

BOARD OF SELECTMEN

DEEP RIVER TOWN HALL

Regular Meeting of March 9, 2010

ATTENDANCE: Selectmen Dick Smith, Art Thompson & Dave Oliveria.

Richard Daniels, Rich Forristall, Lori Guerette, Margo Hilfinger, Jonathan Kastner, Jane Marsh, Jayne Mather, Dianne Recchia, Charles Stannard (*Local Online News*), Rich Strukus.

- 1] This meeting was called to order at 6:42 pm by Dick Smith.
- 2] MINUTES: Regular Meeting – February 23, 2010

Motion by Art Thompson, 2nd by Dave Oliveria, to approve the minutes of the previous meeting.

APPROVED 3-0

- 3] Discussion of Fountain Hill Cemetery was tabled until later in the meeting
- 4] Request for Opinions from Town Attorney Jane Marsh re: DRVNA

In a letter dated March 9, 2010 Attorney Jane Marsh wrote the following:

Re: Requests for opinions—Deep River Visiting Nurses

Dear Board:

I have been asked to provide my opinion on two specific questions:

- 1] Does the Board of Selectmen have the authority to rescind the resolution of April 28, 1975, *viz* "Accept a resolution with respect of an establishment of a Community Nursing & Home Health Care Service which would consist of a five-member committee to develop the nursing services and to apply for state funds"?

- 2] May the Town of Deep River take legal action against Julia Harris for a loss of \$52,000 in uncollectible reimbursements?

and to respond to a grievance from the Municipal Employees Organization.

I have been provided with a spiral bound notebook of information dated February 23, 2010 coming from Richard Daniels as President of the Deep River Visiting Nurses Board of Directors and a three-ring binder containing the same document, emails, correspondence, a Power Point VNA Study Committee presentation, some financial information, Minutes of the Deep River Visiting Nurses and some copies of checks, etc. I have reviewed the state statutes that govern the agency. (I read most of the material in a single sitting beginning at about 4AM this morning—I hope I have assimilated it well enough to be intelligent...)

My answer to the first question is that the Board of Selectmen having been given the initial authority by the town meeting to assign responsibilities to the DRVN Board of Directors, the Selectmen continue to have the right to modify or rescind that assignment. By saying that is my opinion, however does not mean that I encourage the Selectmen to do that.

The second issue is whether the town can seek reimbursement from an employee for alleged poor job performance. In general the answer is no. First, this particular employee made a complaint against things happening with her employer. State statutes are clear that anything viewed as retaliation for such complaint is not permitted. Second, an employee is always subject to the control of the employer, and where the loss occurred not because of criminal misdeeds but through lack of training, failure to get all work complete, et cetera, it is up to the employer to keep controls in place such that exposure to such losses are minimized. Employees are not insurer's of the town's finances.

Lastly, I understand that a person was hired without conforming to the union bargaining agreement. The union has requested immediate action and I believe that I read that the DRVN is addressing this matter. The Town would like the MEO to give us 90 days to entirely resolve the particulars, since the outcome of the considerations of the VNA Committee are yet to be determined.

The letter is signed “Jane R. Marsh.”

There followed a lengthy discussion among the Board of Selectmen, Attorney Marsh and Board President Daniels concerning Attorney Marsh’s letter, as well as issues such as staff nurses providing private care and identifying residents who might be entitled to care at low cost or no cost. There was continued discussion of the Memorial Fund.

3] Discussion of Fountain Hill Cemetery

Rich Forristall, Lori Guerette and Jayne Mather, representing the Fountain Hill Cemetery Association Board of Directors, outlined the institution’s financial condition. The purpose was to open a dialogue with the Town concerning the possibility of the Town assuming part of their financial burden to aid in the maintenance and operation of the cemetery. There are provisions in state statutes that allow towns to do so.

5] Appointments of sub-Registrars:

Philip M. Appell, Swan Funeral Homes, Inc.
Jordan A. Welles, Robinson Wright & Weymer, Inc.

Motion by Art Thompson, 2nd by Dave Oliveria

APPROVED 3-0

6] Adjournment

Motion by Thompson, 2nd by Oliveria, to adjourn at 8:07 pm.

APPROVED 3-0

Richard H. Smith
First Selectman

RHS/jk