

Groveland Board of Selectmen
Meeting Minutes
August 22, 2016

Present: Chair William Dunn, Selectman Ed Watson, Selectman William O'Neil, Selectman Daniel MacDonald, Selectman Michael Wood

Absent: None

Others Present: Denise Dembkoski (Finance Director)

Recorder: Melanie Rich

The meeting was called to order at 6:30 p.m.

RESIDENT/PUBLIC COMMENTS:

Mitchell Kroner (3 Cannon Hill Road Extension) read the following statement. "On Monday, August 15, 2016, the Town of Groveland Board of Selectmen held a duly posted public meeting pursuant to Mass General Laws Chapter 30A, Section 20(1)(a)(1) to be held in executive session. The public officer involved was the Chairman of the Conservation Commission who waived his right to executive session and requested the Board of Selectmen conduct the meeting in public session. The Board of Selectmen Chair then informed the audience of approximately 20 residents there will be no discussions from members of the audience. A police officer was present to remove any member of the public who attempted to address the board relative to the scheduled hearing. The Chairman of the board also stated that he was not going to allow the meeting to be televised on Groveland TV even though the custom and practice in the Town of Groveland is that all meetings of the Board of Selectmen as well as meetings of other town boards and committees are to be televised on Cable Channel 9 Groveland TV. The Board of Selectmen was meeting in the usual public meeting room which is equipped for televising public hearings in the Town of Groveland. The Chairman of the Cable TV Advisory Committee, the board that administers Groveland TV, was present, ready and able to televise the public hearing, but Mr. Gilford was instructed by the Chair of the Board of Selectmen not to televise the hearing. None of the other four members of the board who were present spoke up in favor of televising the meeting even though it was clearly a meeting of the Board of Selectmen just like any other meeting."

He drafted a complaint under the Open Meetings Law but said he is not going to file it. He would like to engage in dialogue tonight to see if it could be resolved. As part of the complaint form, the board can ask what they would like done for a remedy. His two requests for a remedy were: (1) the BOS votes and agrees that all future public meetings of the BOS shall be televised and adopts this as an express and established policy of the board going forward. The BOS agrees that the only future meetings of the board that not be televised are those that meet the legal standard for executive session. A vote to go into executive session shall be televised as part of the public meeting record; and (2) the BOS post an apology to the voters of the Town of Groveland signed by all five members of the board on the town website in a prominent place understood to be the home page under News and Announcements for their failure to televise the public BOS meeting of August 15, 2016 and include their action under paragraph 1 herein. He said if the public knew the meeting wasn't going to be televised they could have done their own videotaping which would have been allowed under the Open Meeting Law. Mr. Kroner said the question is why did the board choose not to televise that meeting. The Chair said that he stated that evening and will state again that he did not want to have all throughout the town nothing but gossip and mayhem. It was a public hearing; the public was invited to come to the meeting. He said as it was, it was nothing but an hour and a half of conversations back and forth; people were outraged and they had preconceived notions that the board was out to get Mike Dempsey. Mr. Kroner said as the Chair he has the right not to allow audience participation; under statute it is his prerogative. Chair Dunn said he didn't break the law; Mr. Kroner said that was correct. Mr. Kroner said once it became a public hearing, it should have been televised and asked why did it rise to the level of an executive session in the first place? Selectman MacDonald said because of the subject matter. If it could be seen as a discipline of a public figure, there is a reputation at stake. In the interest of the person coming

before us, we err on the side of caution and protect the public official that is being potentially accused. For that reason, it met the threshold of having an executive session. It's the person's prerogative if they want to waive that, but that's an issue for the person and he thinks the spirit of the law mentions that; it may amount to nothing, but you err on the side of caution in terms of protecting that public official's reputation whenever there is an allegation.

Chair Dunn said we could argue this back and forth all night but there was no violation of the Open Meeting Law, and he knows of no statute that requires mandatory cable broadcasting of any meeting. He does not feel bad about it and if it happened again he would do it the same way. Selectman MacDonald supported the Chair. He said within the boundaries of the law, the Chairman has discretion to run the meeting. Mr. Kroner thinks the board established a dangerous precedent by not televising it and will file it as a formal complaint. Chair Dunn asked (for himself to aid in future decisions) what harm did Mr. Kroner think it did. Mr. Kroner said it gave the impression that the board wants to engage in secrecy and intimidation by not allowing the meeting. Chair Dunn said he respects what Mr. Kroner has told him. He was trying to protect Mr. Dempsey and the townspeople, and not make it into a bigger case than it needed to be. Selectman Watson corrected one of the statements Mr. Kroner made saying the people in attendance were upset because it wasn't televised. Mr. Kroner knows that was not the correct statement. They were upset because the Chairman was invoking the Open Meeting Law where he doesn't have to allow participation by members of the public, not the fact that it wasn't televised.

Mr. Kroner also addressed the agenda item regarding the ZBA Chair's request to appoint William Dunn to the Zoning Board. He thinks this is also a dangerous precedent to have two BOS members on the ZBA (Dan MacDonald is a current member) which needs the blessing of the BOS to engage in litigation. He hopes the Chair will not take the appointment. Selectman MacDonald wanted the people to know that he contacted the State Ethics Commission and cleared it with them when he was elected Selectman; had there been a conflict he would have resigned from the ZBA. We need people from the public or we are not going to have a quorum. In the absence of a quorum he thinks the fallback position is the BOS to fill vacancies of the boards; not only the ZBA. Mr. Kroner said you can have a meeting with four members; it's up to the applicant if they want to pursue it or not. He said this board is pro-business; Mr. Wakefield is anti-business. Selectman Watson said Mr. Wakefield is not here to defend himself and there should not be any comments addressed about him; it's not proper.

Ms. Demboski made a statement on behalf of Mr. Kroner's complaint. She said Channel 9 is a government access channel, it is not a public access channel. As the licensing authority who signs the Comcast license, the Board of Selectmen have full control over what is broadcast on that channel. She further said she believes he is right that someone has the right to videotape a meeting, but not televise it. She will do whatever the board would like, but as a government access channel, they control what is shown on that channel; Mass Department of Telecommunications made that ruling several years ago.

Tracy Gilford (Cable TV Advisory Board Chair) wanted to make it clear that he is not part of this complaint. He was questioned by a number of people why the meeting was not televised and told them at the request of the BOS Chair, it was not. He said he respects Mr. Kroner and the board for what they are doing, but personally says the complaint is using a sledgehammer when you need a finishing hammer. He thinks because this is the first time he has dealt with this problem, he would prefer getting information on what other towns and cities are doing or finding out from our attorney what is legal or not. He wants to do the right thing under the law.

APPROVAL OF WARRANTS:

Selectman Wood made a motion to approve PW#17-07 in the amount of \$91,396.81; Selectman Watson seconded; all voted in favor; warrant approved.

Selectman Wood made a motion to approve DW#17-05A in the amount of \$31,835.31; Selectman Watson seconded; all voted in favor; warrant approved.

Selectman Wood made a motion to approve BW#17-06 in the amount of \$992,022.67; Selectman Watson seconded; all voted in favor; warrant approved.

Selectman Wood made a motion to approve BW#17-07 in the amount of \$407,896.95; Selectman Watson seconded; all voted in favor; warrant approved.

APPOINTMENTS: None tonight.

VOLUNTEER OF THE MONTH:

Claire Walsh was thanked by the Board and presented with a certificate for her tireless enthusiasm, dedication and hard work in her volunteer efforts for the Town of Groveland.

DISCUSSION AND POSSIBLE VOTE:

Recreation Committee Update on the Pines Project – Mike Houghton said a re-layout of the drawing was done to see where we are now compared to what was originally scoped. The fields that are most focused on are Softball Field B and the Utility Field. The grades are very close to what was originally spec'd. The issue with the softball field is that there is a drainage pipe in the field area that will have to be moved because it could be a hazard. The retaining pond that is designed to filter the water out to the back of the field area is larger than originally spec'd. The recommendation was to change it to be done properly. The field has been turned around so home plate is now backing up to the parking lot. The tennis courts are close; the other softball field is 2' lower than what was originally spec'd. The hill is 2:1 pitch rather than 3:1 pitch. The danger of that is that heavy rain could result in erosion to the field areas.

He talked with one of well providers regarding the well. It was recommended that where the stake is located now, we might want to considering moving it even if it is behind the playground. He also made some recommendations on how to change some of the verbiage; he will work with Ms. Dembkoski. He met with sprinkler system companies; until they know the well and the output of the well, there is nothing they can do for us. The landscaping companies will provide rough estimates so they can put the specs together. Ms. Dembkoski asked and Mr. Dempsey explained about the removal of extra trees, moving the hills back and the drainage issue. He said Bob Arakelian had placed some large riprap along the bank, but part of their agreement was to have a retention area about 200' from the bank of the river, but does not know the status. Chair Dunn said after the project is built they will have to find out what the situations are. Selectman O'Neil asked if there was any solution to get water on the field before we lose it completely. Mr. Houghton said it is the existing well that is having a problem. Ms. Dembkoski spoke to a second well company; they are not sure when they will be out to fix it. When she called the original well company they came, said what parts were needed, we bought the parts and he never came back. Chair Dunn asked if there was any information on fundraising; Mr. Houghton said they have a meeting scheduled for next week. Selectman O'Neil said the youth groups have some ideas to generate revenue and are waiting to be contacted.

Selectman O'Neil asked what is needed to complete the project. Ms. Dembkoski said it needs to be submitted tomorrow to be in the August 31st Central Register; otherwise it will be another two weeks. Bids could be opened as early as September 14th. The pump on the well that was put in at Bagnall was changed the very last day; we couldn't do anything with the irrigation until that was fully in and installed. We need to know exactly what is going to be used for the next phase, otherwise we would need to wait until the pump is put in to make sure they are spec'ing the right irrigation system. Selectman O'Neil asked if the well is in and irrigation done is the plan to seed this fall; yes. Is there an alternate venue plan for the youth groups currently using it? He wants to make sure everyone is given adequate notice. He asked if there was

a plan in place for maintenance. Mr. Houghton said they talked about having money set aside that was left from the original Pines. Ms. Dembkoski said that money will disappear soon because we are not replenishing it; a plan should be put in place for the future.

Term Limit Discussion – Ms. Dembkoski provided the board with information from the communities that responded that did have some type of term limits. They have not had any problems with someone else not stepping up or not having a chair unless there were extenuating circumstance, and then they let it go for a second year. Selectman MacDonald liked Manchester-by-the-Sea and felt it included the spirit of the law. Selectman Watson said there are good points in all of them. He said maybe if people see there is a term limit, they may step up. Sometimes people don't want to participate on a board or committee because they feel their ideas are not being heard from because they are serving on a board where someone has been there many years. Selectman O'Neil said term limits are a good idea but we should more direct it to the chairs because they are the ones who can control the agenda of the meeting. Chair Dunn agrees that the chair and vice chair should change. Ms. Dembkoski said if they want it to affect the elected boards, it would have to be a bylaw. The board can set a policy on appointed positions. Selectman Watson thought we should start with appointed committees. She will prepare a policy for the next meeting to include terms to be no more than 6 consecutive one-year terms and 2 consecutive three-year terms.

Upcoming Town Events – Selectman Watson said the Selectman should hold a short service on Sunday, September 11th at 8:46 a.m. by the flagpole at the Fire Station. The Chair agreed we should do something and said to bring back ideas for the next meeting.

Pumpkin Fest – Ms. Dembkoski informed the board that the library is planning to hold a Halloween party on Wednesday, October 26th and asked if we would like to coordinate the lighting with them. It would follow the same format as last year; pumpkins can be dropped off starting one-week prior (October 19th); the lighting will be on the 26th. She told the members that Halloween is on our regularly scheduled board meeting Monday. It was agreed to be moved to Tuesday, November 1st.

ZBA Chair's Request to Appoint William Dunn to the ZBA – Chair Dunn said he was a ZBA member; one of the reasons he left that board was because he was a Selectman and felt it was contentious. He understands the ZBA Chair's point that he doesn't have a deciding vote on the board but would like to see if he could find someone in town that would step up. Chair Dunn said he does not believe it would be the right thing to do. Selectman MacDonald thinks it would be fine on a temporary basis. He listened to what Mr. Kroner said and said it is a balancing act. If there is a conflict, you recuse yourself. We need to fill the vacancy or we are going to have unfinished business and that's not fair to the public. Chair Dunn asked you could fill the position with a Selectperson and say its temporary and not appoint them. Ms. Dembkoski said you would have to be appointed and sworn in to be a voting member. You could appoint on a month-to-month basis, but you would have to have an actual appointment in order to vote. If someone comes in just for September, they can't vote because they didn't participate in the prior meetings; the Mullen Rule has not been accepted here. Selectman Watson said they should appoint someone on a temporary basis and get the word out; let them know it is critical. Selectman Wood agreed to cover the next meeting. He does have some background, but with his schedule, he can't commit to it. Ms. Dembkoski said the board is meeting on September 6th, the day before the Zoning Board. You could put out a call for someone to step up and, if not, you could make an appointment that night for the following night's meeting. Hopefully someone will step up within the next two weeks. She will put it on the website.

Housing Authority Request for Bus Service through the MVRTA – Selectman Watson said we received a petition from some of the residents at River Pines. He read the letter sent to the Administrative Services at the MVRTA bus transportation. He also read the letter from Lynn Stanton, Council on Aging, not supporting the request, stating that they offer a transportation program which is under-utilized. He said the Ring & Ride has to be notified 24 hours in advance. Because at times people have to go to the doctor the day they call, he feels we could send a letter of support to the transportation authority and try it on a trial

basis; they are residents of Groveland and believes they deserve our support. The town is charged for the service to use the bus service for free. He asked to find out how the bus would be paid for if it came here on their regular route. Ms. Dembkoski was not sure they have a regular route that goes through Groveland. She said the River Pines has already reached out to the MVRTA and just looking for the board to support their request. Selectman MacDonald said we don't have the foundation to form an opinion to vote on it. Ms. Dembkoski will find out more information. Ms. Stanton will be invited to attend the next meeting as well as people from River Pines.

VOTES OF THE BOARD:

1. Selectman Watson made a motion to approve the July 25, 2016 Meeting Minutes; Selectman O'Neil seconded; voted 4-0-1.
2. Selectman Watson made a motion to approve the July 20, 2016 Special Meeting Minutes; Selectman MacDonald seconded; voted 3-0-2.
3. Selectman Watson made a motion to approve the July 26, 2016 Executive Session Meeting Minutes; Selectman Wood seconded; voted 4-0-1.

OLD BUSINESS (Unfinished Business):

Selectman MacDonald would like someone from the Board of Health to attend to talk about mosquitoes concerning the trapping and results; he was concerned about the risk. Ms. Dembkoski said she had a conversation with the Public Health Nurse who is fully up-to-date with what is going on and was told there is no concern for residents at this time. She is also working with the state and Mosquito Control. The BOH is planning to have a meeting to discuss protocol for the future. Selectman MacDonald would like to know the location. Ms. Dembkoski will see if she can find out since some of the information is highly confidential.

Status of the Veto – Ms. Dembkoski has revised specs from the Fire Department for the fire suppression and sprinklers they wanted in the room.

Status of Shanahan Field Bathrooms – The plumbing adjustment was made.

Status on the Bagnall School – The bid for the sprinklers has been reviewed now that the well pump has been put in. Water testing will be this week; they have to submit the water quality samples to the BOH. The irrigation system will go out to bid on Wednesday; it will be in the August 31st Central Register; bids are planned to be opened on September 14th.

Status on the Trash Company – Hiltz has decided to cancel all municipal residential pickup. Ms. Dembkoski had conversations with the Department of Public Health and Manchester-by-the Sea specifically because Manchester-by-the Sea and Groveland make a full weeks' business. The DPH thought we would be more sellable as a full week of business. Specs were sent out and bids were due today; she has not evaluated them yet; she will see what we can afford and what we can successfully start October 1st. Chair Dunn asked about recycling. Recycling costs were not factored in years ago; we did not pay to recycle per tonnage; that has changed; companies are paying per tonnage to recycle. Most likely the bids will include recycling costs. If there is a fall town meeting, we may have to appropriate free cash or find some other revenue to allocate for the trash contract if the prices are significantly increased. We need to have a contract before the end of August to be ready for October 1st.

Selectman Wood thought the Library was coming in to talk about the bank accounts. The issue is closing a bank account. Ms. Dembkoski said the Chairman was not available and the Treasurer of the Trustees did

not feel comfortable coming in without the Chairman. They have not rescheduled. Selectman Wood said this has been going on since July. The Board of Library Trustees can control funds if a Will bequeaths the funds and specifically states that the Trustees have control over it. They have the right to spend it, but not withdraw it from the bank account. They cannot withdraw money from a bank account without the town treasurer's permission; it requires the town warrant process that this board and the town accountant has to approve; this has not been done. Ms. Dembkoski has asked to see the Will. She said that because they are an elected board, they cannot be forced to come in, but as the town treasurer, she has full legal authority over custody and control of town funds and these are town funds. Selectman MacDonald said first you ask nicely and then go to the next step. Ms. Dembkoski agreed but said she has been accused of being demanding, threatening and not promoting good workplace development between the departments. Chair Dunn said to send a letter asking that the Chairman and Treasurer come to our meeting before we have to go to the next step. Selectman MacDonald said we have the authority to look out for the general welfare of the town, and as Finance Director Ms. Dembkoski is to have control over the money; procedures need to be followed. Ms. Dembkoski said as she told them, the issue is not how they are spending it; her concern is the process.

CORRESPONDENCE TO BE REVIEWED:

1. Minutes from August 8, 2016. Selectman Watson said it should be noted in the minutes when we lost communication with Selectman Wood who was participating remotely, and also noted in the adjournment of the meeting that he did not participate.
2. Minutes from Executive Session I on August 15, 2016.
3. Minutes from Executive Session II on August 15, 2016.
4. Letter to Carl Keene from the Chair of the Conservation Commission.
5. Letter to Jeff Aalto from the Chair of the Conservation Commission.
6. Minutes from 2011 discussing EMS calls. Members of the fire department, who were in the audience, said all the board's questions will be answered on September 6th.

FINANCE DIRECTOR'S TIME: All items were addressed earlier.

SELECTMEN'S TIME:

Selectman O'Neil said we had our first volunteer of the month award today and hopes to continue to receive more nominees.

Selectman MacDonald reminded everyone that school is starting next week. Please drive carefully; buses will be out and children will be walking. He would also appreciate if school would start after Labor Day.

The next regular meeting will be held Tuesday, September 6, 2016 at 6:30 p.m.

Selectman Wood made a motion to adjourn; Selectman MacDonald seconded; voted 5-0-0. The meeting was adjourned at 9:03 p.m.

*** Unanimously Approved on September 19, 2016 ***