

Minutes

Select Board Meeting – Hastings Community Center

Thursday, September 22, 2022

6:00 PM

Kimberly Clarke
Thomas Klinepeter

Jim Tyrrell
Thomas Kingsbury

Kingsbury opened the Public Hearing on Liquor License & Special Amusement Permit renewal for Fryeburg Kitchen & Marketplace located at 2 Jockey Cap Lane. There were no comments.

Kingsbury opened the Public Hearing on the adoption of the MMA Model Ordinance General Assistance Appendices (A-H) for the period of October 1, 2022 through September 30, 2023. There were no comments.

Kingsbury called the Select Board Meeting to order and declared a quorum. The Pledge of Allegiance was conducted.

Department Head reports: Chief Mick reported that Fair preparations are underway and that as of October 1st, the Police Department is fully staffed.

Klinepeter made a motion to approve the September 8, 2022 Meeting Minutes, which was seconded by Tyrrell and passed unanimously.

Klinepeter noted that the Liquor License application is missing information. He made a motion to table the approval of the Liquor License for Fryeburg Kitchen & Marketplace, which was seconded by Kingsbury and passed unanimously. Klinepeter made a motion to approve the Special Amusement Permit renewal for Fryeburg Kitchen & Marketplace located at 2 Jockey Cap Lane, which was seconded by Kingsbury and passed unanimously.

Clarke made a motion to approve the MMA Model Ordinance General Assistance Appendices (A-H) for the period of October 1, 2022 through September 30, 2023 using the Cumberland County maximums. After discussion this was seconded by Klinepeter and passed unanimously.

Tess Dana spoke on the request by Fryeburg Parks Open Space & Beautification to discuss proposed Peary Park improvements. Dana noted the improvements that have already taken place, including some brush removal to open up mountain views and the placement of Adirondack chairs. She noted the next proposal is to plant a hedge between the park and road. She introduced Eli Goodwin who is a landscape architect. Goodwin presented plans and outlined the goal to create a threshold or gateway appearance to formally delineate a park entrance. He proposed to use winterberry bushes which will grow to be 3-4 ft tall. He would oversee installation. Parking for Peary Park was discussed as was the need to ensure that the monuments are not moved, per the deed restrictions. Clarke made a motion to support the proposed improvements to Peary Park, which was seconded by Tyrrell and passed unanimously.

Request by Fryeburg Water District to speak related to the use of ARPA funds to test the Fryeburg Historical Society Well for PFAS: No one was present on behalf of the FWD to speak so the action was tabled.

Clarke made a motion to appoint Donna Girard to the Broadband Committee, which was seconded by Klinepeter and passed unanimously.

Clarke made a motion to approve an abatement in the amount of \$1,154.48 for Map 025, Lot 063-A00 in the name of Weese, Amber L, Weese, Jonah L, et al, which was seconded by Kingsbury and passed unanimously.

Klinepeter made a motion to approve an abatement in the amount of \$382.50 for Map 050, Lot 031 in the name of Cynthia Card, which was seconded by Tyrrell and passed unanimously.

Clarke made a motion to approve an abatement in the amount of \$752.76 for Map 27, Lot 003 in the name of Gerard Boucher, which was seconded by Tyrrell and passed unanimously.

Klinepeter made a motion to approve an abatement in the amount of \$485.01 for Map 039, Lot 024 in the name of Jessica Dodge, which was seconded by Clarke and passed unanimously.

Klinepeter made a motion to approve an abatement in the amount of \$70.38 for Map 013, Lot 001-A00-002 in the name of Steve Starsja, which was seconded by Tyrrell and passed unanimously.

Clarke made a motion to approve an abatement in the amount of \$414.63 for Map 022, Lot 015-004 in the name of James & Kathy Delaney, which was seconded by Klinepeter and passed unanimously.

Klinepeter made a motion to approve a supplement in the amount of \$1,154.48 for Map 025, Lot 063-A00 in the name Weese Amber L, Redwine Juanell, Nisbet Autumn, Weese Julian L, Weese Jonah K, which was seconded by Clarke and passed unanimously.

Clarke made a motion to approve a supplement in the amount of \$414.63 for Map 022, Lot 015-004 in the name of Fred & Eva Jackman, which was seconded by Klinepeter and passed unanimously.

Clarke began a discussion on Short Term Rentals. She reported that a resident of Kimball Lake Shores contacted her and was upset after hearing that a permit would be required for their short term rental (STR). KLS is studying restrictions for STRs within the homeowners association. Clarke noted the turnover in Code Enforcement Officers and understands that it might lend itself to varying ordinance interpretations but believes that the ordinance is clear in stating that single family dwelling can be rented, regardless of the length of time. She stated that the Select Board discussed this in May and decided to not take any action in light of events in Conway. She noted the need to balance private property owner rights with the Land Use Ordinance and that we need to have an ordinance the specifically addresses STR's; we cannot arbitrarily strip property rights. She supports the drafting of an ordinance and read a letter sent to her from a STR owner. She commented on changing trends in vacationing and the need to address health and safety within an ordinance.

Klinepeter reported that the Planning Board is looking to begin work on STR regulations. The fees for permitting was discussed. Haley noted that it was not an arbitrary fee created for STR's, rather it is the standard permitting fee for any use that is determined to require CEO approval for Land Use Authorization. She also noted that STR's are not always a single-family dwellings and that there may be other categories in which an STR is defined. She commented on Section 5 of the land use ordinance with has language about "similar uses".

Tyrrell commented that the town does need to decide how these should be regulated. There was debate about what fits within the definition of a single-family dwelling. Clarke again noted need to change the ordinance. Kingsbury agrees that this should be left up to the town to make a decision on whether STR's are allowed. Clarke made a motion to not require people to apply for a license to rent their home until verbiage is adopted related to STR's.

Tess Dana asked about homeowners associations and there was discussion about their ability to regulate STR's. Noise complaints were discussed. Kingsbury believes that there should be no action taken until the Planning Board drafts regulations. There was discussion about definitions within the Land Use Ordinance. Goodwin asked if there was something in the ordinance related to similar uses; Haley confirmed that Section 5 of the ordinance has a provision related to similar uses; it says that if a use isn't an exact fit then you can find a similar use and permit it accordingly. Haley noted her opinion the STR's could be a similar use. This was discussed. Clarke again noted that the Board agreed in May to defer until the Conway court case was resolved and the ability to enforce STR's was understood.

Clarke made a motion to not collect fees or force people to register their private homes for rentals until the town approves that action. Haley commented that she has an issue with the motion as the Board should not make decisions on how the ordinance is enforced. There was discussion about other types of rentals, such as front yards during the fair. Clarke noted that when the Board states that there should be no action on STR's and the town staff does the exact opposite, it is an issue; the Select Board sets policy. Haley noted that she is open to hearing thoughts on the ordinance interpretations but that it is a slippery slope for the Board to make a motion on how the ordinance be interpreted. Clarke responded that it is appropriate because the Board is elected and that decisions that affect the values of homes should be a tax payer decision not a staffer.

Tyrrell provided an analogy about another business that wanted to locate but could not and noted the option of going to the appeals board. Clarke stated that private property rights allow you to buy, sell and rent your homes. There was discussion about variances and Haley stated that there is a procedure called an administrative appeal that allows people to appeal an interpretation made by the Code Enforcement Officer.

CEO Natalie Foret provided some details on her interpretation about lodging and rental facilities. Haley again noted that the CEO and herself have been open to debate on interpretation but that the motion is saying that the Select Board can make a decision on ordinance interpretations and what businesses might be allowed in town. Clarke said that STRS have been a Select Board issue in other towns before being presented to the voters. Tyrrell stated that he doesn't think the Board can tell Haley to tell the CEO to say a certain thing. Clarke argued that it is policy and not how to enforce an ordinance. Staff cannot set new policy and that it is the Board's job to do that. It is unfair to ask one person at the town office to expose the town to millions of dollars in lawsuits.

Tyrrell and Kingsbury noted their agreement that the town should vote on this but that they don't agree with the motion on the table. Clarke rebutted that if someone sues the town, then she would testify for the person suing because we don't have any legal authority to regulate STR's. The ordinance needs to be changed.

There was discussion about the next steps. An email from Haley was referenced where she said the town would hold off on requiring applications and fees for STR's. Haley noted that this is the way that she and Foret are leaning. Clarke stated that she would write a letter to the editor and ask everyone what they think and do they think that the CEO or Town Manager should decide whether this town allows STR's or do the voters need to decide that. After continued discussion Tyrrell noted that there doesn't need to be a vote. Clarke referenced the meeting in May and said the Select Board agreed and decided not to do anything with STR's. Klinepeter stated that the Board should let the professionals do their job and interpret the ordinance. He noted that there is a new CEO looking at it from a different angle and the Board should let her do her work. Kingsbury agreed. Clarke stated that the employees don't have the authority to do so and that the staff is exposing themselves to lawsuits.

Clarke asked Haley to get a legal opinion on whether she has the right to decide what a STR is. Klinepeter disagreed with that. Clarke noted that she wanted to understand who has the authority to decide what a STR is so that the town can be protected by doing it the right way. Conversation continued

and it again noted that the planning board was looking at regulations and the it will be presented to the town for a final vote.

Haley presented her Town Managers Report. Klinepeter made a motion to accept the report, which was seconded by Tyrrell and passed unanimously.

Other Business: Tyrrell suggested that the monument at the Portland St/Main St intersection could be considered for moving to the future municipal complex. Clarke again noted that she would like to see a new message board sign at the Fire Station using ARPA funds to purchase this. Haley inquired if she should be getting estimates for a sign. Klinepeter noted that he does not support expending ARPA funds until the Rec Dept. figures out its bus situation. Klinepeter thanked the Public Works Dept for their catch basin repair work at the corner of Portland and Warren. Kingsbury reported that people seem happy that the tax rate went down.

Public Forum: Goodwin noted some specific personal opinions and considerations of STR's including the impact on housing availability and affordability, the debate about whether it is a residential or commercial use, and the impact of LD 2003 on the STR issue. Daymond Steer asked clarifying questions about ordinance items.

Tyrrell made a motion to approve Payroll Warrants #24, 26 & and Accounts Payable Warrants #25, 27, which was seconded by Klinepeter and passed unanimously.

Clarke made a motion to adjourn, which was seconded by Tyrrell and passed unanimously.

Date: 10/13/22

Thomas Kingsbury
Tyrrell

[Signature]
Jama C Tyrrell