

**Enfield Board of Selectmen
Public Works Facility
Enfield, New Hampshire**

MINUTES of September 7, 2010

Board of Selectmen: John W. Kluge, Chairman; B. Fred Cummings

Excused: Donald J. Crate, Sr.

Administrative Staff: Alisa D. Bonnette, Executive Assistant, Jim Taylor, Director of Public Works; Richard A. Crate, Jr., Chief of Police

Others: Dan Kiley, Curtis Payne, Bob Cusick, Lou Esler, Stephen Fitzgibbons of Comcast, Gary Zawalinski and other members of the public.

BUSINESS MEETING

I. CALL TO ORDER

Mr. Kluge called the meeting to order at 6:02 pm. Mr. Kluge announced that the Selectmen would be holding a public hearing at 6:30 PM regarding a franchise agreement with Comcast.

II. APPROVAL OF MINUTES

The approval of minutes of August 16, 2010 will be postponed until the next meeting.

III. COMMUNICATIONS

Town Clerk's Report ~ August 2010:

The revenues collected in August 2010 are down only a small amount from the same time the previous year.

Tax Collector's Report ~ August 2010:

Mr. Kluge noted that he was unsure how August 2010 revenues compare to prior years. He asked for the Tax Collector's report that provides a comparison.

Shoreland Protection Permit Application ~ 29 Starr Drive, Crystal Lake for house addition, driveway addition and gazebo.

Shoreland Permit Application ~ 68A Stevens Street, Mascoma Lake for grading, drainage & storm water management, plus installation of patios and walkways.

Shoreland Permit Application ~ Baltic Street, Mascoma River for new gravel pad for double-wide mobile home, new sewer & water connections and driveway

Shoreland Permit Application ~ Main Street, Mascoma River for sewer line extension

IV. BOARD REPORTS

Budget Committee:

Doug Pettibone, Chairman of the Budget Committee, has called for a meeting at the end of September.

Energy Committee:

The Energy Committee completed a preliminary review of proposals for the Lighting Upgrade Project for which grant funds have been received. The Committee is in the process of conducting a second level of review.

Enfield Village Association (EVA):

EVA is planning its annual meeting on September 30th. There are three new board members, Flossy Coutermarsh, Jamie White and Erica Faughnan, all interested in fundraising and economic development.

Upper Valley Lake Sunapee Regional Planning Commission (UVLSRPC):

Dan Kiley reported that the UVLSRPC Board approved dues for 2011. Enfield's dues will be \$5,980, a 1.7% increase. Mr. Kiley voted against it.

Mr. Cummings asked if the Town was using UVLSRPC services.

Mr. Taylor informed the Board that he uses UVLSRPC a lot.

Membership benefits were discussed briefly. Even if not a UVLSRPC member, a community can access UVLSRPC services.

V. TOWN MANAGER'S REPORT

None.

VI. PUBLIC COMMENTS

None.

VII. OLD BUSINESS

Main Street Sidewalk:

Mr. Cummings spoke with Jim Taylor about the sidewalk on Main Street, the condition of which was brought to the Board's attention by Dwight Marchetti at a previous meeting. Mr. Cummings feels the Town probably wants to go forward with the repair. He suggested seeing if EVA wants to sponsor the purchase of a stamp for the sidewalk as they were instrumental in selecting the style of the sidewalks.

Mr. Kluge noticed some settling in the sidewalk and in the road on Main Street. He contacted Jim Taylor who, in turn, contacted the NH Dept. of Transportation District 2 Office.

Mr. Taylor had posts and flags installed to alert pedestrians to the uneven sidewalk. He wants a bridge inspector to look at it.

Mr. Kluge said there's maybe a rubber thing that can be used between the bridge and the sidewalk.

Mr. Cummings feels the Town should invest the money to maintain the sidewalk.

Mr. Kluge suggested looking for a price and size for a stamp before contacting EVA.

Chief Crate suggested contacting Barker Steel.

Shaker Bridge Project / Rail Trail:

The Selectmen, Director of Public Works and Chief of Police met with the Governor, one aide, the Director and Assistant Director NH Dept. of Transportation and the Governor's legal counsel met last week to discuss the Main Street Rail Trail crossing. It was a productive meeting. The Selectmen were forthright and put issues forward. They made it clear the Selectmen, Heritage Commission and, to the best of the Board's knowledge, the majority of Enfield residents want an at-grade crossing. Some photographs of where they opened it up for the by-pass showed the potential. Mr. Kluge thinks the State understood the Town's position.

The closing of the Shaker Bridge is having a significant impact on the community and the State will move the project along as quickly as possible. They haven't done so yet; the project hasn't gone out to bid.

The State will need to hold one or two public hearings on the Rail Trail crossing to adhere to Federal guidelines. It's important to get people out to these hearings.

The State has received 200 to 300 postcards from people looking for a rail trail bridge across Main Street. Chief Crate pointed out that the Trails Alliance has had it on their website to send to Concord. He has found and saved a record of his phone call to the Director.

Mr. Cummings said that many months ago Alex Vogt said it would not be a problem to change the plan. Public hearings were tentatively scheduled for November, but the Governor wants them moved to October if possible. If they do an at-grade crossing it would be done by October 2012. If they do a rail trail bridge it will be done in 2013.

The Governor acknowledged that \$1 million is a lot of money.

September 14th State Primary:

The Selectmen discussed coverage of the election by the Board. Due to scheduling conflicts the Board asked Alisa Bonnette to be their official representative at the polls until they are able to be there.

The Board discussed political signs on Town property, not just on Election Day, but generally. There were some signs put up at the Community Building.

Chief Crate said there was a political posting on the bulletin Board at Whitney Hall that was removed by the Moderator.

As long as the sign is not impeding the flow of traffic it can be located in the State right-of-way. Postings on private property need the property owner's permission.

Mr. Cummings moved to allow political signs on Town property only on Election Day and only if a person is holding them.

Chief Crate noted that the polling place is under the Moderator's jurisdiction. In front of Whitney Hall and within the Town's right-of-way, is OK.

Mr. Kluge seconded Mr. Cummings motion, vote unanimous in favor of the motion.

Discussion ensued regarding the increased number of signs this election season due to the number of candidates running for office.

VIII. NEW BUSINESS

Administrative Items:

Mr. Cummings moved the following resolution: "Be it resolved that Steven Schneider and Alisa Bonnette are hereby authorized on behalf of the Town of Enfield to enter into contracts with the State of New Hampshire and to execute any and all documents, agreements and other instruments and any amendments, revisions or modifications thereto, as (s)he may deem necessary, desirable or appropriate." Mr. Kluge seconded, vote unanimous in favor of the motion. Alisa Bonnette was authorized specifically for the purpose of signing documents related to the Moose Plate Grant.

The Board reviewed and approved a Veterans Tax Credit.

Single Stream Recycling:

Information from Liz Bedard of the Concord Co-op was provided to the Board.

Jim Taylor informed the Board that there is a coop getting started and they are getting aggressive with getting people to join. Northeast Waste offers single stream recycling as well. They have a single stream facility in Norwich. He wouldn't recommend jumping in right away with the Concord Co-op. He will schedule a meeting with Northeast Waste. We have a solid waste contract with Northeast Waste up for renewal soon.

Mr. Cummings hopes this potential competition will get Northeast Waste to sharpen their pencils.

Dan Kiley thinks Pay-As-You-Throw (PAYT) cuts down on solid waste disposal. Concord has seen a great increase in recycling. You have to give people a reason to recycle.

Curtis Payne said we're currently at 24%

Mr. Cummings thinks if we alternate curbside solid waste pickup with curbside single stream recycling pickup you'd see an increase in recycling. He thinks that's the way to go. You could do away with PAYT. He thinks it would be a win-win situation for everyone.

IX. PUBLIC HEARING ~ COMCAST FRANCHISE AGREEMENT

Mr. Kluge moved to open the public hearing at 6:30 PM, Mr. Cummings seconded, vote unanimous in favor of the motion.

Mr. Kluge read from an outline prepared for the public hearing:

- We are here tonight to conduct a public hearing on Comcast's proposal for renewal of the cable television agreement with the Town of Enfield, pursuant to RSA 53-c: 3-a.
- According to state and federal law, Comcast must have a franchise agreement in order to use the Town's public rights-of-way and to provide service to residents in the Town, and the Board of Selectmen are the franchising authority that must negotiate and sign that agreement.
- Although Comcast provides internet and telephone service to many residents, as well as cable service, the Board of Selectmen, by law, only have jurisdiction to negotiate terms pertaining to the cable television franchise, not telephone or internet service. Also, the issues of channel selection, rates and technology are off the table — we have no jurisdiction over those issues, and there is nothing about those in the proposed agreement.
- The Selectmen have been working with the Town's special counsel in negotiating with Comcast. We started the renewal process in 2008, by making sure that Comcast is in compliance with all the terms of the current franchise.
- The Selectmen then ascertained the future cable related needs and interests of the community, so that those items, to the extent permitted by law, could be included in the negotiations.
- With our guidance, our attorneys drafted and negotiated with Comcast a renewal agreement to meet the Town's needs. The proposed agreement would be much stronger for the Town in a number of ways.
- short length of term (5 years) to give the Town maximum flexibility should a competitor emerge; better protection of the Town's ability to manage the public rights-of-way and tax all users, including Comcast; stronger customer service requirements; the possibility of build-out to areas not currently served near Crystal Lake at no cost to the subscribers or the Town (if Comcast exercises that option, the term of the franchise would be extended an additional 5 years), the continuation of the local access channel franchise fees, paid to the Town, equaling 4% of gross revenue from the operation of the cable system in Enfield, and an annual report requirement.

Questions and comments from the public were invited.

Bob Cusick said that when he had discussions with Steve Schneider a part of the agreement would include a build out to include an extension to Crystal Lake Estates. Comcast came up with a survey that it would cost \$86,000. The only term was that the Town would enter into a

10 year agreement. Now they're saying they won't have the obligation to build out to the area they spoke about.

Mr. Kluge informed the audience that there was a representative from Comcast at this meeting. The Board received an analysis of the franchise agreement from the Town's legal counsel. That's the extent of legal information Mr. Kluge is aware of.

Steve Fitzgibbons, Manager of Government and Community Relations with Comcast was not aware of the agreement for the build out. The cost is a little more than \$87,000.

Mr. Kluge read the Town Attorney's comments regarding section 3.1(d) of the proposed agreement: "Build-out of 4 miles near Crystal Lake: Comcast has agreed to consider this build-out, which was specifically sought by residents in this area. The company agreed, if it does the build-out to provide service in this area, it would not pass the cost through to subscribers. It has not committed, definitely, to doing so, but if it does, the Town would agree to extend the agreement an additional five years, if Comcast does the build-out in the first two years of the term of the new franchise."

Mr. Cusick's understanding was that it was already agreed upon. He's been talking to Steve Schneider about this for years. Mr. Schneider told him that Comcast had given a price to do it if we were in agreement to extend the agreement to 10 years.

Steve Fitzgibbons responded that he doesn't know who [at Comcast] we were talking to. Comcast has done two surveys since January. One was smaller and one was about 4-1/2 miles and included 55 homes.

Mr. Cusick said the homeowners of Crystal Lake Estates have been without service. They are paying \$170,000 a year in property taxes with no tax breaks for those without Comcast service. Some can't get renters. Others had sales fall through because they didn't have internet. Comcast service runs on Hawley Drive and Conant. They're within 150' of Starr Drive. Mr. Cusick doesn't believe the Town should sign any franchise agreement if Comcast doesn't service those that desperately need it. What Curtis Payne is airing [Enfield Channel 8], they don't get to see it. Mr. Cusick thinks Comcast can come to the table and do this for the homeowners.

Dan Kiley pointed out that if Comcast doesn't do it they get a 5 year agreement. Don't sign the contract unless they're going to agree to the extension.

Mr. Cummings remembers the agreement to build-out. He won't get service at his home in any case.

Mr. Kluge asked how many houses were being talked about. He was informed by those present that there were 24 commitments in Crystal Lake Estates. There are 36 lots in the association.

Gary Zawalinski has two children in the school system. They have to do on-line assignments. He is an IT professional and needs it for his job. His wife does girl scouts and needs it for email.

Another member of Crystal Lake Estates has 3 children in the school system and dish reception is spotty.

Mr. Cummings and Mr. Kluge are in the same situation, are aware of and understand the problems.

Mr. Cummings noted that the Board looked at going to a 10-year contract specifically for this extension of service. He would have a hard time signing a contract without this build-out included.

Lou Esler of Boys Camp Road said an agreement was made verbally and the Selectmen should not allow this to happen.

Mr. Cummings stated that he would not sign the agreement in its current form.

Mr. Kluge would like to view past Selectboard minutes to refresh his memory. He asked Mr. Fitzgibbons what would happen if the Selectmen did not sign the agreement.

Mr. Fitzgibbons it would first be reviewed to see if it's an adequate denial. There is a formal renewal process under federal law. It would go to a hearing process, something Comcast would rather not do and something Mr. Fitzgibbons has not done.

Mr. Fitzgibbons asked if everyone present was from the same general neighborhood. He was informed they were and they are all looking enviously at the extensions on Lockhaven Road, Crystal Lake Road, etc.

Mr. Fitzgibbons explained that there is a design. Certain areas get wired, they may do fiber and a node then do coax. They continue until it's at its limit, then they wait to build another node.

Mr. Cusick pointed out that Crystal Lake Estates is a viable market. Whatever Comcast could do for them would be appreciated, especially since they agreed in principal.

Mr. Fitzgibbons reiterated that he was not aware of an agreement.

Mr. Fitzgibbons was informed that they need an 85% commitment to expand and they now have an 83% commitment.

Mr. Fitzgibbons informed the audience that Comcast also gives a \$1,400 credit to those that commit in advance.

Mr. Kluge invited additional questions from the public.

Jim Taylor asked if there are any towns that are using tax dollars for the building of that last mile to reach those not serviced.

Mr. Fitzgibbons is not aware of any.

A resident of Crystal Lake Estates hopes Comcast will help in that regard. They maintain their own roads, provide their own water & septic and would appreciate help with this.

Mr. Kluge noted that there are other details of the agreement that do not relate to an extension, such as emergency override, repairs and restoration, standby power etc. He suggested that those present may not be interested in those topics. Everyone agreed.

There were no further public comments or questions.

Mr. Cummings moved to close the hearing at 7:00 PM, Mr. Kluge seconded, vote unanimous in favor of the motion.

Mr. Kluge thanked everyone for attending the hearing.

Mr. Cusick doesn't think the Selectmen should even sign a 2 month extension.

Mr. Kluge informed everyone that the Board will delay executing the renewal agreement until the final language issues with Comcast have been resolved. It is hoped this will be completed very soon. There will be no motions tonight to accept this agreement. The Board needs to have the Town's legal counsel talk to Comcast. It's the consensus of the Board that they are not going to sign anything at this time.

Police Chief Crate asked if it would be possible to see the cost of extension to the entire Town.

Mr. Kluge imagines they could do that but he doesn't see in reality that we would do it.

Mr. Cusick feels there are some areas that would not be feasible.

X. OTHER ITEMS

Next Meeting:

September 20, 2010, 6:00 PM. Whitney Hall

Letter of Thanks:

Chief Crate suggested the Board write a letter to the Governor thanking him for meeting with them about the Shaker Bridge and Rail Trail. Mr. Cummings offered to draft and print a letter for the Board to sign.

CONFERENCE

I. NON-PUBLIC SESSION

Mr. Kluge moved to enter non-public session at 7:14 PM, RSA 91-A:3 II (c), Mr. Cummings seconded. Roll call vote: Mr. Kluge – aye, Mr. Cummings – aye, vote unanimous in favor of the motion.

Mr. Cummings moved to come out of non-public session at 7:20 PM, Mr. Kluge seconded, vote unanimous in favor of the motion.

II. ADJOURNMENT

Mr. Cummings moved to adjourn at 7:20 PM, Mr. Kluge seconded, vote unanimous in favor of the motion, meeting adjourned.