

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

MINUTES of November 3, 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; Richard A. Crate, Jr., Chief of Police

Others: James Bonner, Bob Cusick, Scott Osgood, David Beaufait, Lee Carrier, Dan Kiley, David Saladino, Charles DePuy, Victoria Chase – NH DOT Project Manager, Bill Cass – NH DOT Director of Project Development, Jon Evans – NH DOT Project Development Environmentalist, and other members of the public.

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 and non-public session minutes of October 20, 2014 as printed, Mr. Crate seconded, vote unanimous in favor of the motion.

III. COMMUNICATIONS

NH Liquor Commission Notice of Application for Retail Tobacco Only license:

The Board received notice of an application submitted by Family Dollar for a license for retail sale of tobacco products only. The Board voiced no objections.

IV. BOARD REPORTS

None.

V. TOWN MANAGER'S REPORT

Petition & Pole License:

The Board reviewed and approved a pole license for poles on Whitehouse Road.

VI. PUBLIC COMMENTS

Dan Kiley – School Board:

Mr. Kiley provided the Selectmen with a list of summer projects the School Board did with surplus funds. Fifty-one projects were done rather than return money to the Town. \$500,000 was spent. That's \$52 out of pocket on a \$200,000 home. The funds expended by the School Board exceeded the entire Town budget for the ambulance, economic development and fire departments combined.

Mr. Kiley understands the roof repair at Enfield Village School, but the remaining items should have been put in the budget. Mr. Kiley hears that people from the town of Canaan will be doing something about this.

Mr. Kiley wondered if the Town of Enfield would send a letter to the School Board. They had a surplus of \$840,000 and sent \$340,000 back.

Mr. Cummings noted they spent \$28,000 on time clock software.

Mr. Cusick said this was not presented in the budget. The problem is with that kind of number there should be some clarity. Where did the surplus come from? \$800,000 is a lot of money.

Mr. Kiley pointed out that the School Board says it's only 4%, but that \$800,000 when based on the \$10 million provided by the Towns, is more like 8%.

Mr. Kluge asked if they have a procedure for the expenditure of surplus funds.

Mr. Kiley replied that they do not. Last year they spent \$325,000 on projects. When he asked them why they didn't budget for these projects he was told it's because they didn't think it would get passed.

Mr. Kluge said the Selectmen aren't the School Board, but the Selectmen can suggest there should be a process.

Mr. Cusick said the expenditure of surplus funds should at least be visible. It took Mr. Kiley about 4 months to get the information.

Mr. Kiley suggested the Selectmen could send the letter not to the School Board but to the School Budget Committee.

Mr. Kluge and Mr. Cummings said it's appropriate to suggest the School Board establish a policy on the expenditure of end of year surplus funds.

Mr. Cusick said the School Board has no procedure on how to handle end-of-year surplus funds. As representatives of the people of the Town the Selectmen need to be concerned.

Dr. Beaufait pointed out that unexpended funds are returned to the Towns. If the funds are expended, they are not returned.

Mr. Kiley said the School Budget Committee has a right to ask what the School Board spent the money on.

It was suggested the letter could go to both the School Board and the School Budget Committee.

Mr. Cummings said that ultimately the School Board makes the decision as to how to spend the funds.

Mr. Cusick respectfully asked that the letter be more philosophical than hard hitting.

Mr. Cummings asked why it took so long to get the list.

Mr. Kiley responded that he asked for it, but finally received it after putting in a freedom of information request. As soon as he supplied that, Patrick Andrew had the list to him within a week.

VII. BUSINESS

Main Street Rail Trail Crossing:

Mr. Schneider introduced Victoria Chase, the new Project Manager for the Main Street Rail Trail Crossing. The Town received notice in September of the eligibility of historic designation of the rail corridor.

Alternatives now available for this crossing including realigning Main Street where the temporary access road is now located or what Ms. Chase refers to as the “no build” option. The “no build” option leaves the temporary access road as is, and makes only minor improvements to Main Street.

There was discussion at past Town Meeting to support an option that is no longer provided the Town. The option the Town favored was lowering the rail trail and raising Main Street to create an at-grade crossing. Ms. Chase is new to this project. Alex Vogt was the prior project manager.

Ms. Chase explained that she authored the September letter to the Town. The letter was based on certain assumptions. The Town has a vision of using the old motel property; the Town does use it and has for many years. Any alternative that has an impact on the rail corridor is no longer an option.

Mr. Cummings asked Bill Cass how long he’s been involved in this project. Mr. Cass informed Mr. Cummings that he was Alex Vogt’s boss, so he’s been involved from way back.

Mr. Evans explained they needed to determine if the rail corridor was historic. They confirmed that. The historic rail corridor is eligible for the national register so anything that would have an

adverse effect is an alternative that cannot be chosen. This brings us to the two alternatives mentioned in Victoria Chase's letter to the Town.

A study was conducted by a consultant hired by the NH Department of Transportation and certified by Cultural Resources. The decision, ultimately, is at the Federal level.

Mr. Cummings said that had the Town, a few years ago, not opted for an at-grade, there would be a \$1 million dollar bridge. Now there's concern about it being a historic resource.

Mr. Cass agreed that the original plan did have a bridge. The only thing he could say is increased scrutiny by trail users and the historic folks brought attention to the matter.

Mr. Cummings added that these people were never consulted about the \$1 million bridge.

Mr. Cass said the new bridge was somewhat mitigation for disturbing the trail. Part of the commitment for the bridge was to maintain grade separation. He is not sure if at the time it was determined to be a linear historic district. Forces caused us to go back to review documentation.

Does the final change tip the scales? Ultimately it was determined the existing bridge, and the grade as well, is historic.

Ms. Chase there there's active use of the old motel property. Looking at that, what she called "no build" leaves the temporary access road and optimizes the land that would remain. If we relocate Main Street to mimic that temporary road there would be very little land left due to the required slopes and permitting would be difficult. There's an element of risk with that alternative.

Ms. Chase went on to explain that the "no build" option leaves the emergency access with some improvements, including, perhaps, gates on the rail corridor.

Mr. Cummings asked, what about Main Street? The road is in horrendous condition.

Mr. Crate said the underpass is dangerous for use by school buses and fire trucks.

Mr. Schneider wondered if Main Street could be lowered to increase headroom through the underpass.

Mr. Crate said it wouldn't be possible to lower the road. He worked for the State to put a pipe in and the water is "right there."

Mr. Cummings asked how the State is going to fix Main Street under the underpass.

Mr. Schneider said it would require paving and drainage. For folks who are familiar with the underpass they know to slow down. Not everyone is familiar with it. The access road has gotten more use than it should have; that's a concern. If Main Street remains in its current location through the underpass it needs improvement.

Chief Crate said the safety of the people using the road seems to be lost. People turning onto the access road, cutting across traffic, is a problem. It's dangerous to walk through the underpass. The line of sight and visibility is not there.

Ms. Chase said the reconstruction option solves that issue somewhat. There would still be an at-grade crossing, but the Town would lose that land. That's the trade-off.

Mr. Cummings said if you take out at that bridge you have an at-grade crossing.

Mr. Evans clarified that it's not the at-grade crossing, it's the bridge.

It was pointed out that the bridge is falling apart. Timbers are lying on the ground next to the bridge. Ms. Chase explained that the State has looked the bridge. It doesn't look pretty, but it's safe.

Mr. Cusick noted that the main issue was the height of the underpass. School buses can't use it because they couldn't use the emergency roof exit if in the underpass. If height is the issue, why can't we raise the level of the bridge by a 24"? There would be a slight slope up over the bridge, but it might be a reasonable alternative. It's not perfect, but you could get fire trucks and a school bus through the underpass. This would keep the bridge which is just sitting on top of the granite blocks. It would slop maybe 50' to 100' on each side. Then we could eliminate the temporary road and it would return the land.

Mr. Cusick went on to say that the land is valuable. If we don't get it, the State could sell it. You're looking at \$250,000 to \$300,000.

Mr. Cusick informed the representative from NH DOT that the Town doesn't want the alternatives you're suggesting. The Town voted. We were talking about practical solutions to a problem. You are stuck with whatever a consultant came up with. The State is forcing a situation on us that's not acceptable to the Town. This is a Town issue. That's our trail. Mr. Cusick bets the majority of people who use that trail wouldn't mind going up a small incline to cross over the bridge.

Mr. Saladino questioned the historic designation. It's not so cut and dried. When looking at alternatives you have to look at alternatives that minimize impact, but alternatives are an option.

Mr. Evans responded that yes, that's true, but they've exhausted those alternatives.

Ms. Chases added that the other alternatives are no longer on the table because we have other alternatives.

Mr. Cummings said that what troubles him is that someone failed to do their job before getting to this point. The change was caused by groups that really have no ties to Enfield.

Mr. Crate said the State presented alternatives to the Town and the Town picked on of those alternatives provided.

Ms. Chase said that process was part of the evaluation.

Mr. Evans said it's a lengthy process. Coming up with alternatives that you'll evaluate is part of the process.

Mr. Cummings asked the State, "When you came to us with the at-grade option they hadn't evaluated it first?"

The rail corridor study is the driving force. It was required as part of the alternatives, according to Ms. Chase.

Mr. Kluge thought it was because the rail trail group pushed hard.

Mr. Cass said the fact that it was an option is why it was part of the study. NH DOT was trying to make it happen. It's very much a process. Ms. Chase's decision can be challenged; it can go to another party for arbitration. But it's an uphill battle that isn't going to work and likely won't prevail. The presented options may not be everything everyone would want. They can leave the rail trail, can leave the access for school busses, and can get pedestrians that way.

Mr. Kluge asked if the State would be in a position to do some work.

Mr. Cass replied that they wouldn't be able to improve line of sight at the underpass.

Chief Crate said when the snow cat grooms the trail, eventually the bridge will give out. Who replaces that? We have three nice bridges on Main Streets and a beautiful new Shaker Bridge and then we have a junk pile of granite, steel and wood that doesn't look good and is dangerous. Who fixes the bridge when it caves in?

Mr. Cass responded that right now it's a NH DOT asset. The trail, corridor and bridge are owned by the State so he presumes it would be DOT's responsibility to address it. If at some time in the future, attitudes change, and if there aren't federal funds involved [things might be different.]

Mr. Cummings asked, "Attitudes change?"

Chief Crate asked if this were done with State and local funds could we take it out.

Mr. Cass responded that "it would be easier."

Mr. Cummings said that if it were up to him he'd have NH DOT block it off and force the use of the access road.

Mr. Cass is surprised there aren't more accidents. Statistics are not very telling.

Mr. Cusick asked if we wasted all of our time going to these meetings. When the State sent the Town these things, the one the whole town came to agreement for was the at-grade crossing. How does it change so much? All of a sudden there's a group running door to door and no one ever comes back to the Town. It sounds like manipulation of the rules to appease people who probably haven't used the trail here. Who are these people? We're a very good town. Some are very supportive of the State.

Mr. Cummings noted that is why he takes exception to when "attitudes change."

Mr. Cass began to say, if the bridge is in greater disrepair...

Mr. DePuy asked if there wasn't an option that avoided use of the underpass and didn't follow the line of the access road.

Mr. Schneider said the option that didn't use the underpass would be difficult to permit.

Ms. Chase said she understands how the townspeople feel they've been manipulated. There were multiple options and the Town selected one. Then it moves on to environmental review. There was an alternative that lowered the trail, but the corridor is historic and the grade and elevation is a piece of that.

Mr. Kluge clarified that the history becomes a part of the environmental piece.

Discussion ensued regarding the option of rerouting Main Street to mimic the temporary access road. In order to bring the road up to level there's sloping that takes space.

Ms. Chase said to bring up to standards there wouldn't be land left to have for its vision. As for the abutting parcel, NH DOT doesn't own that. She believes it's owned by DRED and believes it is archaeologically sensitive.

Mr. Kiley said any access road will eliminate any recreational use of that land. If there was a rail there would be no bridge. The access road was only put in as an emergency access. It would have to be salted and it goes into the lake, which is Lebanon's water supply. It's either fix the underpass or forget the land.

Mr. Carrier said you can't change the land. He likes Mr. Cusick's idea to raise the bed whatever amount is needed.

Mr. Cummings would like to tell the State that the Town wants the underpass to go away.

Mr. Kluge doesn't think the NH DOT representatives will fight for the Town.

Ms. Chase said it is their experience that it's not permissible.

Mr. Kluge asked if the State might put some pavement on Main Street at the underpass.

Discussion continued and various points were made. Even if raised up the underpass is still dangerous due to poor sight distances. The results of the study are used by the Federal Government. The State paid for the study. If the government changes another group might be able to do a new study that could change things. The study looks at the resource that's there and determines eligibility to list on the historic register. The consultants were selected in conjunction with the Federal highway office and the State Historic Resources office. The Wilmer Hale law firm doesn't work for the State. The State paid for the study and hired the consultants. The State is not affiliated with this law firm or Alex Bernhard of the Friends of the Northern Rail Trail.

Mr. Evans explained that in consultation with Historic Resources NH DOT consults with them about what historic resources are in an area and the potential impact of a project. If there's an impact, what can they do to mitigate that? The conclusion was developed that this rail corridor is historic. Use of federal funds kicks in section 4F that adds an extra level of teeth to historic requirements. They looked at alternatives, what was feasible and prudent, with consulting parties. Consulting parties include the Town, Friends of the Northern Rail Trail and Federal Highway. All of this is taken into account. Federal Highway won't come to a final decision until the State comes to a final decision at which point they will either concur with the State or not. The State doesn't feel it has enough to get the federal government to agree with any of the alternatives proposed earlier.

The Department of Historic Resources was not consulted earlier. Times have changed. While past installations of at-grade crossings were allowed at more dangerous locations, but this one has not been allowed. The Friends of the Northern Rail Trail became involved.

Moving an abutment to make more room and increase sight distances would still result in an adverse effect. It's the existing bridge as it is, unchanged, that is historic.

It was pointed out that NH DOT is looking at one piece of history. Enfield is history – that study needs to be done and the impact is has – as well as this small pile of stone.

Mr. Cass explained that if the State continues to push for the at-grade crossing the results could be: 1) Federal Highway could reject it; 2) Federal Highway could reluctantly agree and proceed. If consulting parties contest the decision it goes to Washington to the Advisory Council on Historic Preservation. That's why if there are alternatives that don't have adverse impact the State will chose to go in that direction.

In summary, the options are to do minor repairs and keep the access road as is, or to build a new road that takes up all of the land.

Chief Crate said when you look at these options, the least impact is to leave the underpass as is. Eventually that underpass will have to be addressed. Let's look at the long term. What's best for that road? The rail trail needs to be preserved. The ties were taken out, gravel was put down – that's all changed. Look at what preserves what's there, but also what's safe. Let's do it right, all together, something we can all be proud of.

Dr. Beaufait said that Main Street is a State Highway. The access road is not to State standards. If the access road remains as is, will the State come back later and say it's not to State standards?

Maintenance was questioned. Ms. Chase said if the Town owned the property the Town would maintain it. The Town does winter maintenance.

Jim Bonner spoke up about how frustrated he is with this. There's lots of verbiage from project managers, teams, people who don't use that underpass. It's been talked about by all of these people. Mr. Bonner uses it, both going over it and under it. He challenged the State representatives, when they go home to use the underpass.

Mr. DePuy recommended the Town look at the road rebuild. Slopes can be managed.

Mr. Cummings pointed out there would also be a lot of permitting.

Water quality standards have become much more stringent. Water from the road would have to be treated before it's released. There are wetland impacts and drainage standards to consider.

Mr. Crate asked what about the water that comes off Sargent Street into the catch basin and then into the lake?

Mr. Cusick thinks we've been out-consulted by the Boston law firm and Concord. Keep it like it is and look for a more partisan administration. Keep at them with social media going in a negative way. Perhaps at the next Town Meeting discuss it. Get people to go after the State and Federal representatives. The rail trail groups have out-consulted us. We either have to out consult them or go to the court of public opinion.

Mr. Saladino said it would be nice to go with a locally funded option. It would be worth investigation. Perhaps extend the TIF District to cover that location.

Ms. Chase said it's not quite as clear as coming up with local money because the historic corridor has federal funding.

Mr. Cass said Alternative 2A was brought forward as the preferred alternative, but in their opinion, based on the latest determination it won't pass muster.

Ms. Chase added that Alternative 2A had not been permitted.

Mr. Kluge thanked the State representatives and citizens for coming. He asked if the Town was looking at a time limit in which to respond in a formal fashion.

Mr. Cass informed the Board they did not know the time limit.

The Selectboard took a short break from 7:33 PM until 7:35 PM. In the interests of time the Board may put off some planned discussions to the next meeting, including discussion of new water and sewer rates and the dog park.

Shaker Cemetery:

There has been some discussion with the Museum about transferring ownership of the Shaker Cemetery to the Museum. They are looking into it.

2015 Budget:

The Budget Committee meets next on Wednesday, November 5th.

Trustees of Trust Funds Report – 3rd Quarter 2014 and Year End Votes:

Mr. Kluge moved to withdraw \$15,000 from the CIP Capital Reserve Fund for the lease payment for the police cruisers (2012 Warrant Article #10), Mr. Crate seconded, vote unanimous in favor of the motion.

Mr. Kluge moved to withdraw \$30,000 from the CIP Capital Reserve Fund for the lease payment for Public Works trucks (2012 Warrant Article #6), Mr. Crate seconded, vote unanimous in favor of the motion.

Mr. Kluge moved to expend \$8,000 from the CIP Capital Reserve Fund for the lease payment for the police cruiser (2013 Warrant Article #11), Mr. Crate seconded, vote unanimous in favor of the motion.

Energy Committee Report:

The Board was presented with a report from the last Energy Committee meeting.

The Energy Committee recommended the appointment of three individuals to the Energy Committee. Mr. Kluge moved to appoint to the Energy Committee, Holly Plumley West as a regular member and James Fenn and Erik Russell as alternate members, as recommended, Mr. Crate seconded, vote unanimous in favor of the motion.

The Energy Committee uses funds remaining in their budget at the end of the year to purchase LED bulbs to replace existing CFL bulbs. They will likely replace those used most often and save the still working CFL bulbs for use in spaces used less frequently. The Committee also asks the Selectboard to support the concept of replacing existing failed equipment with energy efficient replacements when possible. Part of the Energy Committee's mission is to find conservation measures for the Town. The Board concurred.

The Board was also provided information about the Solarize Enfield/Lebanon project, including a couple of emails posted to the Enfield Listserv by Committee members.

CIP Committee Appointment:

The Planning Board appointed Dan Kiley as the Planning Board representative to the CIP Committee. Holly Plumley West is an alternate on this Committee and is willing to accept appointment as a regular member to fill the vacant slot.

Mr. Kluge moved to appoint Holly Plumley West as a regular member to the CIP Committee, Mr. Crate seconded, vote unanimous in favor of the motion.

Food Pantry:

Food for thought – There's been concern about usage of the food pantry. Four to five years ago 90% were from Enfield and 10% were from elsewhere. The percentages have changed to a more regional split of about 60% from Enfield and 40% from other towns. No tax dollars are used. The pantry is run strictly on donations.

Are we at a point where we want to limit other communities' use of our pantry? We currently don't ask anyone to qualify, but ask them what town they are from and how many are in their household.

Mr. Kluge asked if there are any laws that apply.

We can verify they have a need. We can create a form they must meet to qualify.

We do have to help those who come to us in need.

Property Redemption:

The Town took a mobile home for non-payment of taxes. There are people residing in the mobile home who were renting from the prior owner. The current tenants were in the process of purchasing the mobile home. If all parties can agree – the Town, the tenants and the prior owner – it is suggested all parties sit down together, the tenants pay the past due taxes, costs and fees, a deed be given to the prior owner who would immediately sign a deed transferring ownership over to the tenants. The Board agreed with this proposal.

The Town has the right to collect a 15% penalty on the assessed value of the property. The Town has not done this in the past. If the Selectmen wish to waive the 15% penalty they need to vote to do so. It is recommended the Board waive the penalty due to the unique circumstances of this property transfer.

Mr. Kluge moved to waive the 15% penalty for the subject property, Mr. Crate seconded, vote unanimous in favor of the motion.

Town-wide Revaluation:

The revaluation is complete. The Town came in with a reduction in value of a bit over 6%.

Enfield Community Building Acoustics:

We're still lining up contractors.

Administrative Items:

The Board reviewed and approved the MS-535 Financial Statement.

VIII. OTHER ITEMS

Election:

The Board members were reminded about the General Election taking place the next day.

Next Meeting:

Monday, November 17, 2014 at 6:00 PM in the Whitney Hall Conference Room.

CONFERENCE

I. ADJOURNMENT

Mr. Kluge moved to adjourn at 7:50 PM, Mr. Crate seconded, vote unanimous in favor of the motion, meeting adjourned.

B. Fred Cummings, Chairman

Donald J. Crate, Sr.

John W. Kluge
Enfield Board of Selectmen