

Minutes of Meeting
Town of Southwest Harbor Planning Board
May 1, 2008
6:00 p.m.

I. Roll Call : Anna Demeo, Carolyn Maling, Dennis Dever, Sharon Howard, Molly Lyman, John Carr, absent Christopher Rawls
The meeting was called to order at 6:00pm.
Visitors Present: CEO Donald Lagrange, Selectman Kristin Hutchins

II. Visitors to be heard not on the agenda

III. Ordinance Discussions: There are seven (7) ordinance amendments going before the Town Meeting and these are #64 on the agenda. The Board expressed disappointment in being on the Town Meeting floor – being this late in the game it increases the chance of less people voting. The Chair asked if any Board member would like to request at the meeting that the LUO items be moved to the front of the agenda. Clarification on the start time of the Town Meeting (6:00 pm), was given by Hutchins, visiting Selectman. Discussion was held on making a motion to vote on the ordinances during the discussion period. Sharon will check Roberts Rules, and the Board agreed that Sharon would make the motions and another Board member will second the motion. Chair discussed the Planning Board meeting that Peter Lord attended, and also spoke with him this past week. Mr. Lord offered (for a limited time) to work with the Planning Board on a Lighting Ordinance and have it available to vote in November. He will come and speak to a joint meeting with the Planning Board and Selectmen. The Planning Board will invite them to a joint meeting on the 29th of May, or anytime that week at the convenience of the Board of Selectmen. Hutchins will present the concept of a joint meeting with PB and Select and Lord.

Regarding Shoreland Zoning State mandates, Don has organized the Shoreland ordinance and incorporated changes that we need to put into our ordinance. Anna suggested that the Board review five changes at a time, to start. A discussion was held last meeting that there is an option of just adopting the Shoreland ordinance given by the State and take the time to take the Shoreland ordinance stuff out of our ordinance. There are two choices – the Chair asked the Board members to discuss and decide. Sharon

said the Board should look at both options. It was noted by the Chair that if the Town votes down the changes to the land use ordinance relative to the Shoreland ordinance, the Town will be forced to adopt the State version of the Shoreland ordinance. Lagrange said there are two or three items that will take serious review: i.e. timber cutting – there are three choices on that issue. He cautioned to keep in mind that this refers only to Shoreland zoning, and there are few areas on the Shoreland that are heavily forested. Sharon expressed concern as to which is the most restrictive. Lagrange said there is little difference. He said the State wants the towns to adopt their Shoreland zoning – and some changes are allowed, but must be approved by the State. Molly said in some prior years the Town made changes that were less restrictive and made a case to the State and the changes were approved, because of the unique mixed use in this Town. She would like to look at the mixed use aspects of the State Shoreland zoning. Sharon: what is behind the State putting this Shoreland zoning ruling out at this point. Lagrange – along the ocean there were no guidelines on cutting vegetation – new rules along lakes and streams, as well as the number of trees – but along the Shoreland there is little canopy. He said if the Board takes what he did, as it corresponds to the States changes and our LUO – there is not a great deal – and the State has become more restrictive. Demeo pointed out that if it comes to adopting the Shoreland ordinance presented by the State, it will be in conflict with our current LUO and that would have to be dealt with.

Chair asked if the Board wanted to review the Pettegrow application at the next meeting. Lagrange explained the ordinance implications of the commercial activities on his residential property – Lagrange did the review and feels the application could be heard.

Lagrange gave the Planning Board a DEP/CES letter concerning the Gott property. The Chair asked the Board to review that letter as well. Demeo pointed out that the Board asked for a letter and got it. Howard and other Board Members said they believed CES had specifically indicated the Board would be notified of any test pits done by DEP, so that they could be present. Lagrange said that Gott's cannot proceed without coming back to the Planning Board – and that they have the burden to complete and secure a permit. He said that hypothetically when someone commits a violation, it is possible, and legal by our LUO Ordinance, to impose conditions that would allow the Select Board to impose a fine, and require a consent agreement with the Board of Selectmen upon agreement to a fine, of not pursuing other legal action. Sharon asked if coming before the PB might put a hold on

further fines. Lagrange agreed. Lyman cautioned discussing without the applicant present. Chair said the Board did have to decide whether the applicant should be contacted, or whether the Board will wait to hear from them. The Board decided to wait for the applicant to come back of their own accord. Molly referred to a portion of the LUO that does allow for fines to be levied. Lagrange offered to call CES.

Lazy Moose has reconfigured their upstairs residential apartment to a commercial use. The Board asked the CEO if the Lazy Moose could continue that operation, as they were not permitted by either the CEO or the Planning Board for a change of use, and two-storey commercial business . Don will contact the State Fire Marshall.

Discussion was held as follows on Agenda items for the meeting on May 15th, 2008.

Sharon opposed hearing Pettegrow on the 15th and not schedule it until the application had been reviewed by the Chair and deemed complete to hear. A hand vote was taken on whether or not to hear the Pettegrow application at the meeting on May 15th. 0 in favor, 5 opposed – Chair did not vote. The application will not be heard on the 15th of May.

Election of Officers of the Planning Board will be held the 15th of May.

Shoreland zoning – Chair will send out an e-mail to everyone.

Carolyn asked if the Board should go back to the Ordinances that may not pass the town meeting, as part of the next meeting and the Chair agreed.

Molly asked to discuss what was going to be said at the LUO information session at Town Meeting on Monday coming. The opinion was expressed that the Ordinance is strong enough to enforce itself. Lagrange said the Certificate of Occupancy (C.O.O.) is closure to a project. The Board felt strongly that the CEO would be the best person to discuss the reasoning behind the COO at the Town Meeting. Rawls said that safety should be an issue in encouraging the COO passage. Lagrange pointed out that the Ordinance says a house permit is only good for three years and the house should be done at that time.

IV. Review Minutes of Meeting (s) – to be voted at the next PB meeting on May 15, 2008.

V. Other Business - none

VI. Adjournment

It was moved (Sharon) and seconded (Molly) to adjourn the meeting at 7:00 pm. 5 – 0 in favor.