



TOWN OF BREMEN  
P.O. Box 171– Bremen, ME 04551

*Walter Voskian, Chair*  
*Steven Wallace, Vice Chair*  
*Jack Boak, Board Member*  
*Floyd Gent, Board Member*  
*Walter Radloff, Board Member*  
*Justin Stailey, Board Member*  
*John Clapp, Board Member*  
*Mary Berger, Alt. Member*  
*Deborah Roll, Alt. Member*

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**Bremen Planning Board  
Meeting Minutes  
Tuesday, March 21, 2023 at 7:00 p.m.**

**I. Attendance**

Members Present: Walter Voskian, Chairman; Steve Wallace, Vice Chairman; Jack Boak; Floyd Gent (via zoom); Justin Stailey; Deborah Roll, Alternate Member

Absent: John Clapp; Walter Radloff; Mary Berger, Alternate Member

Officials Present: Select Chair Wendy Pieh; Selectman John “Boe” Marsh; Selectman Steve Page (via phone); Peter Drum, Town Attorney; Keena Cates, Deputy Town Clerk (via zoom); Cheryl Ferrara, Recording Secretary

Members of the Public: Susan Davis

**II. Meeting called to order at 7:03 p.m.**

Chairman Voskian began the meeting by noting that this hybrid meeting is being held under State Statute 1 MRS 403-B that governs participation, via remote methods, by members of the body and the public after public notice. Under this statute, members of the body are expected to be physically present for a meeting except when that is not practical. All votes taken during the meeting using remote methods will be by roll call vote that can be seen and heard if using video technology, or heard if using audio technology, by other members of the body and the public. A member of the body who participates remotely will be considered present for purposes of a quorum and voting. This meeting is being recorded.

Chairman Voskian also presented his traditional opening statement and introduced the members of the Board and all others present. Alternate member Deborah Roll was appointed as a regular voting member for this meeting. A quorum was established.

**III. Adjustments to the Minutes**

Chairman Voskian moved approval of the minutes to a later time in the meeting.

#### **IV. Application for Review**

There were no applications to review.

#### **V. Public Comment and Questions**

There were no public comments at this time.

#### **VI. Other Planning Board Business**

##### **1 – Discussion with Town Attorney Peter Drum.**

Chairman Voskian thanked Town Attorney Peter Drum for attending the meeting. He also thanked him for his legal opinion of February 13, 2023, on what the Selectmen presented to him as the Planning Board's request for, and position on, the Planning Board gaining information periodically about CEO activities. He suggested the Town Attorney characterized it as "a new policy proposed by the Planning Board." Chairman Voskian said the Planning Board found much useful information in the Town Attorney's letter outlining the relative roles of the Board and the CEO, and suggested that the Board recognized the legal bases for his opinions on what he understood to be the Board's request.

However, Chairman Voskian said that, unfortunately, the Planning Board's position and what it was seeking appeared somehow to have been inadvertently blurred or misconstrued along the way. Apparently, something got lost in translation between what was being requested and what was presented to the Town Attorney for his opinion. Having said that, Chairman Voskian said, that looking forward, he hoped the Board could use this discussion to resolve this confusion and put it behind us. He also hoped all parties involved could reach the more important goal of achieving a solution on information sharing that will better serve the Town, the Selectmen, the Planning Board, the CEO, the citizens of Bremen, the interests of open government, and the public's right to know. Reaching that goal, he said, was really the most important thing to achieve.

He began by clarifying the Board's position: "The Planning Board fully agrees with your legal opinion on the relative roles of the CEO and the Planning Board, and we have always conducted ourselves accordingly. Board members recognize that, by statute, the CEO is the enforcement authority throughout the Town and that the Planning Board is the application review and permit granting authority in the Shoreland Zone – and in subdivisions and commercial operations. Board members fully accept this differentiation of authority and the need for it."

The confusion, he believed, arose with regard to what things the Planning Board was seeking. The following is Chairman Voskian's clarification of the request as quoted from the meeting.

"First, the Board is asking that the CEO produce a periodic listing of the permits he has issued throughout Town. That way the Planning Board—by statute, the Town's other permitting authority—can be kept apprised of other building

activities in Bremen. Such a listing would help keep the Board current on construction trends, especially important things like Growth Cap limits that have an impact on Planning Board work. We also suggest, in the interests of transparency and accessible government, that the Select Board make such a listing available to everyone in Town, not just the Planning Board.

“Given the absence of Planning Board authority over the CEO, in my correspondence with the Select Board on this issue I asked that the Select Board make information from the CEO available to the Planning Board to keep the Planning Board ‘informed’ of CEO-issued permits throughout Town. And, as I will discuss later in more detail, the second thing we are seeking is that the Planning Board be ‘notified’ when the CEO directs those residents whom he finds in violation in the Shoreland Zone to seek a permit from the Planning Board, the permitting authority in the Shoreland Zone. I am not asking that information from the CEO go directly from the CEO to the Planning Board.

“The scenario of the CEO reporting directly to the Planning Board appears to have been the Select Board’s good faith interpretation of what I was requesting. I thought I had made clear what we are seeking, but if there was uncertainty, perhaps the Select Board should have asked for clarity. I assume that the Select Board’s interpretation of what the Planning Board was requesting was transmitted to you for an opinion. I use the word ‘assume’ because I have never seen the request, even though it purportedly represents what I and the Planning Board are seeking.

“To provide some important context, the Town Office last December briefly resumed providing the Planning Board with a list of CEO-issued permits throughout Town, covering September through November. The Planning Board appreciated that helpful information. With that resumption, it appeared that my request of several months earlier was being honored. I say ‘resumption’ because the Town Office traditionally provided the Planning Board with such a list during the previous CEO’s time in office. So, precedent exists for such a listing, and it is not a ‘new policy’ as you may have been led to believe. My most recent request was an effort to ensure that the Town continued to provide such a listing, but nothing has been received since then.

“I believe that as a matter of good, transparent government the Town should make CEO-issued permits an easily accessible public record. That process would be consistent with the public’s legal right to know—especially under the FOIA—and with the principle of accessible government. If the Select Board chooses to keep the Planning Board and the public informed, I could see the Select Board addressing this as an administrative matter. More on this later.

“For its part, the Planning Board makes its records readily available to the public. At the initiative of the Planning Board and with the concurrence of the Select Board, listings of Planning Board-issued permits are published monthly on the Town website. Permit details, ordinance-based decisions, and conditions

attached to the permits are available in our comprehensive monthly minutes, which are also posted on the Town website. Notices of our monthly deliberations—such as this one—are published well beforehand in the *Lincoln County News* and available on the Town website, again with the concurrence of the Town. We also produce an informative yearly report for the annual Town bulletin. All of this is possible because of the support of the Town staff and the Select Board.

“I may be missing something, but the only readily available and easily accessible public record of CEO activities that I can find is a short, sparsely detailed, one-time annual report in the Town’s annual bulletin. In large part, that inconsistency between Planning Board reporting and CEO reporting is what I was asking the Select Board to address.

“Now, I understand that residents can get access to CEO reports by going through the Town Clerk. But this process does not make information readily available. Nor is it transparent. Also, it is not well publicized and it puts an unnecessary burden on residents seeking information.

“As noted above, the second thing the Planning Board is seeking is to be notified when the CEO directs those residents whom he finds in violation in the Shoreland Zone to submit a permit application to the Planning Board—the permitting authority in the Shoreland Zone. I believe that these instances would be rare, but, by their very nature, they are likely to be complicated, making a heads-up on what might be coming to the Planning Board even more important for the Board. Here again, I asked the Select Board to notify the Planning Board by making such information available to the Board; I am not asking for a direct report from the CEO. This notification—like the list of CEO-issued permits—would be for informational purposes and might be made available to the public at large for the reasons I give above. Again, if the Select Board chooses to keep the Planning Board and the public informed on this issue, I could see the Selectmen addressing this as an administrative action.

“As I noted earlier, I and the other Planning Board members, as responsible public officials, recognize the relative roles of, and limitations on, the Planning Board and the CEO. Accordingly, I have referred to the Town Office all public inquiries that I have received regarding CEO activities, and I have turned aside requests from residents to get involved in matters that are the province of the CEO—most recently as early this month. And I will continue to do so.

“Equally important, during my time on the Planning Board, the Board has never infringed on the authority of the CEO. The Board, in fact, is especially sensitive to that issue because in the recent past, the opposite has happened under the previous CEO, with no apparent consequences, except for the Planning Board.

“Based on what you have received, you say that the Planning Board is seeking a direct ‘reporting requirement’ from the CEO to the Board; I hope that my

clarifications will reveal that is at least overstated and more likely it is not the case, especially as I have made clear that the Planning Board recognizes that it has no authority over the CEO and that all we are seeking is that information be made available to us. As I said earlier, those conditions are why I directed the Board's requests to the Select Board, which does have authority over the CEO.

"In short, if we all agree that the workings of government should be as transparent as possible, I suggest that the Selectmen instruct the CEO to provide them periodically with information on the two issues in question: the permits the CEO has issued throughout Town and shoreland violations that would trigger the submission of permit applications to the Planning Board. If we all agree that the Planning Board and public have a right to know, I suggest that the Select Board make such information readily available to the rest of the Town as well as the Planning Board. Regardless of whether it is required by law, it is just good, responsive, and accessible government.

"Given that the Planning Board fully recognizes and accepts the division of labor discussed above, I think we need to reexamine references in your letter that the Board is seeking 'enforcement duties,' and 'supervisory authority...over the Code Enforcement Officer' and 'going beyond their duties and try to become enforcement officials.' As I have said, all we are seeking is transparency on issues that I believe should be a matter of easily accessible public record. I also think we need to review how a factual, straightforward, and unbiased listing of CEO-issued permits from a Town enforcement official could, as you state, be 'prejudicial' and be seen as 'a little more than official looking gossip.'

"One more observation: This blurring or misinterpretation of the Planning Board's position and what it is seeking, regardless of the reason, is personally very disappointing because of what I see as the otherwise good line of communication the Planning Board has enjoyed with the Select Board over the last several years. Both Boards have worked hard to sustain this line of communication. We are grateful that a member of the Select Board attends and participates in most monthly Planning Board meetings. From the Planning Board side, I have long attended the Select Board's twice monthly meetings where I keep Board members informed of our activities and get the benefit of any Select Board counsel. My sincere regret is that this longstanding and otherwise well-maintained line of communication was not used to clarify the Planning Board position and what it is seeking. I truly hope we can overcome this blip and reestablish good dialogue for the benefit of all.

"In closing, I believe that given the overall goal of transparency, ultimately the issues of who said what and to whom are only of secondary concern. What is most important is the need for us to find a way within the statutes to satisfy the mutually beneficial goals of keeping government and public information easily accessible to the residents and ensuring that the Planning Board is sufficiently informed to do its job. I welcome your thoughts." (End quote)

Town Attorney Peter Drum asked the Board several questions to determine the intent of their requests. He was pleased to hear that the board was more interested in aggregate information than individual property owner information. He believed the Board had a valid request for Growth Cap information and aggregate data. He also believed the Board should receive violation information in the Shoreland Zone when the proposed solution required the property owner to come to the Planning Board for a permit. He wanted to give more thought to other requests and whether they were relevant to the Planning Board's consideration. His concern was "perceived bias" if data were more specific.

Board member Floyd Gent said making a list of permits and permit applications available for abutting property owners might make them aware, that when work commences on an adjacent property, a permit was given or if permits were "in process," abutters property owners would have the chance to intervene.

Attorney Drum said the town would have to have a legal change to its ordinances to have an abutters notification provision. He did not see a problem with the town putting permit information on the website if that was something the town wanted to do. He suggested the town would have to decide if it wanted to place that administrative burden on the town staff. That, too, he suggested, would be perfectly doable with an ordinance change.

Attorney Drum said aggrieved abutters only have a 30-day period to appeal a permit once it's granted.

Attorney Drum said he would not feel comfortable giving a snap answer on what the Board was proposing, but he felt more comfortable with Chairman Voskian's clarification. He reiterated that he still had the same core concern, but not to the same degree. With some creative thinking, he said, there may be some easy method of providing some sort of public data about the permits as they are issued.

Attorney Drum asked for any lists Stan Waltz might have provided, so he would know what the Board was looking for. Chairman Voskian clarified that he was given a list of permits, but that did not address the second issue. Chairman Voskian said he would look for the list and also give Attorney Drum the comments that he said tonight.

Peter Drum said violations where the proposed remedy required the individual to come to the Planning Board should be individually forwarded to the Planning Board when that determination was made. This action would help make sure the individual went to the Planning Board before going to the Board of Selectmen for a consent agreement to cure the violation.

Chairman Voskian recapped his understanding and Attorney Drum reiterated that aggregate data was okay for knowing how many permits were issued, but for individual permit information, he had no problem on individuals doing a FOAA.

When the Board gets into the place of the Town reporting a listing of the permits back, Attorney Drum said he would have to give that more thought.

Board member Boak said, in his opinion, there should be a weekly update on the town website of any violations that have been investigated by the CEO and any permits that have been issued by the CEO.

Chairman Voskian clarified that the Board was just asking for a listing of permits issued by the CEO, and a listing of Shoreland Zone violations that would trigger the individual to submit an after-the-fact permit applications to the Planning Board.

Attorney Drum said he would get back to the Board with an answer on the first request. On the second, he said the Board was good with that provided the violation required the individual come to the Planning Board as a remedy. He summed up by stating, it should always be the Planning Board's goal to grant a legal approval or deny an application that does not meet the standards based on its own merits. The Planning Board should not take extra steps when reviewing a permit after learning of a violation.

Resident Susan Davis thanked the Planning Board and the Town Attorney for clarify these issues.

Board member Stailey asked the Town Attorney about how in-depth Planning Board minutes should be from a legal standpoint. Attorney Drum looked at the February 14, 2023, minutes and said it was way more than the Board needed to be doing. Because the meetings are recorded, the Town Attorney said he would go to bare-bones municipal minutes which would consist of motions, seconds, the recording of votes, and decisions. If you don't have a motion with discussion, you would want to say, "the next thing we discussed was the Bremen Fish Ladder. (For example) The reason is that it is a lot easier to search written minutes for issues than it is to search video. But once you know that a given set of minutes have that discussion, you can go to the video and get what was actually said."

Chairman Voskian described the Plan that he produces for each meeting. It includes the findings of fact – what are the basic elements of the particular application – what are the ordinances that might apply, and what are the things we need to look for on this application. That's what gets transcribed into the minutes. Sometimes these issue straddle more than one meeting, and the applicant and the Board need to pick up the thread the next time around. The Chairman of the Board of Appeals has told Chairman Voskian that the minutes are invaluable. Chairman Voskian said that from the FOAA training, he learned it is the minutes not the video that survive.

Chairman Voskian said the minutes are not transcripts, and the plan he produces is for his own personal use and he gives it to the recording secretary to help in prepare the minutes.

Attorney Drum said that for sure the votes on the Board's authority, the applicant's standing should appear in the minutes. For sure, all of the Board's votes should be recorded. He agreed the minutes should say: "This will be continued to the next meeting." What he didn't want to see was, when there was a discussion, that there was a variance between the minutes and the tape. Chairman Voskian assured him that this doesn't happen.

Attorney Drum said the town should be keeping the draft minutes as well as the revised minutes on file.

## **2 – Election Schedule**

Chair Voskian announced that the town's elections will be held on June 13, 2023, and the Annual Town Meeting will be held on June 24th.

## **3 – MMA Session of the Freedom of Access Act**

Chairman Voskian discussed that all Board members needed to take this training. If you get a certificate, please take a copy to the town. By State law, Planning Board members must take the FOAA training within 120 days of election.

## **4 – Budget Committee**

Chairman Voskian announced that the town's Budget Committee will be meeting at 3 p.m. on March 29, 2023. The Planning Board has already approved its submission.

## **5 – Ordinance Review Committee**

Chairman Voskian said the Ordinance Review would be looking at the Land Use Ordinance and the Shoreland Zoning Ordinance to clear up any ambiguities

## **6 – Minutes**

***On a motion duly moved by Vice Chairman Wallace and seconded by Board member Boak, the Board approved the minutes of February 14, 2023, as edited. The motion passed 5-1 on a roll call vote. Board member Gent abstained since he had not been able to review the editing done by Chairman Voskian and VC Steve Wallace.***

## **7 – April Site Visit**

Chairman Voskian asked Board members if they would like to move the April site visit(s) to another day since April 9th is on Easter Sunday. The Board discussed moving the site visit(s) a day earlier to April 8th at 4 p.m.



***On a motion duly moved by Chairman Voskian and seconded by Vice Chairman Wallace, the Board approved moving the site visit(s) to 4 p.m. on April 8, 2023. The motion passed unanimously on a roll call vote.***

After the agenda was completed, Vice Chairman Wallace said he would be resigning from the Planning Board at the Annual Town Meeting on June 24th. He expects to continue working on the Ordinance Review Committee and will be putting his energy there. Chairman Voskian told the Board he is running for the position of Selectman, and if he is elected, he will need to resign from the Planning Board.

**VII. Meeting and Events Calendar**

Wednesday April 26, 2023, at 12 noon – Application deadline for May  
Sunday, May 7, 2023 – Site visits (if any) at 4 p.m.  
Tuesday May 9, 2023 – Next meeting at 7 p.m. in the Town Office

***There being no further business, a motion was duly moved by Board member Gent and seconded by Vice Chairman Wallace to adjourn the meeting at 8:27 p.m. The motion passed unanimously on a roll call vote.***

**BREMEN PLANNING BOARD:**



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