

Town of Farmington
Board of Selectmen Public Meeting Minutes
Monday, September 25, 2017

Board Members Present:

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

Others Present:

Arthur Capello, Town Administrator
Kevin Willey
Debra Vangelder
Approx. 15 residents

1). Consultation with Attorney

2). Call to Order:

Chairman Proulx called the meeting to order at 5:30 p.m.

3). Non-Public Session A:

Motion: (King, second Horgan) to enter non-public session under RSA 91-A: 3 II (c) Reputation passed 5-0 by a roll call vote (Proulx, Johnson, Horgan, King, Titus- yes) at 5:30 p.m.

Motion: (Johnson, second Horgan) to come out of non-public session passed 5-0 at 6:05 p.m.

Motion: (Johnson, second Horgan) to seal the minutes passed 5-0.

4). Reconvene Public Meeting:

Chairman Proulx reconvened the public meeting at 6:05 p.m.

5). Pledge of Allegiance:

All present stood for the Pledge of Allegiance.

6). Public Input: None

7). Town Players:

Residents Kevin Willey and Debra Vangelder came forward to address the board concerning the operation of the Farmington Town Players. She said they were here to ask the board to allow the volunteer group to continue to function as part of Recreation Dept. so they can continue to access and use the theater and the equipment located in the Town Hall.

Ms. Vangelder said that since their creation by Recreation Dept. Director John Nolan in 1985, the Players have operated as part of the Rec. Dept. and have provided many benefits to the town such as quality entertainment, support of the arts, food banks and school drama programs and fund raising/donations for groups, individuals and the Rec. Dept. She said members of the Town Players were also involved in the planning and implementation of the 2006 renovation of the Town Hall done with the goal of expanding the arts in town.

She said Mr. Nolan set up the Players with their own checking account because he wanted them to be able to handle their own finances and be self sustaining. They never took any funding from

the Rec. Dept. and have purchased supplies and equipment to maintain the theater she said. Ms. Vangelder said the board seems to have the impression that the Players are a separate entity from the Rec. Dept. and there is concern about them using a separate checking account with the Town's tax identification number. She said they have been using the Town's tax number because they were established as a part of the Rec. Dept. and would like to continue to do so and are willing to make any necessary accommodations to their finances to make that happen. She said they are also aware of the Town policy that requires outside organizations to pay a fee to use the Town Hall and for staff coverage. The group does not make enough money from their productions to pay the fees each time they need to use the building for rehearsals and the shows and would have to disband if they were required to pay the fees as a separate entity she said. Ms. Vangelder then asked the board to allow the Players to continue to operate under the Rec. Dept. and to vote to establish a separate second revolving account for the Town Players' funds. The board could authorize them to make decisions about the use of the funds and they would submit receipts or purchase orders for payment she said. Mr. Capello explained that the issue with the group using the Town's tax number for their checking account has been an on-going issue for several years but was never addressed. He said the current auditor has informed him that a non-Town entity using the Town's tax number is against auditing practices, is illegal and that the account needs to be removed from the Town's accounts. Mr. Horgan asked if the Players became a Town entity if they could maintain a separate account under the Town's tax number. Mr. Capello said the legislative body at Town Meeting in March would have to vote to approve setting up a Revolving account. Mr. Horgan then asked what the group could do until March. Mr. Capello said that having two separate revolving accounts could become an accounting nightmare and that legal counsel has advised against having two separate accounts for accounting and liability purposes. Mr. Horgan asked if the Players combined their funds into the existing Rec. revolving account what it would take to make them a Town entity. Mr. Capello said the board could vote to make them a Town entity. Ms. Proulx said that is not what the group is asking for and that they are asking to establish a separate revolving account with the Players as agents to expend and control the money. Mr. Capello said that expenditure of the funds would still have to go through the Rec. Director due to a warrant article that was passed many years ago at Town Meeting directing the Town Treasurer to authorize only the Rec. Director to expend funds in the Rec. revolving account. Chairman Proulx explained that they were trying to make the group understand that even if a separate revolving account were established the Rec. Director would still have control over that account. Mr. King said that in his opinion the group seems to have functioned independently the entire time, have an event when they want to and that the Rec. Director does not tell them what to do.

Ms. Vangelder said they decide their own programs and who to fund raise for or donate to but they do ask the Director's permission to schedule a show.

Mr. King said the group is now operating independently, has their own money to do what they please with and just has to work around the Rec. Dept. schedule. He asked them to consider what the Town and Rec. Dept. requirements over them would be to guide what they do and that as an official part of the Rec. Dept. they would become the Director's responsibility. He added that the way the Rec. Dept. is run some programs make money that goes to other programs that lose money and that they could find themselves in the same situation.

Ms. Proulx suggested the group would not want to fall under the guise of the Rec. Dept. and would want to remain and operate the way they do now. She said some groups have come forward and the board has considered waiving the fees on a case by case basis.

Mr. Capello said they have not waived the staffing fees.

Ms. Proulx said sometimes the fees have been addressed through in-kind work and could be done on a yearly basis. She suggested the group consider filling out a fee waiver request and include the amount in-kind work done for the town which might or might not be enough to satisfy the waiver request. She added there are ways around the problem that would satisfy the auditor and the board without tying up their money and potentially allow them not to have to pay the staffing/building use fees.

Mr. Willey said the group discussed operating under a waiver but didn't think the board would favor the idea so they came forth with the proposal for the separate revolving account. He said they were not saying that it is the only option and added that the group was also willing to explore becoming a non-profit group (501c3) if necessary.

Ms. Proulx asked if the group could be sponsored by another 501c3 organization.

Mr. Johnson it would be possible for another non-profit group to sponsor the Town Players and they would be covered under that group's insurance. He said the Friends of Farmington made an offer to sponsor the Town Players but have yet to receive a response from them.

Mr. Willey said they wanted to get feedback from Selectmen regarding their proposal and discuss other options first. He said they were not saying no to the Friends of Farmington's offer but that they just weren't ready yet to say yes.

Mr. Horgan said the board should find a way to make the Players a subset of the Rec. Dept., consolidate their funds if needed and make them a part of the Town. He said they should be required to do whatever is legal regarding a separate checking account and a warrant article should be generated to address the situation for the next Town Meeting.

Mr. King disagreed and said that the Players have been "doing their own thing" all this time and should continue to do so. He said putting them under the Rec. Dept. is going to be problematic for them money-wise in the future. He added that he appreciated that the group has been paying for equipment repair but felt the Town should be paying for it.

Mr. Horgan asked who owns the theater equipment at the Town Hall.

Mr. Capello said anything donated to the Town the Town owns. He added that if the group were to move somewhere the Town could say they could take it with them.

Mr. King said he was opposed to some of policies that were adopted and the fees that were set and would consider waiving some of the fees to the extent that the board can waive them. He said the big issue the group faces by operating on their own will be liability insurance coverage. The group would be hosting events and would be required to have liability coverage. He said he did not know if the Town could pick up the liability for them.

Mr. Johnson said the Town's insurer Primex pushed the Town to adopt the policy requiring groups using Town property to have liability insurance because they don't cover outside entities. He said that even the Girl Scouts washing cars in the Municipal Building parking lot have to have liability coverage to use the property.

Mr. King asked if a Town sponsored event put on by the Town Players would be covered under the Town's insurance. He said that on paper the Town may have to be in charge but that would allow the Players to avoid the cost of an insurance rider.

Mr. Capello said he did not know the answer but would get more information for the board. Resident Mary Barron asked if the board can waive the staffing fees for the Player's rehearsals at the Town Hall.

Mr. Johnson asked approx. how many rehearsals would be needed.

Ms. Vangelder said it depends on the show, but there are usually 2 rehearsals a week and they start about 3-4 months before a performance.

Mr. Willey said that it would average out to about 24-30 rehearsals and a couple of shows per year.

Mr. Capello said the staff has to be paid if they are there and by waiving the fee the board would be passing those salary costs on to the taxpayers.

Ms. Barron said by waiving the staffing fee the board would be waiving the requirement for the staff to be there and this is what has been done for 32 years.

Another resident said some of the group members have had keys to the building in the past and that they are capable of policing themselves.

Mr. Johnson said the Town does not give out keys any more.

Mr. King said this is an area of dissent for him with some of the policies that were approved by the board and noted that there are responsible people who can be just as responsible as the staff that was hired to make sure the doors are locked.

Mr. Capello said the reason the board put the fees in was to be consistent. He said the reason the process was put into place was because they ran into some irresponsible groups that weren't locking the doors when they left.

Mr. King said that the decision whether to give out a key should be made on a case by case basis.

Mr. Johnson said he would not recommend the Players become part of the Rec. Dept. because then they become susceptible to every whim of the Rec. Director, budgetary constraints, have to prepare a budget which could be cut by the Bud Com or the Selectmen or changed by the Rec. Director. You will lose a lot of autonomy because you will be no different than any other program he said.

Ms. Vangelder then summarized that the board was suggesting they take care of the checking

account/town tax number problem, find a sponsor who will cover their insurance needs and request waivers to building use/staff fees. She asked how to go about requesting the waivers.

Mr. Johnson said the Rec. Director has the forms needed to make the request.

Mr. Capello said the form is filled out by the group and is submitted to the Rec. Director who submits it to the Town Administrator and he brings to the Selectmen for consideration.

Mr. Horgan asked if the Players were to become a part of the Rec. Dept. if it would be possible to draft a policy stating that they would not be under the direct control of the Rec. Director concerning their operating procedures, encompass the waivers, exemptions and exceptions and makes them part of the Town for liability coverage.

Mr. Johnson asked if the group would then be put under the Director's direction and not allowing him to direct.

Mr. Horgan said that was "pretty much" his intention.

Ms. Barron said the group has a wonderful rapport with the current Director but there could be some "nightmare" Director in the future. She said that if the board set up such a policy three months from now everything could go right out the window with a dictator for a Director.

Mr. Capello said it could also go out the window in March if there are any changes to make up of the board.

Mr. King said he thought the group is covered right now for liability under the Town's insurance.

Mr. Capello said he thought if there was ever a claim the insurance company would fight it as there is no documentation of them ever being accepted as part of the Town.

Mr. Johnson said whether the Town can extend the umbrella to cover the Players is the question.

Mr. Capello asked when the building rental fee would become a financial issue for the group.

Ms. Vangelder said due to these issues they have not made a plan for their next show.

Mr. Capello suggested the board deal with the checkbook issue at this meeting, allow time for a response from the insurance company and then deal with the waiver requests.

He said the checking account is the most pressing issue right now and suggested the board make a motion that the group must withdraw the money out of the Town account by a certain deadline. He said what they do with the money is up to them and the other issues could be revisited at the next meeting.

Ms. Proulx said the board must also consider that they would be putting the rest of the town in jeopardy by covering them for liability insurance so there is more discussion needed. She also advised the Players to start the waiver process soon to get the process finished faster.

Motion: (King, second Horgan) to require the Town Players to remove their funds from the Town account by December 31, 2017 passed 5-0.

Resident Paul Turner said to ask the insurer if the Town can list the Players as an additional insured on the Town policy and to let them know it is only about 2-3 plays a year.

Ms. Barron asked if the board passes the waivers including the staffing fee with the no key policy how the board would propose they get access to the building.

Mr. Capello said the board can also waive the key policy.

Recess- Motion: (Horgan, second Johnson) to take a five minute recess passed 5-0 at 7 p.m. The meeting reconvened at 7:10 p.m.

8). Meeting Minutes:

September 18, 2017- Public Meeting Minutes

Page 5, Additional Board Business, Section F, Public Safety Building, second line from the top- add the word “joked” to read “and joked that the Town should get a commission...”

P. 5- second sentence from the bottom- amend to read “If it is a call where additional assistance is not needed the Officer may not respond to that call he said”

P. 4, Section F, Public Safety Building, tenth line from the bottom- strike the word “building” and replace with “Sally Port”

Motion: (Johnson, second Titus) to approve the minutes as amended passed 4-0-1 (King abstained).

September 18, 2017 - Non-Public Meeting Minutes Sessions A-E:

Motion: (Johnson, second Titus) to approve the Non-Public Sessions A-E as written passed 4-0-1 (King abstained).

Mr. Capello said the individual discussed in Non-Public Session B has requested a copy of the sealed minutes from that session.

Motion: (Johnson, second Horgan) to release a copy of Non-Public Session B minutes to the individual passed 4-0-1 (King abstained).

9). Wage Study:

Mr. Capello said he has not received any new information for discussion on this matter.

10). Town Administrator’s Business:

Boy Scout Gear Storage- Mr. Capello asked if the board recalled that the Boy Scouts were allowed to store their gear at the Precinct House at the old Fire Station. Then the building was torn down and they had no place to store their gear. The troop then obtained a shed which is located on private property and the land owner wants the shed removed. He suggested the shed be moved to the Town property on Bay Road where the water tower is located. He said the troop would maintain the area where the shed would be located if permitted by the board.

Mr. Horgan said this area is where the Community Gardens were located and asked if they have relinquished the gardens.

Mr. Capello said the organization appears to be defunct.

Mr. King asked if the Town is still letting people use the garden site by request.

Mr. Capello said that is correct and the troop would be instructed to put the shed out of the way of the gardening area.

Mr. King expressed concern about letting groups put their sheds or equipment on Town property.

Mr. Horgan asked how much equipment the troop was planning to store there.

Mr. Capello said the shed is 8’ x 10’ and would be used to store the camping equipment and a canopy that was previously stored in the Precinct House.

Discussion included other potential storage sites and the ease of access, security and visibility at

the sites and to require a waiver of liability for the shed/equipment from the Scouts.

Motion: (Horgan, second King) to allow the transfer of the shed to the Community Gardens space under the supervision of the Public Works Director passed 5-0.

Mr. Capello said he would draw up the waiver of liability.

11). Additional Board Business:

Town Building Maintenance Issues- Mr. Horgan asked if there are any pending maintenance issues for the Town buildings remaining.

Mr. Capello said the balcony banister at the Town Hall may be addressed next year, the two gallon water heater there needs to be replaced with a larger unit and he is seeking estimates to repair a leak in a pipe on the Police side of the building.

Farmington Children's Center Tour- Mr. Johnson asked about the tour of the renovated facility.

Mrs. Titus said Community Action Partnership provided a very nice tour and complimented the results of the renovations.

Rec. Advisory Committee- Mr. Johnson asked if Mr. Capello had any more information regarding the status of the committee.

Mr. Capello said he awaiting a response from the Rec. Director.

Town Planner Presentation- Mr. Johnson asked when the Planner would make his presentation regarding the UNH Cooperative Extension economic development programs.

Mr. Capello said Mr. DeSantis has been out of the office due to a family emergency and is expected back the next day. He said he will find out when the presentation is planned.

12). Non-Public Session B:

Motion: (Johnson, second Horgan) 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 7:25 p.m.

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

13). Non-Public Session C:

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 8 p.m.

Motion: (Johnson, second Horgan) to come out of non-public session passed 5-0 at 8:10 p.m.

Motion: (Johnson, second Horgan) to seal the minutes passed 5-0.

14). Non-Public Session D:

Motion: (Johnson, second Titus) to enter non-public session under RSA 91-A: 3 II (c) Reputation passed 5-0 by a roll call vote (Proulx, Johnson, Horgan, King, Titus-yes) at 8:10 p.m.

Motion: (Johnson, second Titus) to come out of non-public session at 8:15 p.m.

15. Non-Public Session E:

Motion: (Johnson, second Titus) to enter non-public session under RSA 91-A: 3 II (c) Reputation passed 5-0 by a roll call vote (Proulx, Johnson, Horgan, King, Titus-yes) at 8:15 p.m.

Motion: (Johnson, second Horgan) to come out of non-public session passed 5-0 at 8:25 p.m.

Motion: (Johnson, second Horgan) to seal the minutes passed 5-0.

16. Non-Public Session F:

Motion: (Johnson, second Horgan) to enter non-public session under RSA 91-A: 3 II (d) Acquisition, Sale or Lease of Property passed 5-0 by a roll call vote (Proulx, Johnson, Horgan, King, Titus-yes) at 8:25 p.m.

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

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

17. Next Meeting: Monday, October 2, 2017

18. Adjournment:

Motion: (Horgan, second Johnson) to adjourn the meeting passed 5-0 at 8:35 p.m.

Respectively submitted

Kathleen Magoon

Recording Secretary

Paula Proulx, Chairman

Neil Johnson, Vice Chairman

Jim Horgan

Charlie King

Ann Titus