

Town of Farmington
Board of Selectmen Public Meeting Minutes
Monday, August 28. 2017

Board Members Present:

Paula Proulx, Chairman
Neil Johnson, Vice Chairman
Jim Horgan
Charlie King
Ann Titus

Others Present:

Arthur Capello, Town Administrator
Sylvia Arcouette

1). Call to Order:

Chairman Proulx called the meeting to order at 6 p.m.

2). Pledge of Allegiance:

All present stood for the Pledge of Allegiance.

3). Public Input:

A). Overdose Awareness Night-Sylvia Arcouette came forward to remind everyone about the International Overdose Awareness Night on Thursday, August 31, 2017 at Fernald Park. Bag decorating begins at 6 p.m. and the ceremonies begin at 7 p.m. she said.

Mrs. Arcouette said the purpose of the worldwide event is to celebrate the lives of people struggling with addiction, to remember those lives lost to this deadly disease and to encourage others to seek a path to recovery. She added that addiction is at epidemic levels and New Hampshire is now in second place in the number of overdose deaths per capita in the United States.

Mr. Capello said Farmington is doing better than it was last year in the number of overdoses and that a lot of it is due to the grass roots efforts of groups like Farmington Responds and the Friends of Farmington.

Mr. King added that the town has pro-active Police and Fire Depts. who are very supportive to people in need of help.

Mrs. Arcouette said the Governor, Senators and Representatives have been invited to the event and the only reply was from Sen. Hassan who said she is in support of the group's endeavors but is unable to attend.

Mr. (Rep.) Horgan said he will attend the awareness night.

Mr. Capello said it was extremely successful when he and Police Chief Jay Drury cooked breakfast and gave out about 50 Narcan kits to the attendees. He suggested they consider doing that again soon as it has been more than a year since that was done.

Mrs. Arcouette suggested he contact Farmington Responds and set a date with them for the next breakfast.

Mr. Capello asked if they would be able to get more Narcan kits.

Mrs. Arcouette said that the Police Chief should be able to get more kits for the breakfast.

Mrs. Arcouette said one of the biggest problems is the stigma of addiction and although some people don't agree, it is a disease she said. She then encouraged everyone to come out to the event and support the organizers, participants and the community.

Mr. Capello said Police Chief Jay Drury, who was watching the meeting in his office, texted that he is able to get more Narcan kits for the breakfast.

B). Blood Drive- Mr. Capello said a blood drive will be held at the Public Safety Building on Friday, Sept. 1 from noon to 6 p.m. He encouraged the public to attend and make this blood drive as successful as the last one held there.

C). Joint Boards Meeting- Mr. Capello said that the next joint boards meeting involving the Planning Board and Economic Development Committee will be held on Tuesday, Sept. 12 at 7 p.m. in the Selectmen's Chambers. The Town Planner will also attend and provide the results of his meeting with the UNH Cooperative Extension regarding their economic development programs. He said he would ask the Planner to put together a memo for the Selectmen.

Ms. Proulx asked if the Planner was providing new information at the meeting.

Mr. Capello said this is new information not discussed at the previous joint meeting.

Mrs. Titus asked if the information should come to Selectmen first.

Mr. Capello said he thought the information should be presented at the joint meeting.

Ms. Proulx asked if the meeting will be posted for the Selectmen.

Mr. Capello said he would post it for Selectmen if a quorum of the board planned to attend.

Selectmen all said they planned to attend the meeting.

Mr. Capello said that he will confirm the start time and inform the board members.

D). Online Purchasing- Mr. Horgan said he noticed that the Town is doing a lot of purchasing from Amazon.com.

Mr. Capello said he would also see that they are making fewer purchases from Staples. He said when supplies are needed they check the online retailers and almost every time the items are cheaper on Amazon.

Mr. Horgan asked if shipping costs are an issue.

Mr. Capello said it is not an issue as the Town has an Amazon Prime account.

4). Review of Minutes:

August 21, 2017-Mr. Capello said the board received the minutes of Non-Public Sessions A & B in their packets and that the Session C minutes were available at this meeting as he asked the Recording Secretary to send Session C directly to him. He added that the public minutes were not received in time for inclusion in their packets due to a problem with her Internet provider.

Mr. Capello said he has been asked to release the sealed minutes of Non-Public Session C to Megan Taylor-Fetter. He said if the board agrees to release the pertinent information to her, he will redact the remaining information about other individuals from those minutes.

Ms. Proulx requested the non-public minutes be carefully redacted before they are released.

Motion: (Johnson, second Titus) to approve the non-public meeting minutes A through C from Monday, August 21 as written passed 5-0.

Mr. King said the matters discussed in the Non-Public Session C have not been resolved and the

minutes should not be unsealed.

Ms. Proulx said the minutes do not have to be unsealed to be given to an individual discussed during the session.

Mr. Capello agreed and said the minutes can be kept sealed and given to the individual requesting the information as long as the discussion about anything not pertaining to that individual is redacted from the copy.

Mr. Capello suggested he could cut and paste the information requested and create a new document.

Selectmen advised that may not be legal and that it would be better to copy the whole document and redact the information not pertinent to the requester.

Consensus of the board was to release a redacted version of Non-Public Session C minutes to Ms. Taylor-Fetter.

5). Review of New Policies:

Mr. Capello said the board received the updated versions of the new policies with the edits made as requested by the board at the previous meeting.

A). Rules and Regulations for Raffles/Tagging: No further corrections needed.

Motion: (Johnson, second Horgan) to approve to accept the Rules and Regulations Policy for Raffles/Tagging passed 5-0.

B). Official Face book Page Policy- Mr. Johnson suggested section 3.6 should be changed to 3.5 and to add the month of August to the approval date.

Motion: (King, second Johnson) to approve the Official Town Face book Page policy as amended;

Discussion: Mrs. Titus expressed concern about something she saw on Face book involving a photo of ambulance personnel and the area/residence where the call took place. She said she was concerned about posting pictures of ambulance personnel/patients publically.

Selectmen said this issue does not pertain to the policy or to the Official Town page and no one besides the Town will be able to post items on the page.

Mr. Capello said if ambulance personnel are out in public and someone wants to photograph them from the street it can't be prohibited.

Mr. Capello said the Town Face book page will become active once the Town website has been revised.

Vote: The motion passed 5-0.

C). Record of Request Policy- Mr. Johnson suggested the following corrections/revisions;

Section 4.2, first line- the word "may" should be replaced with the word "should";

Section 4.2, second line- strike one of the 2 commas after the word "email",

Section 7.1, page 3 first line- change "copy" to "page" to read "for each page of a record",

Public Records Request Form, mid page- remove "If possible" from "If possible I would like the Town to provide me the requested records by:"

Strike all underlines,

Make the policy/request form the same format and font as the Public Comment Form

Move the fee schedule to the request form if space allows.

Consensus of the board was to replace “may” with “should include (but not required)” in Section 4.2 first line.

D). Complaint Procedure- Mr. Johnson suggested the following revisions;

Written Complaint/Phone In Complaint section, second line- change “of” to “or”

Next Section- place a coma after “in”,

Third line- change “ligament” to “legitimate”.

6). Town Administrator’s Business:

A). Utility Values- Mr. Capello said the board has copies of communications from Utility Appraiser George Sansoucy and asked them to decide which methodology to use for valuing telecommunications poles, structures and conduits for real estate tax purposes.

Mr. Johnson asked if the NH Dept. of Revenue (DRA) value is less than what is proposed by Mr. Sansoucy.

Mr. Capello said the DRA value is considerably less on some of the utility properties.

Mr. Johnson suggested that until there is a court case to settle the matter the board should go with the DRA values.

Mr. Capello said any excess value could be covered in the overlay which could affect the tax rate. He estimated the overlay would be about \$50,000. He said Mr. Sansoucy is hoping to get enough towns together to bring the issue to court to allow the towns to use his method for valuing the utility properties.

Mr. King asked how many towns have signed onto taking the issue to court with Mr. Sansoucy.

Mr. Capello said it appears that not many towns have agreed to join in with Mr. Sansoucy to petition the court to address the matter.

Mr. King asked for the previous estimated value of the utilities before Mr. Sansoucy was hired to reassess their value.

Mr. Capello said this only involves telecommunication utilities and the difference overall was over \$1 million.

Mr. King asked if the town is going backwards in value if the value of the telecommunications properties is \$1 million lower in value.

Mr. Capello said the value is going backwards in telecommunications but not in the value of the utility poles.

Mr. King said the town was consistently assessing values between power and communications utilities but it appears we are returning to inconsistent assessments for the utilities.

Mr. Capello said this is because there is a law regarding the assessment of telecommunications.

Mr. Proulx said that the court ordered the assessment values for telecommunication which has been set. Mr. Sansoucy just doesn’t agree with it and thinks it should be more she said.

Mr. Capello added Mr. Sansoucy does not agree with the method used to calculate the values.

Mr. King asked how towns got the DRA to change the value to the current values.

Mr. Capello said the only way to do it is to challenge it in court because the law says we have to use DRA values.

Mr. King said the law set the values but did not set DRA's rules.

Mr. Capello said someone would have to petition DRA to change their rules.

Mr. King then asked why Mr. Sansoucy and the other towns wouldn't petition the DRA to reconsider their revaluation based on the prior court cases and his assessments which have withheld court challenges.

Mr. Capello said he could ask that question of Mr. Sansoucy but the board still needs to decide which value method to use to assess the value of the telecommunications properties in town.

Ms. Proulx asked if they go with the DRA value numbers and then later the court reverses the law if the town would have an opportunity to go after the additional money.

Mr. Capello said the town would have up to 1 year from the court decision to seek the additional money.

Ms. Proulx suggested that would be the most prudent way to go rather than to ask for more money up front and then have to "pony up" money later for reimbursement to the companies.

Mr. King said he thought the towns should get DRA to revise their calculations to be correct. He added that Mr. Sansoucy must have pretty sound numbers based upon the fact that every time he has gone to court he has won. He then asked why DRA would assume the highest value that's defensible.

Mr. Capello said it is because DRA is "in bed" with the utilities. He said that when he was working in Gilmanston they were the first Superior Court case on telephone abatements. The utilities decided to go to court and the DRA reps. came in, met with the utilities' lawyers, sat with their lawyers and testified on behalf of the utilities. The utilities' expert witness was from DRA he said.

Mr. King said that based upon that information he was making the following motion:

Motion: (King, second Proulx) to have the board request that Mr. Capello write a letter to the Governor regarding this situation and requesting that he look into DRA reevaluating the assessments based upon tried and true assessments done by George "Skip" Sansoucy;

Mr. King said the DRA is not working in the best interests of the taxpayers of the state of NH and we should let the Governor know we don't think that this is right.

Mr. Capello agreed to write the letter and said he would choose his words wisely. He added that he was telling the board something he witnessed with his own eyes that was "absolutely amazing".

Mr. Horgan advised that no threats or accusations be used in the letter and to only state the facts about why we disagree with the DRA assessment procedures.

Mr. Johnson said that Mr. Sansoucy would be able to assist Mr. Capello with the letter to make sure that the facts are stated correctly.

Mr. Capello said he would contact Mr. Sansoucy.

Vote: The motion passed 5-0.

Mr. Capello then asked the board for an official vote on whether to use the DRA numbers for the telecommunications' valuations.

Motion: (Johnson, second Proulx) to go with the DRA numbers pending resolution;

Discussion: Mr. King said he was opposed to the motion because he felt the Town should stand its ground based upon our calculations and put the money in the overlay. He asked how you make an argument to take issue with their assessment and then just “roll over” to what they assessed.

Ms. Proulx said because it is the law.

Mr. Johnson said they would not be decreasing revenue that we didn't have in our pockets anyway. He asked if the town used Mr. Sansoucy's numbers last year.

Mr. Capello said that they did

Ms. Proulx asked why they are just hearing about this issue now.

Mr. Horgan suggested it may be due to the Sept. 1 deadline to file the information with the state.

Ms. Proulx said the DRA has a number which is lower and we are going to ask the utilities for more money than DRA is telling them they have to pay. Now there is a law that says they don't have to pay she said.

Mr. Capello said the utility would have to go through the proper abatement process just as before in their appeal.

Mr. Johnson then withdrew his motion and Ms. Proulx withdrew her second to the motion.

Mr. King said the board hired Mr. Sansoucy based upon his results in successfully assessing the value of these utilities and the infrastructure. He said he didn't see any reason to change just because DRA has set some arbitrary amount without reviewing the current case law regarding the value of the utilities.

Ms. Proulx said the court was the one that told them they were allowed to do it.

Mr. King wondered if the court reviewed case history regarding the value of utilities before reaching a decision.

Ms. Proulx said she could understand why Mr. Sansoucy wants to take the matter to court but as it stands right now the DRA is the one to set that number by law.

Mr. King said if they are going to protest their assessment then the board should stand on our assessment and add the extra amount in the overlay in case their decision is overruled.

Ms. Proulx said the matter may not go forward if there are not enough towns willing to support taking the matter to court or if the Town of Farmington was to do it alone.

Mr. King said he was not opposed to joining in the litigation with the other towns if the total cost is reasonable. Right now our lost revenue will be about \$25,000 a year he said.

Mr. Capello noted that Mr. Sansoucy said he would not go forward with the case unless there are enough towns willing to join in the litigation.

Ms. Proulx said if the case does not go forward to court the town will lose the \$25,000 a year anyway.

Mr. Johnson asked if the utilities filed for abatement of last year's taxes.

Mr. Capello said that they did and the Town has denied the abatements.

Motion: (King, second Johnson) to continue with the recommendations by Skip Sansoucy and Associates passed 5-0.

B). NH Solar Garden PILOTS- Ms. Proulx said that at the previous meeting she had asked

what the difference in the property value assessment would be and what it would bring in for property taxes if the solar array facility was installed on the former Cardinal landfill property. She said that right now the board is considering 2 PILOT (Payment In Lieu of Taxes) agreements worth a total of \$7,500 and asked what the taxes would be each year on the property.

Mr. Capello said the taxes owed to the Town would be about \$53,000 yearly.

Mr. Johnson said that puts a \$2.1 million assessed value on the property and business based on the current tax rate.

Ms. Proulx said the NH Custodial Trust has been sitting on a piece of “compromised” property and by putting on 2 solar arrays on it would bring their taxes up to \$53,000 a year.

Mr. King said that Andrew Kellar, Manager of NH Solar Garden wrote that the Cardinal Trust will receive a lease payment from them which is less than the Town but didn’t reveal the amount.

Mr. Capello said he asked him that question but he chose not to answer it.

Ms. Proulx said that is a key piece of information because NH Solar Garden is not owner of the property and that the Trust is the owner. This means they are paying the Trust some amount which has not been divulged to the board although they did ask for that info specifically.

Mr. King said another issue that “sticks in his craw” is that a certain amount of testing and mitigation required at both of these sites that has slowly stopped occurring.

Mr. Capello said the required testing has not stopped at the Superfund site on Route 11.

Ms. Proulx recalled that 3 or 4 years ago the Town received information that the testing and mitigation at Cardinal landfill site was being discontinued because it wasn’t working and that “everything is fine now” and it only needed to be checked occasionally.

She said the Trust is receiving money for use of the property and they owe the Town money for back taxes which the board has had to abate. She added that she would like to know how much money the Trust is receiving from NH Solar Gardens because maybe the Town should be getting more than \$7,500 if the property would be worth \$2.1 million.

Mr. Capello then sent an email to Mr. Kellar asking him how much money NH Solar Garden will be paying to the Trust for the use of the property.

Ms. Proulx said another problem she has with this proposal is that nowhere in the PILOTs does it say that the Town has the ability to renegotiate the contract if the property is sold or increases in value.

Mr. King said the Trust could take the 5 parcels of land and transfer them to a New York LLC to get it off the NH books for \$10, collect \$30,000 in revenue from the lease and that money would not go to the state or the town. He said they could also transfer it to a for-profit company as all they would have to do is get someone at the state level to sign off on it.

Ms. Proulx noted that NH Solar Garden has the right to approve re-assignment of the lease to a new owner if the property is sold and it has nothing to do with the Town.

Mr. Johnson then said he thought the board was attacking the issue wrongly as it has nothing to do with NH Solar Garden but is between the Town and the Trust. He said he had the impression that the Trust stuck NH Solar Garden in the middle so they would not have deal with the Town.

He said the questions should not be going to NH Solar Garden as it is not up to Mr. Kellar to tell

the Town about the agreement between them and the Trust. The Trust is the issue he said.

Ms. Proulx said she did not have any problem with NH Solar Garden and would like to see the facility there as it would be a good use of the property.

Mr. Johnson said the proposal presentation to the board should have been made by the Trust, not by NH Solar Garden. We're asking what he is paying to a third party that we have no interest in or control over he said.

Ms. Proulx said the only control the board has is in signing off on the PILOT agreement.

Mr. Capello clarified that the Trust is not part of the state government but it is its own private entity. He said if the board does sign the agreement the project will have to go through the Planning Board process just like any private entity would. He asked if any of the Selectmen could email him a contact person for the Trust.

Mr. King suggested that the contact information should be in the Town files. He then asked where the board is at with a decision on signing the PILOTs.

Mr. Capello said it was sounding like the board was looking for more information.

Mr. King asked if the board has made a decision they need to reverse.

Mr. Capello suggested they could reverse their previous decision to approve the PILOT agreements and retract the approval until they are satisfied that all of the information requested is received.

Mr. King said they also need to ensure the outcome of the property in the event the board accepts the PILOTs and it is transferred to someone who does not have the best interest of the taxpayers and to include a right of first refusal.

Mr. Capello suggested they may need to negotiate a new contract that includes the option to renegotiate the PILOTs if the property is sold.

Mr. Johnson noted that it was mentioned at the last meeting that one option is to take the property for non-payment of taxes and have the board directly negotiate with NH Solar Gardens.

Mr. Capello said the board would run the risk of the company not being able to get all of the necessary permits and approvals and the Town would then own property that is contaminated.

Mr. Johnson agreed but said in his opinion it comes down to convincing the Trustee to pay the Town part of what they are getting for payment in addition to the PILOT to make up for the increased value of the property.

Mr. King said that an aeration system was being used at the site at one time but that currently there is no remediation being conducted at the site. He said the Trustees were concerned about the Trust funds being drawn done over time and wanted to control their expenditures.

Motion: (King, second Horgan) to withdraw the approval of the PILOT program until they can reach satisfactory resolve with the Trust passed 5-0.

C). Financial Report of the Town Budget- Mr. Capello said the auditor has completed the draft version of the report and now the MS-535 form which compares the actual revenues and expenses to what was budgeted for the period ending 12/31/2016 must be filed with the state.

Ms. Proulx asked if the numbers on the form were reviewed and found to be correct as the board has not had an opportunity to review it themselves.

Mr. Capello said the correct numbers are contained on the form. He asked the board to sign the copy of the form that will be submitted to the state.

Motion: (Johnson, second Horgan) to accept the MS-535;

Discussion: Mr. King said he was looking at the total bottom line versus the expenditures versus the appropriations and asked what the “net” is.

Mr. Capello said the Town is solvent.

Mr. Johnson said \$17.4 million was voted for in appropriations and actual expenditures totaled \$13.8 million.

Mr. King said the General Fund Balance Sheet Reconciliation says the total expenditures were \$305,000 more than the revenues received.

Mr. Capello said that is more than the actual revenues received.

Mr. King then said the ending fund equity it says the Town is overspent by \$305,000.

Mr. Capello said this is not the bottom line budget figure but is based on anticipated revenues and what was actually brought in for revenues.

Mr. King suggested this section represented estimated revenues and not actual revenues.

Mr. Capello said that is correct. He said the auditor would be willing to attend a meeting and explain anything the board would like to have explained about the budget report.

Mr. King asked if the actual revenues were down from the estimated revenues.

Mr. Capello said that they were down last year.

Ms. Proulx asked for the revenue areas that “dipped” in the 2016 budget.

Mr. Capello said that vehicle registrations were down last year.

Mr. King said the amount of vehicle registrations was estimated to be \$1.2 million and were down about \$100,000.

Ms. Proulx said the Town sold property last year so that portion of the revenues should be up.

Mr. Capello said the revenue from the sale of Town owned property would be reflected in the 2017 budget. He said the Town did sell surplus trucks and equipment that is listed as municipal property last year.

Mr. King said the “big flag” areas were conservation and development and economic development which show as a negative \$415,000.

Mr. Johnson said this would be offset by the federal and state grants received.

Mr. Capello said the town received a CDBG grant for the Farmington Children’s Center and that the auditor included explanatory comments in the report that may help to answer the board’s questions.

Mr. King said the board should have been given more time to review the report and make sure it is correct.

Mr. Capello said the board received the report the day he did and that there were extenuating circumstances in getting the report completed.

Vote: The motion passed 4-1 (King opposed).

Mr. Capello said he will ask the auditor to attend a meeting to answer the board’s questions.

Mr. King asked when the sealed bids for the sale of Town owned property at 540 Hornetown

Road are due.

Mr. Capello said the bids were due by 8/31/17 and he has not received any bids as of this meeting. He said it is common to receive bids on the deadline date.

D). Resolution of the Cable TV Franchise- Mr. Capello asked the board to authorize himself or the Chairman to sign the transfer of the Cable Television franchise from MetroCast Cablevision to Atlantic Broadband LLC which is a Canadian owned company that was researched by other Town Administrators and no red flags were found.

Motion: (Johnson, second Titus) to approve the resolution approving the transfer of the cable television franchise from MetroCast Cablevision to Atlantic Broadband LLC and to authorize the Town Administrator to sign the resolution passed 5-0.

E). Auditor's Engagement Letter- Mr. Capello asked the board to sign the letter acknowledging that the auditor has completed the audit, that no issues were found and it was done as required by law. He said it is the standard letter that is signed each year with the auditing firm that conducts the audit and the board needs to authorize the Chairman and the Town Administrator to sign it.

Motion: (Johnson, second Horgan) to authorize the Selectmen Chairman to sign the auditor's engagement letter passed 4-0-1 (Proulx abstained).

F). Answers to Board Questions- Mr. Capello said at the last meeting the board inquired as to whether they could add funds to a Capital Reserve Fund. He said they could not as it takes a vote of the legislative body to add money to a CRF.

Selectmen also discussed the fees charged for space rentals at Hay Day. Mr. Capello said the Town does charge food vendors more to rent a space as they are not non-profit organizations.

G). Resignation- Mr. Capello said he received the resignation of Police Dept. Secretary Vicki Champagne.

Motion: (Johnson, second Horgan) to accept the resignation of Vicki Champagne passed 5-0.

7). Non-Public Session A:

Motion: (Johnson, second Titus) to enter non-public session under RSA 91-A: 3 II (a, c) Compensation, Reputation passed 5-0 by a roll call vote (Proulx, Johnson, Horgan, King, Titus-yes) at 7:08 p.m.

Motion: (Johnson, second Titus) to come out of non-public session passed 5-0 at 7:40 p.m.

8). Non-Public Session B:

Motion: (Johnson, second Titus) to enter non-public session under RSA 91-A: 3 II (a, c) Compensation, Reputation passed 5-0 by a roll call vote (Proulx, Johnson, Horgan, King, Titus-yes) at 7:40 p.m.

Motion: (Johnson, second Horgan) to come out of non-public session passed 5-0 at 8:35 p.m.

Motion: (Johnson, second King) to seal the minutes until the matter is resolved passed 5-0.

9). Non-Public Session C:

Motion: (Johnson, second Horgan) to enter non-public session under RSA 91-A: 3 II (e) Litigation passed 5-0 by a roll call vote (Proulx, Johnson, Horgan, King, Titus-yes) at 8:35 p.m.

Motion: (Johnson, second Horgan) to come out of non-public session passed 5-0 at 8:48 p.m.

Motion: (Johnson, second King) to seal the minutes until the matters are resolved passed 5-0.

10). Next Meeting: Monday, September 11, 2017

11). Adjournment:

Motion: (Johnson, second Horgan) to adjourn the meeting passed 5-0 at 8:48 p.m.

Respectively submitted

Kathleen Magoon

Recording Secretary

Paula Proulx, Chairman

Neil Johnson, Vice Chairman

Jim Horgan

Charlie King

Ann Titus