

**TOWN OF FARMINGTON
BOARD OF SELECTMEN
PUBLIC MEETING MINUTES
Monday, January 7, 2013
356 Main Street, Farmington, NH**

Selectmen Present: Charlie King, Paula Proulx, Arthur Capello, Joan Funk and Jim Horgan

Town Staff Present: Town Administrator Keith Trefethen, DPW Director Scott Hazelton, Fire Chief Rich Fowler and Police Chief Kevin Willey

Public Present: Keriann Roman of Drummond and Woodsum, Rob Upton and Justin Richardson of Upton & Hatfield and Walter Mitchell, Laura Spector, Jane Whitelaw and Steve Wrigley of Mitchell Municipal Group.

Chairman Charlie King called the meeting to order at 5:33pm and led those present in the Pledge of Allegiance.

1. Public Comment:

None

2. Approval of Minutes:

Tabled until the end of the meeting

3. Discussion with Drummond & Woodsum for Legal Services:

Keriann Roman of Drummond & Woodsum explained that if the Town chose to go with their law office she and Matt Upton would be the point attorneys for the town. She explained that she has many years of municipal law experience at a discounted rate but also a back up of sixty attorneys in their office. Arthur asked for some examples of legal work she had done regarding planning boards. Ms. Roman explained that she has had experience with cell towers at the state and federal court level but she is also part of the Planning Board in her own town so she is capable of reading plans. Jim pointed out that several times they have been given on the fence type of answers and questioned if she would respond in a similar way. Ms. Roman explained that she would be more apt to give you the answer with the legal support for either choice the Board had to make with firm legal advice and her opinion.

Jim then asked if she is more apt to settle a case and Ms. Roman stated that often she does settle and prefers to do so because trial cases can be expensive and can go either way however she would move in the direction that the municipality wanted her to. Charlie asked what her experience is with suits against the town for such things like slips and falls. Ms. Roman explained that she has not specifically dealt with slip and fall cases but her associates have. Paula then followed up by asking what the majority of her firm

works on and Ms. Roman explained that they are a “public sector” firm where 60% of their clients are municipalities, counties and schools.

Joan stated that her understanding is that when the town asks a question of their law firm then the attorney will back up what their opinion was and stand behind it. Ms. Roman explained that she will always give her opinion in writing and will confidently stand behind any advice she and her office give. Joan then asked how the town would be charged if Ms. Roman is not available or cannot answer the question. Ms. Roman explained that if she is not available then the town would be charged her rate if an instance came up where she could not answer the question (like bargaining) then another firm attorney would take the question at a rate not to exceed \$250/hr no matter what their hourly rate is.

4. Discussion with Law Firm Upton & Hatfield:

Two attorneys from Upton & Hatfield, Justin Richardson and Rob Upton came to talk about the services their office offers. Many of their attorneys volunteer on the different boards in their communities so that they have a clear understanding of what towns are experiencing. Jim asked if the town contacted them for a question would they give a solid answer and not an on the fence type of answer. Mr. Upton replied yes, they would give a solid written answer that they would stand behind but there are some instances where they might note that the town might not want a written opinion. Mr. Richardson pointed out that sometimes the answer might not be clear so they would be sure to inform the town of that and qualify the risks associated with the different choices. Charlie asked what type of instance would a town not want a written opinion and Mr. Upton explained that there are many shades of gray in regards to if a decision should be made in non-public session so a written opinion might not be a good idea.

Paula asked what they feel is the biggest part of their practice is with municipalities of Farmington’s size and Mr. Upton replied planning and zoning generally are the biggest area and then water/sewer issues. Joan asked if they would give firm opinions and Mr. Upton explained that during a phone conversation they might give you both sides of a fence so that one would understand all aspects but in a written response they would give a firm opinion that they would stand behind. She then asked for a breakdown of the billing rates and Mr. Upton explained that they have a set rate for municipalities no matter what attorney in their firm responds. Paula asked if they require a three year contract and the response was no, they just want the relationship to be one of trust and if at any time the town was not happy they would not have a problem if the town chose to go elsewhere.

5. Discussion with the Mitchell Municipal Group:

Walter Mitchell explained that their law firm was started in 1995 with the sole purpose of Municipal Law. Jim asked if they are able to provide firm opinions that they will stand behind. Ms. Whitelaw explained that they would always provide a detailed written opinion on all possible scenarios and then their opinion on how to move forward. Their RFP was for a flat fee monthly retainer unless the town underwent a large project in which the fees would be discussed at that time.

Amended and accepted 1-14-13

Paula pointed out that a topic of discussion amongst the town boards is that often the response is on the fence and not clear. Sometimes the reason might be that we are not forwarding an exact question but other times it appears there is no clear advice. Ms. Spector replied that she often will call for more information so that she can give a clear, defensible answer. Mr. Mitchell explained that if the town feels that way then they should definitely push back and ask for a clearer response because they want the town to be confident and happy with the relationship.

At 7:16pm, *Charlie King motioned for a short recess, 2nd Jim Horgan. Motion carried with all in favor.*

At 7:24pm, the Board reconvened.

6. Draft Snow Removal and Ice Control Policy:

Keith informed the Board that in response to the many comments the town received after the most recent snow storm he drafted a snow removal and ice control policy for the Board to review. Charlie asked if the town's current policy regarding mailboxes should be included in this policy. Keith will change the mailbox section to note the standard that all mailboxes must meet the postal standard if they are to be the town's responsibility. Jim noted that there is nothing in the policy that addresses contracting for plowing or snow removal services. It was discussed that the option to subcontract should be included so that in the instance like the previous storm when there were two trucks down and two drivers down a subcontractor can be called in.

It was also discussed that the businesses in town should be part of the emergency alert now system the town has set up so if there are issues like when the sidewalk plow was down they can be notified.

7. Discuss Six Wheel Plow Truck:

Scott Hazelton stated that he did some initial check on the truck and the frame appears to be straight. It has been sent to Portsmouth for evaluation now that the plow and sander has been removed. Keith stated we are still awaiting a final opinion from the insurance company though the adjuster stated the truck was a total loss because the frame was twisted. Charlie asked what the estimated cost of replacement with a used truck. Scott stated that he has looked at 2007 and the cost is approximately \$50-\$75,000 and the new price is \$130,000. Consensus of the Board was that if the adjuster says the truck is repairable and then the town should move forward with the repairs.

8. 2013 Budget Goals:

A. Arthur asked if the \$2.08 tax impact includes the sewer bond and Keith replied yes, it includes all bonds. Keith then explained he asked the three department heads to be here tonight to explain their budget increases so the Board could understand where they were coming from and then the Board could give them further direction.

The Board reviewed the Police budget with Chief Kevin Willey. One of the large increases is for a School Resource Officer (SRO) at \$64,816 which includes salary and benefits. The school is supposed to reimburse the town 80% of the costs and Arthur confirmed the school budget \$45,000 for this purpose. Joan asked why there is a crossing guard line and Kevin explained the crossing guard position has been filled with the AmericaCorp volunteers at the fire department though that program has ended and unless he has volunteers then the role would need to be filled. Arthur noted there is a new line titled "new hire" and Kevin explained he felt it was important to have a line for new hires where the cost to hire a new officer is \$2500 and these expenses have typically been pulled from all different lines.

Jim asked if the overtime line will be sufficient and Kevin explained he tried to base the line on historic costs and not the abnormal costs that occurred last year due to the homicide last year at this time. Kevin explained the department is currently looking at a system to address overtime and he has plans to present the information to the Selectmen in the future. The grants line has an increase because Kevin found a grant to purchase new in car laptops with a 50% reimbursable grant and therefore saving the town money. The increased line will be offset by the revenues. Jim asked why the telephone line has increased and Kevin explained that he budgeted for the business broadband internet as discussed earlier at a presentation by Roger from the County.

Charlie questioned the workmen's comp line and Kevin explained this line is not set by him though he assumes the line has gone down because there have been fewer reports since the obtainment of the tazers. Charlie asked Keith to verify the line with Pam. Jim asked if the town could help alleviate some of the storage issues of the PD by providing space in the upstairs of the Municipal Building and Kevin replied that it would assist on the short term side though he is working on finding a more permanent solution. Jim also asked if the contract with the vet was complete and Kevin explained he is just working on the hourly rate and he received an email from Dennis that the zoning question is not an issue.

B. Right now the current Fire budget is \$513,096 which is a \$71,785 increase. Rich Fowler, Fire Chief, explained that every line is pretty much the same except for the staffing lines. The staff increases include bringing back the Deputy Fire Chief position. If the Deputy Chief position is cut there would be a savings of \$21,000 which is related to the benefits. Arthur asked if the Chief has any warrant articles to propose and Rich said yes, a Rescue/Pumper with an estimated cost of \$375,000. This purchase would save wear and tear on Engine 1 and hopefully gain a few more years out of it. Keith pointed out that a discussion needs to be held on the holiday pay for salary department heads because the Fire Chief is the only one who does not receive holiday pay. It was noted that this was topic of discussion earlier and never resolved and agreed the conversation needs to be had.

At 9:13pm, Jim Horgan motioned for a short recess, 2nd Joan Funk. Motion carried with all in favor.

At 9: 23pm the Board reconvened.

C. Jim began the conversation with Scott Hazelton before starting the budget review. Jim asked if the town staff is qualified to do the projects that have been happening like the sidewalk project and if it is cost effective. Scott replied yes, he and his staff are qualified to do all the work completed by them over the past few years and has been done to NHDOT standards. In fact, because of the successful drainage work on Main Hill the NHDOT is budgeting to re-grade and pave the hill this year.

The DPW has a budget request of \$537,537 which is a \$33,975 increase which is a 6% increase due primarily to an increase in the health plan costs. Arthur asked how many hours are being added in the part time help line and Scott stated approximately 625 hours. Charlie stated he wouldn't be in favor of increasing this line and would like to level fund it.

Scott explained that he looked at all the collector roads in town before creating his budget request for Highway and Streets. Governors Road, Hornetown Road and Chestnut Hill Road are in the worst shape physically and regularly travelled. This year Scott proposes doing sections of each of these three roads to start making forward strides of repairing these roads. It was discussed that the requested amount which is a little over \$500,000 is too high but several of the Board members are comfortable with a \$400,000 budget line noting that some major cuts will need to be made elsewhere to make it happen. The Board was in agreement to combine the highway paving and rebuild/repave lines.

Joan asked why the highway new equipment line doubled to \$8,000 and Scott explained he needs a new plate compactor. Arthur asked why no funds were expended in the guardrails line and Scott explained that he refused to purchase the guardrails this year because the prices came in double the expected amount which was way more than he thought he should spend.

9. Other Business:

A. Jim asked for update on the roof of the Municipal Building, the heating system upstairs and bathroom repairs of the same building and Keith said all those projects are complete.

B. Jim noted that a warrant needs to be drafted for the Cameron's road swap. Charlie then noted that the information from the Conservation Commission and Planning Board regarding town owned properties that could be sold needs to be reviewed by this Board in order to prepare a warrant.

C. Jim asked when the upgrades for the tv system are going to be put in place and Robert Hall replied he will be working on that this week.

Amended and accepted 1-14-13

At 10:47pm, Charlie King motioned to go in non-public session under RSA 91A3.II (b), 2nd Jim Horgan. Roll Call - Paula Proulx (yes), Charlie King (yes), Arthur Capello (yes), Joan Funk (yes) and James Horgan (yes).

At 10:54pm the Board reconvened in public session and Charlie announced the non-public minutes were sealed.

At 10:55pm, Jim Horgan motioned to adjourn, 2nd Paula Proulx. Motion carried with all in favor.

Respectfully Submitted,

Brandy Sanger
Recording Secretary

Chairman, Charlie King

Jim Horgan

Paula Proulx

Arthur Capello

Joan A. Funk