to press their personal beliefs. When not speaking as a Board member, they are free to speak on any issue."

Mr. Rankie stated that the reason he pointed out the sentences was that he believed there was a misconception on the part of some people that it is inappropriate for a Board member, sitting in a public forum and on TV for anyone in Town who wants to hear them speak, to say something that is of concern to his colleagues. Mr. Rankie stated that he did not know of any other opportunity for the BOA members to speak about any item that was of concern without having a private conversation, which would result in doing the things that the BOA had previously been accused of doing and which they do not do.

Mr. Rankie stated that the meetings are a perfect forum and opportunity for the members to inform each other and that he thought Mr. Hamilton's comments were completely appropriate. Mr. Rankie stated his concern was that Mr. Manero's letter could be taken the wrong way by someone who did not understand.

Chairman Ciesleszko stated that he appreciated Mr. Rankie's comments. He stated that he wanted to make clear that the Selectmen took no action on the letter. Chairman Ciesleszko stated that the BOA members had heard a lot of different comments from a lot of different parties in Town but that as long as the Selectmen stand by the Board of Appeals, he did not see a problem. He stated that he did like the way Mr. Rankie articulated again that it is not improper to bring up issues in the Board discussions. He added that the members are not bound to silence by any stretch on any issue in the Town.

Mr. Rankie stated that if the meeting was a hearing, that would be a different issue. He stated that he was referencing discussions as opportunities for the BOA members to talk in public. Chairman Ciesleszko stated that no reprimand or concern had been expressed to him, as the Chairman, in regard to the issue. Mr. Rankie stated that he also raised the issue for people who might be new on Boards and who are learning how public forums work.

Chairman Cielezsko stated that he received an email from the Town Manager expressing concerns with the Board of Appeals and their links of communication between the members. He state that the email made the point that the chain of communication is supposed to go from members to the Chairman, who then takes a unified letter from the Board to the Town Manager, who then gives the letter to the proper department head to address the issue.

Chairman Cielezsko stated that he did not have the email at the meeting, but that it was very general and might have been a misunderstanding. He stated that he believed that the concern probably was a misunderstanding because the BOA always comes to a consensus with anything they address.

Chairman Cielezsko stated that he thought that what the Town Manager was referencing was individuals asking in Town about cases. He stated that from what he barely understood, the Town Manager was referencing the fact that people questioned the building permit issued for Michael Kelley. He stated that nothing precludes anyone from hearing that Mr. Kelley got a building permit and then asking why. He stated that he thought they had addressed the issue at the last meeting when the discussion included the fact that different Code Enforcement Officers have different interpretations of the rules.

Chairman Cielezsko stated that it was fine that Mr. Kelley got the permit and that the BOA never went any further with the issue. He added that as individuals, there was no problem with asking.

Mr. Cutting stated that he had asked how Mr. Kelly's permit was granted. He stated that Barbara had sent an email to the BOA as a whole stating that Mr. Cutting had been concerned about the permit. He stated that he did not really ask a question other than whether or not there had been a violation. He stated that his thought process had been that Mr. Kelley's variance request was denied and that the building would have to be built a certain way. He stated that his mother-in-law lives across the street from Mr. Kelley and when visiting her Mr. Cutting noticed that the house was being built in the same way that had been denied.

Chairman Cielezsko stated that there had been no usurping of the BOA's decision and that the granting of the permit was a result of a different interpretation of the rules. Mr. Cutting stated that he asked Ms. Pelletier about it, that she explained it to him and that was the end of his concern.

Chairman Cielezsko stated that he would see Dana Lee, the Town Manager, and make sure he understood that the BOA does do communication properly and that there is no reason why any member or any citizen cannot talk to somebody to check on something.

Mr. Marshall asked if a Board member with a question as to how the ordinance is being applied in a case should ask Ms. Pelletier or should the member ask the Town Manger instead.

Chairman Cielezsko stated that the chain of communication for the Town requires that if a Board member has concerns with any other department, in their work on the Board that they are on, the concerns are to be brought up at the Board meeting, consensus reached as a Board and a letter presented to the Town Manager. He will then address the issue or give the letter to the Department Chair concerned.

Mr. Marshall clarified that a BOA member should never ask a particular Town officer how that person is applying an ordinance when the BOA gets an application. Chairman Cielezsko stated that he thought it best not to do so. Mr. Marshall asked if the members should wait until the meeting to seek clarification. Chairman Cielezsko concurred, stating that all of the members need to hear the same answer.

Chairman Cielezsko stated that the situation was similar to the guideline that BOA members should not visit a site without a meeting. He stated that members could drive by but should not enter the property where more would be visible than it would be to anyone driving by.

Mr. Marshall stated that a letter from the Board should be addressed to the Town Manager rather than to the Board of Selectmen. Chairman Cielezsko and Ms. Lemire concurred, stating that communications all go through the Town Manager and he is the one who establishes the agenda for the Selectmen. Chairman Cielezsko stated that the Board of Appeals letters addressed to the Selectmen went first to Dana Lee who then sets up the agenda for the issue to be on the BOS agenda.

Mr. Billipp requested that Chairman Cielezsko bring the email from Mr. Lee to the next meeting for all of the BOA members to view. Chairman Cielezsko stated that he would request that Mr. Lee print the email and put it in the BOA packets.

Mr. Cutting stated that it would be nice if someone notified the BOA members when something changed regarding a case that they had already made a decision about. Chairman Cielezsko stated that that is not an issue. He stated that the BOA had turned down a variance request because the appellant could not meet the requirements for the Code Enforcement Officer at the time. He added that another Code Enforcement Officer did give the appellant a building permit with the clear understanding that the appellant did meet the code. Chairman Cielezsko stated that the BOA's ruling had not changed and they did not require notification of a different interpretation by a different CEO. He added that the BOA did not need to be notified that the situation had changed.

ELECTION OF OFFICERS

Chairman Cielezsko stated that he would not be Chairman for the coming year, though he would remain on the Board.

Chairman – Nomination and Vote

Mr. Rankie moved to nominate Mr. Hamilton as Chairman, seconded by Ms. Lemire.

Ms. Lemire moved, seconded by Mr. Billipp, to close nominations.

The vote in favor of both motions was 6-0, with Mr. Hamilton abstaining.

Mr. Hamilton thanked the Board and stated that he would like to say, as his first statement as Chairman, that Mr. Cielezsko had done a fabulous job as Chairman. Ms. Lemire concurred.

Vice Chairman – Nomination and Vote

Mr. Cielezsko moved to nominate Mr. Billipp for Vice-Chairman, seconded by Mr. Marshall.

Ms. Lemire moved, seconded by Mr. Marshall, to close nominations.

The vote in favor of both motions was 6-0, with Mr. Billipp abstaining.

Secretary – Nomination and Vote

Mr. Cielezsko moved to nominate Ms. Lemire for Secretary, seconded by Mr. Marshall.

Mr. Cielezsko moved, seconded by Mr. Marshall, to close nominations.

The vote in favor of both motions was 6-0, with Ms. Lemire abstaining.

Closure of Nominations

Chairman Hamilton asked for a show of hands for those in favor of closing the nominations. The vote was unanimous.

Chairman Hamilton asked if there was any other business. Ms. Lemire asked if there was any inkling of anything scheduled for a meeting in July. Mr. Cielezsko stated that there was none to date.

ADJOURNMENT

Mr. Marshall moved, seconded by Ms. Lemire, to adjourn the meeting. All voted in favor. The meeting was adjourned at 7:31 PM.

Respectfully Submitted,
Linda Keeffe
Recording Secretary

Approved by: _____

Bill Hamilton, Chairman

Date Approved: _____