

**Enfield Board of Selectmen  
Whitney Hall  
Enfield, New Hampshire**

**MINUTES of May 19, 2014**

**Board of Selectmen:** Fred Cummings, Chairman; Donald J. Crate, Sr.; John W. Kluge

**Administrative Staff:** Steven Schneider, Town Manager; Alisa D. Bonnette, Executive Assistant; Jim Taylor, Director of Public Works

**Others:** James Bonner, Donald Plante and Paulette, Leah Wood, Kurt Gotthardt, Greg Baker, Nick Burke, Peter Krass & Cathy Bean of Upper Valley Snow Sports Foundation

**BUSINESS MEETING**

**I. CALL TO ORDER**

Mr. Cummings called the meeting to order at 6:00 PM.

**II. APPROVAL OF MINUTES**

Mr. Kluge moved to approve the regular session minutes of May 5, 2014 as presented, Mr. Crate seconded, vote unanimous in favor of the motion.

Mr. Kluge moved to approve the non-public session minutes of May 5, 2014 as presented, Mr. Crate seconded, vote unanimous in favor of the motion.

**III. COMMUNICATIONS**

**Grafton County Open Barn Day – June 7, 2014**

**Tax Collector's 2014 Tax Lien Report:**

The 2014 Tax Lien total is greater than that of 2013, but lower than years prior to that. The Tax Collector notes the Water & Sewer Arrearage portion includes \$11,361.62 due to a leak.

**IV. BOARD REPORTS**

**Planning Board:**

Mr. Kluge reported that a number of issues were addressed last Wednesday at the Planning Board meeting but the primary discussion was in regard to The Enfield Outing Club (EOC). The discussion of the EOC lasted about 3 hours. The Planning Board concluded by continuing the hearing to June 25<sup>th</sup>. If the EOC doesn't have matters in order for the June 25<sup>th</sup> meeting the hearing will be held at a later date. The Planning Board is requiring of the EOC a genuine property survey delineating any possible wetlands, a parking plan and an analysis of soils issues by a licensed soil scientist to look in to lead contamination possibilities.

## V. TOWN MANAGER'S REPORT

### **Dog Park:**

Mr. Schneider provided a draft Memorandum of Agreement between the Town of Enfield and the Mascoma Valley Dog Park Supporters. The first draft of this agreement is based on the agreement for the dog park in Hartford. In order to allow the Town to get out of it at any time the agreement will be reviewed and approved on an annual basis. If the Dog Park ceases to exist the premises will be returned to its previous condition.

This agreement was presented to the Board for review and can be discussed at the next meeting.

## VI. PUBLIC COMMENTS

None.

## VII. BUSINESS

### **Greg Baker – Smith Pond:**

Mr. Baker came before the Board looking for some tax relief for his property located at Smith Pond. He presented a PowerPoint presentation with photos of the Shaker dam which was in disrepair and was repaired by himself and Mr. Cavicchi. Mr. Baker owns 50 acres at Smith Pond, Mr. Cavicchi owns about 900 acres and the State of NH owns about 6,000 acres. The owner of the dam was difficult to determine as it was owned by an LLC, but Mr. Baker & Mr. Cavicchi tracked down the owner. Permitting for the dam repairs took about 5 years. The dam was rebuilt and refaced with concrete. Prior to repair the dam was leaking 200 gallons per minute and was condemned by the State. The pond would lose 7' due to leaking. This disrupted the nesting of the loons. In 2009 the pond was drained and repairs to the dam were completed. The pond is no longer losing water.

Mr. Baker said he has inherited the job as keeper of Smith Pond, whether he wants it or not. There are no security issues now. The road to the pond is gated. Access trails are established for the public to cross the private property. There's a dam fee of \$1,800 due every year. The State may take the dam back now that it has been repaired. Mr. Baker and Mr. Cavicchi have spent a considerable amount of money into this project.

Mr. Baker has put his property into Current Use last year which lowered his taxes by about \$1,000 per year, but the assessment of the first acre of land increased eliminating much of the savings.

Mr. Baker allows the public to access Smith Pond across his property and he keeps the riff-raff out. He feels there should be some consideration.

Mr. Kluge asked Mr. Baker if he was taxed on the dam itself.

Mr. Baker said no, but there is the dam fee due each year. The dam is located on Mr. Cavicchi's land.

Mr. Schneider mentioned that Mr. Baker allows public access through his property and the path comes out at the dam.

Mr. Kluge asked Mr. Baker if he takes a recreation credit on his Current Use. It's a small extra credit for people with land in Current Use who agree not to post their land.

Mr. Cummings explained that Mr. Baker needs to complete a formal abatement request and needs to specify a dollar amount that he's looking for.

Mr. Kluge clarified that the trails could be ended at any time, that we're not looking at legally established trails, but trails at Mr. Baker's good will.

Mr. Baker agreed, but his plan is not to sell. Mr. Baker put in the parking lot on Smith Pond Road for the public who can then walk in to Smith Pond.

Mr. Cummings recommended Mr. Baker get together with Mr. Schneider and this can be brought back to the next meeting.

Mr. Gotthardt asked Mr. Baker if he had any interest in a permanent trail easement.

Mr. Baker replied that he is talking to the Upper Valley Land Trust about a conservation easement on the whole property so there is not building there. Mr. Baker believes it shouldn't be built up there. This is his long-term plan and he feels this is the best use of the land.

It was pointed out that there is access to Smith Pond from Lakeview condos, but that it's a rigorous hike.

Mr. Kluge inquired about the gated access from Route 4A. He was informed that is Cavicchi's land.

**Charitable Exemptions:**

**Upper Valley Snow Sports Foundation** – Nick Burke, Peter Krass and Cathy Bean came before the Board representing UVSSF in their request for a charitable exemption.

Mr. Burke explained that UVSSF was formed to purchase Whaleback and to operate it as a non-profit organization. They are a non-profit 501(c)3 organization with the IRS as of February 2014 and retroactive to the date of formation of the corporation. They purchased the Whaleback property at foreclosure last August.

UVSSF is making substantial improvements to the property. Many systems at the lodge suffered from deferred maintenance. They have installed a new septic, kitchen, deck and well and they have hired a full-time manager, Dick Harris. They got a lot of support from the public the first season.

UVSSF wants recognition as a charitable organization and requests a tax exemption. They want to keep the ski area as a family oriented, low cost facility.

Peter Krass provided information about programs they've offered. They had an after school program which saw 300 kids on a weekly basis. This is an affordable ski lesson program. Participants can get an equipment rental package at very discounted prices. They hosted on a weekly basis about 100 kids participating in clubs and on teams to train. They held sanctioned events with about 500 kids participating. They sold about 300 season passes, with about 35 of those by Enfield residents. Thirty-four students participated in the Enfield/Mascoma school group. About 5,000 visitors bought day tickets. Part of the mission was to offer programs event for those who can't afford it. They provided about \$5,000 in financial aid, including a single mother from White River Jct. and a grandmother from Enfield who wanted her grandchildren to participate.

Mr. Burke said that even without financial aid, tickets are lower than other local ski areas.

Cathy Bean explained that UVSSF encourages the love of snow sports, health and well-being. The programs have created a passion for snow sports in her own family who are able to participate due to the affordability. It's an important opportunity for those who can't afford the other areas.

Ms. Bean explained that about 50 kids are part of the core team who competed nationally. Many of their kids are on full scholarships without which they might not be able to afford to participate.

Mr. Burke reported that they are not yet in the black, but they are less in the red than they expected to be. The only way the ski area will survive is as a non-profit, small local ski area.

Ms. Bean said kids in this community are lucky to have this opportunity in their back yard.

Mr. Schneider explained that the Board has options on how to address the request for an exemption. They could enter into a PILOT program (payment in lieu of taxes) while UVSSF is still improving the property. Or they can grant a full exemption.

Mr. Schneider spoke to the Town's attorney who said that ski and snow sports are not necessarily charities, but that if they go to the appeals board there is a chance that they would be approved as such.

Mr. Kluge is feeling like providing a break such as that provided to Dartmouth. Mr. Kluge asked what UVSSF can do for the residents of Enfield as it's the residents who will be paying the taxes if an exemption is granted.

Mr. Krass said they can offer 50% off of season passes. They have done this for two families who have asked, though there had not been any promotion of a discount for residents. They are open to that. Thirty-five families paid about \$8,500 last season and students paid about \$4,000. If they are active they could do more. They would be willing to offer a discount on daily tickets as well. This could be evaluated yearly.

Mr. Crate said he would like UVSSF to help the more needy families. It should be public knowledge.

Mr. Krass said that with the school group program they did let people know financial aid was available.

Mr. Schneider suggested working with the regional recreation director to get information out there.

Mr. Burke told the Board they had met with Golf & Ski Warehouse and spoke about decent rental equipment and reasonable prices. Golf & Ski Warehouse will provide 25 packages for youths who need assistance.

Mr. Cummings assured them that no one wants to see Whaleback fail. The Selectmen worked with this group's predecessors. Others push back because whoever gets an exemption, others pay the taxes. There are some people who don't necessarily see the benefit. There are a lot of avenues the Board can go with. This is a completely new program and it's not a small amount of money. A decision has to be made how to structure this so it's good for UVSSF and good for the Town.

Mr. Cummings inquired about the cell tower.

It was explained to him by Mr. Burke that they don't have anything to do with that. Mr. Burke also pointed out that if you go by the statutes they qualify as a charitable organization.

The estimated tax on the Whaleback properties is \$19,500. Mr. Burke pointed out that there are two parcels, only one of which is owned by UVSSF.

Mr. Gotthardt asked if UVSSF was registered with the RSA as a 501(c)3 non-profit corporation and if they were registered with the State as charitable. He also asked if they were looking for an exemption for all of the acreage. He pointed out that the Dartmouth property is used seasonally.

Mr. Burke replied that they were registered both with the IRS and State of NH. They are looking for an exemption on all acreage. They are working on ideas for year round services.

Mr. Gotthardt noted that they said their prices were lower than other local ski areas. How do their prices compare to those of the previous owner?

Mr. Krass responded that when UVSSF acquired the property they kept the prices the same.

Mr. Kluge moved to grant a 100% charitable exemption to UVSSF with the requirement for a yearly analysis of what the Town of Enfield is getting out of it, and including the discussed 50% discount.

Mr. Krass clarified that the 50% discount would be offered on daily tickets and season passes to Enfield residents, plus financial aid would be available to those who need it.

Mr. Cummings requested that the discount to Enfield residents be publicized.

Mr. Crate seconded Mr. Kluge motion to grant the 100% charitable exemption with conditions, vote unanimous in favor of the motion.

Mr. Kluge asked UVSSF to stay in touch with the Town about how they are going to work out the discount program.

**Enfield Outing Club** – At the last Selectboard meeting it was discovered the EOC needed to refile for a charitable exemption rather than an educational exemption.

Mr. Schneider spoke with the Town's attorney about the application. The attorney's concerns came down to membership. The EOC doesn't qualify for a charitable exemption if there are qualifiers on membership such as the taking of an oath and the need for membership to be approved by the Executive Board. Like other such organizations, should a denial be appealed there is a chance that the Selectboard's decision could be overturned.

Mr. Crate feels they need to clean up their act before he would be willing to grant an exemption. They need to set rules and regulations and enforce them. Mr. Crate mentioned the level of use of the range. The other aspect of concern to him is the offering of training. He's not as comfortable about the exemption based on the offering of training.

Mr. Gotthardt pointed out that another issue is that they are not registered with the NH Department of Justice, Charitable section as a charitable organization. Articles of Agreement have to be filed with the State. A clause within the EOC Articles of Agreement says that if they dissolve the property goes back to the members. This clause is a problem for acceptance as a charitable organization with the State. They don't meet the test.

Mr. Kluge noted there are two issues on the table and with two legal issues on the table, membership and registration as a charitable organization, he is not comfortable with granting a charitable exemption.

Mr. Kluge moved to deny the Enfield Outing Club a charitable exemption, Mr. Crate seconded, vote unanimous in favor of the motion.

Donald Plante added that profits are funneled through the club; people gain financially.

**Donald Plante – Enfield Outing Club:**

Mr. Plante wished to share his concerns with the Enfield Outing Club.

Mr. Plante has been in communication with Mr. Schneider. He was told that it is not standard policy of the Town to get information to the public before it is provided to the Board of Selectmen.

Mr. Schneider said he informed Mr. Plante that information is not released until the Boards have a chance to review it. There's a bit of client/attorney privilege involved.

Mr. Plante pointed out that the taxpayers are paying for the opinion.

Mr. Crate responded that if there's going to be litigation the Town wants to review it first.

Mr. Plante explained that there will be litigation due to the uncontrolled expansion, safety, the right for neighboring property owners to enjoy their own property and possible lead contamination. This has been financially devastating.

Relating to Wednesday's Planning Board meeting Mr. Plante expressed his concern that Mr. Kluge said he had sympathy for the EOC.

Mr. Kluge explained that the conditions place on the EOC by the Planning Board will be a heavy hit. He will say things that he thinks are valid and to the point.

Mr. Plante does not think that Mr. Kluge is impartial. He would like Mr. Kluge to step down from future decision.

Mr. Kluge instructed Mr. Plante, when he comes to the next Planning Board meeting, to make the request because he is not stepping down from the Board of Selectmen.

Mr. Cummings noted that Mr. Plante made a comment about litigation. He informed Mr. Plante that the Town is not prepared to litigate it.

Mr. Plante clarified that he and his family will litigate.

Mr. Cummings asked what was decided at the Planning Board meeting.

Mr. Kluge explained that the EOC is an approved use of the zoning area as a recreation facility. Had it not been an approved use it would have had to go the Zoning Board of Adjustment. The Planning Board then moved on to other issues.

Mr. Plante asked if they approved the expansion.

Mr. Gotthardt said the Planning Board should have read the Zoning more clearly. He believes it should have gone to the Zoning Board.

Mr. Gotthardt also noted that the Planning Board got a filtered response from the Town's attorney through the Town Planner.

Mr. Kluge agreed. The Planning Board has asked for a copy of the attorney's response.

Mr. Cummings said the EOC is in the Planning Board's hands now, not the Selectmen's.

Mr. Plante asked if there is any consensus in the Town that lead is a problem.

Mr. Schneider said the Town has Mr. Plante's assertion. There needs to be remediation at the range to clean it up.

Mr. Plante wondered if there is concern about it on the Town's water supply.

Mr. Kluge replied that he spoke with Jim Taylor and looked at the maps and the EOC is not on the Town's water supply.

Mr. Plante asked if it would make a difference if there was lead in the Town's water supply.

Mr. Schneider replied that, of course, if would.

Mr. Plante said they're moving forward with having the soil tested. If the Town is concerned the Town could take action.

Mr. Schneider informed the Board that the Health Officer could have a well tested.

Mr. Plante said the Town could move forward. They would have peace of mind that it's being taken care of.

It was questioned if the EOC has a well.

Mr. Plante said he can't prove the lead in his well is from the EOC as lead does occur naturally. But they have a conspicuous pile of lead out there. They should get it cleaned up now, cleaned up right and enforce some standards. The last 3 to 4 years there have been a million rounds pumped into it.

Mr. Plante contends the EOC is on top of the Town's water supply. He receives notices from the Water Department.

Mr. Schneider explained the wellhead protection area comes up to Mountain View Drive.

Mr. Taylor added that letters need to go to anyone within 500 or 1,000 feet of a wellhead protection area. The Town has its wells tested monthly and lead is well within the limits.

Mr. Plante wishes the Town was concerned with this.

Mr. Kluge stated that Mr. Plante would have to initiate a lawsuit, not the Town.

Mr. Plante contends that if the Town has concerns the Town has the authority.

Mr. Schneider reiterated that RSA 485:33 allows the Health Officer to test a private well. There is an opening for the Town to act. The Health Officer has the ability to test a private well and shut it down if it's found to be unfit for drinking purposes.

Mr. Gotthardt asked if the Town would be willing to test the wells at the Transfer Station.

Mr. Taylor responded that the State tests these monitoring wells.

Mr. Schneider has no doubt they would come back clean. Mr. Schneider spoke to the Health Officer and if he felt testing was necessary he would contract with a company to do that.

Mr. Crate stated there are already stipulations the EOC has to do. The next thing is to see what happens.

Mr. Plante stated lead is a contaminant. Lead is pollution. There are laws against willful pollution, regardless of what happens at the Planning Board. He would like testing done with the State to make sure it's done right.

Mr. Crate responded that they will have a reputable company do the soil testing. They have to be licensed.

Mr. Schneider reached out to the Department of Environmental Services. They forwarded some best practices for outdoor shooting ranges.

Mr. Kluge pointed out this is all theoretical.

Mr. Schneider informed the Board the State is aware of the concerns and is willing to offer the Town support.

Mr. Plante said the cost is all the club's responsibility. He feels they need to be watched carefully.

Mr. Crate said the company that does the testing will be licensed by the State of NH. Their license will be at stake. He would wait and see what the results are.

Mr. Plante informed the Board the EOC started the physical expansion, which they haven't completed yet because someone said they have to go to the Planning Board.

Mr. Schneider mentioned the need to talk to the Town's attorney regarding lead contamination from past use.

Mr. Plante voiced a concern at the Planning Board meeting that was not addressed and that's the concern with air space. There is no protection for neighbors, too much zig-zagging and running in dim light. He and his family are concerned about bullets coming across the street.

Mr. Taylor suggested Mr. Plante put his concerns to the Planning Board in writing so it's on the record.

Leah Wood added they take good care of their property and she had issues with port-johns at the EOC, one of which was on its side and the other on which the door was never closed. After two years the one laying on its side was removed, but the other remains.



**Employee Issues – Differential Pay:**

Differential Pay – The Board was provided a spreadsheet with possible ways to address differential pay including a 10 cent/hour increase, a 20 cent/hour increase or pay of \$5 or \$10 per shift.

There are 9 employees in three departments (Police, Transfer Station and Library) who would be affected due to shifts that occur evenings, nights or weekends.

Mr. Cummings asked for Mr. Schneider's recommendation.

Mr. Schneider stated the both would be difficult to track, but either could be done. An hourly increase has the least impact on the Town monetarily. Chief Crate preferred an hourly increase vs. a flat sum per shift.

Mr. Cummings moved to grant a 20 cent/hour shift differential. There was no second.

Mr. Crate asked why the Highway Department wasn't included. It was explained that the Highway employees receive overtime for work outside of their regular shift. Mr. Crate feels the individuals affected make pretty good pay compared to the public. He would like time to think about it.

Mr. Kluge agreed that Mr. Crate should be given the opportunity to think it over. The issue was tabled until the next meeting.

**Shaker Bridge Theatre Lease:**

The Board received a revised draft lease for the Shaker Bridge Theatre. The Board considered the monthly rental fee, which had not changed, remaining at \$100/month. The goal of the lease payment is to cover the cost of electricity and heat.

Mr. Cummings thinks there should be a change in the lease payment.

Mr. Kluge feels there should be an increase for wear and tear to the building and inconvenience to the Town. He suggested \$200/month.

Mr. Cummings was going to suggest \$250/month.

The Board reviewed the section pertaining to municipal uses which now provides 48 hours before and 48 hours after each municipal use for set up and take down.

Mr. Cummings noted there was nothing included to cover special elections, but only specific election dates.

Mr. Schneider said he can add a clause that the list of election dates is not an exhaustive list.

Mr. Cummings and Mr. Crate agreed with Mr. Kluge on an increase in the lease rate to \$200/month.

Mr. Schneider informed the Selectmen that the School Board approached the Town about holding elections at the Enfield Village School. The school presents similar challenges of set up and breaking down, as well as administrative issues. It would be similar to holding Town Meetings at the school.

**Administrative Items:**

The Board signed a corrected property tax abatement for Town-owned property. This abatement was previously approved.

The Board considered an abatement request submitted by Fieldstone Ridge. The applicant was aware of a recommended denial but had not chosen to contest it. Mr. Kluge moved to deny the Fieldstone Ridge abatement application, Mr. Crate seconded, vote unanimous in favor of the motion.

### **VIII. OTHER ITEMS**

#### **Winter Sand Bid:**

The Board received the results of a request for bids for sand consisting of 4 bids ranging from \$6.50/cubic yard to \$16.84/cubic yard. The lowest price was received from Don Crate & Sons Excavating. Mr. Crate recused himself from any decision on the Sand bid.

The Board had no objection to accepting the low bid.

#### **2014 Paving Bid:**

The Board received the results of the 2014 paving bid consisting of 4 bids ranging from \$117,630.84 to \$130,146.26. Mr. Taylor informed the Board that he is very comfortable with R&D Paving who did an excellent job for the Town in 2013. The R&D Paving bid is less than \$3,000 over the lowest bid and Mr. Taylor would prefer to go with this company that he has had good experience with in the past if approved by the Board. The Board unanimously agreed that Mr. Taylor can accept the slightly higher bid from R&D Paving.

#### **Beaver at Suky's Marsh:**

Over the last several weeks beavers have dammed up the water into Suky's Marsh and across the road back to Fuller Road. The highway crew has pulled the dam several times and it is quickly rebuilt. The department requests authorization to hire a licensed trapper to set up traps on Town property.

Mr. Cummings noted a beaver on the corner of Baltic Street that should be taken care of.

Mr. Crate moved to hire a licensed trapper to trap all beavers causing problems in the Town of Enfield, Mr. Kluge seconded, vote unanimous in favor of the motion.

#### **Curbside Rubbish Collection:**

Mr. Crate asked what time rubbish collection starts in the morning. He was informed that it is 7 AM. Mr. Crate responded that they are starting as early as 6:30 AM

Mr. Taylor will contact Casella and let them know.

Mr. Crate said that when the Town signed the contract with Casella for the curbside rubbish and zero-sort recycling collection the Town was told it was to get a new truck.

Mr. Schneider clarified that it was for a new truck and the toters.

Mr. Crate pointed out that it's been almost a year. Where's the truck?

#### **Main Street Underpass/Rail Trail Crossing:**

Mr. Crate asked about the status of the underpass.

Mr. Schneider informed the Board the Heritage Commission met last month and invited Lee Carrier who has expressed interest in moving it forward. They spoke to the new State engineer (Alex Vogt has retired) and the project is on the State's 10-year plan for 2016. The holdup has been the Friends of the

Northern Rail Trail (FNRT) and will be held up long enough to do the Historical Resource Survey. Mr. Carrier and Mr. Schneider will meet with the FNRT to try to figure out something. Wasting time doesn't do anyone any good.

**Summer Meeting Schedule:**

- June 2, 2014, 6:00 PM, Whitney Hall Conference Room
- July 7, 2014, 6:00 PM, Whitney Hall Conference Room
- August 4, 2014, 6:00 PM, Enfield Center Town House

**CONFERENCE**

**I. NON-PUBLIC SESSION**

Mr. Kluge moved to enter non-public session at 7:38 PM to discuss the Town Manager's contract, RSA 91-A:3 II (a), Mr. Crate seconded the motion. Roll call vote: Mr. Kluge – aye, Mr. Crate – aye, Mr. Cummings – aye, motion carried.

Mr. Kluge moved to come out of non-public session at 7:43 PM, Mr. Crate seconded, vote unanimous in favor of the motion.

**II. ADJOURNMENT**

Mr. Crate moved to adjourn at 7:43 PM, Mr. Kluge seconded, vote unanimous in favor of the motion, meeting adjourned.

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B. Fred Cummings, Chairman

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Donald J. Crate, Sr.

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John W. Kluge  
Enfield Board of Selectmen