



EARTH REMOVAL BOARD

MEETING Minutes

Tuesday November 17, 2015 7:00 PM

Meeting started: 7:00pm

Attendance: Al Peloquin (Chairman), Leonard Mort (Vice Chair), Tom Brown, Anna Lewandowski, Mary Krumsiek, Katie Lavelle and Nancy Young (Secretary/ Assistant)

Absent: (All in attendance)

Guests: Katie Lavelle

Meeting Subjects:

- 1) Call to Order
- 2) Katie Lavelle; to update the financial status - Special Activity Funds, Revolving Funds and General Funds.
- 3) Jessica J. Drive Extension
- 4) Earth Removal Board Website and Email Access
- 5) Rules and Regulations
- 6) Approval of October 20th 2015 meeting minutes
- 7) Nancy's Time Card
- 8) Adjournment

I. Call to Order:

Al Peloquin called the meeting to order.

II. Public Hearing:

Katie Lavelle: The last time Katie was present for a meeting all Special Revenue Accounts had been discontinued and now just working out of a revolving account. In front of the board Katie handed out a Fiscal 2016 report that highlights all the ERB expenses; for the most part payroll, \$500.00 and an additional \$260.00 to Civil Site Engineering, all this financial information is laid out in the accounting software print out. For the revenues Aggregate and Stratford Village have paid \$500.00, that's all there is for revenues for this year, Keystone has paid for 2015 but hasn't made any deposits for 2016. Tractor Supply, Briley Pond Village can be closed however still remain for historical data. ERB's revenue balance as of 11/17/2015 stands at \$13,480. **Mary Krumsiek:** questioned, "Do they get money back when they're done?" **Al Peloquin:** second the question, "In regards to the engineering fees these developers have been paying?" **Katie Lavelle:** In the Rules and Regulations these are fees and they are non-refundable, you have a Revolving Account established and that's where these remaining funds go. **Al Peloquin:** Once the developer is complete do we take these funds and put them in the General Fund? **Katie Lavelle:** No, you have a revolving fund and they stay in the revolving fund. **Al Peloquin:** The \$1,000.00 fee that we charge for the Application Fee that goes back into, not the Revolving Account? **Katie Lavelle:** Everything is revolving unless you have a special circumstance where there is some kind of extraordinary cost where you would be asking the developer for more money and those type of fees would have to go into a special account similar to an escrow account. **Tom Brown:** We've got \$13,000 plus, we don't need \$13,000... **Al Peloquin:** How do we eliminate some of this funding? **Katie Lavelle:** Maybe you want to consider coming down on some of your fees? **Anna Lewandowski:** I was under the impression, other than the application fee that stays here, if I gave \$100.00 because I don't know what it's going to cost me for engineering and \$70.00 is all that is used, I want my \$30.00 back. **Katie Lavelle:** That's not how this goes. **Anna**

Lewandowski: That was the impression and that was the understanding that I always felt that when we set up the additional account, it's not application fee, it's not the registration fee, **Katie Lavalle:** The fees we've been collecting are only application fees we haven't collected any numerous extraordinary fees **Anna Lewandowski:** But that's where this money is from, where is this \$13,000 from? Applications go into the General Fund. **Katie Lavalle:** No, it's all revolving, we haven't collected any extraordinary fees. **Al Peloquin:** We've extracted engineering fees, whether it may be for Site Engineering coming in and going up to the site and check things out **Katie Lavalle:** And that comes out of your "Revolving" maybe right now your permit fees are too high, we're asking people to pay \$1000.00 for application, \$500.00 for renewal and that's annually if they're active, apparently our costs are not "that" but in the way it's laid out in the "Regulations" these are fees and fees are non-refundable. **Leonard Mort:** I have always been under the assumption ever since this board was created that the engineering fees would be kept at a certain funding level for each and every project and when and when it got below a certain dollar value they would have to bring it back up to the topped value. **Katie Lavalle:** That's not in your regulations you would need to write that in your regulations... **Leonard Mort:** and when the project was done and the engineering was completed the engineering costs were deducted from that balance that they had in an account and the balance was written in a check back to the developer.... **Anna Lewandowski:** Which I think we did that for Tractor Supply **Katie Lavalle:** You need to visit your regulations and look at that and see what it says, if you want things to be refundable we can do that but you have a revolving account and a revolving account is for your fees and they're non-refundable they go in and you pay your bills out of that. **Tom Brown:** My understanding was the application fee was going to be held for a year, for that year... **Katie Lavalle:** Again, I don't know what you're understanding is I went through your "Rules and Regulations" I'm not going through with what happened in the past I'm going forward and I'm starting with your regulations and this is where we are.. **Tom Brown:** I thought that money would get put back into the general fund at the end of the year when we start with the new applications... **Katie Lavalle:** The "Revolving Fund" was established some years ago initially you had a special revenue fund it was like a donation account which isn't correct for these purposes and it may have been done differently at that time as well, when the town established the revolving fund the purpose of the revolving fund is so that your fees offset your expenses it's all contained in one account, so if you're saying you don't need this money which maybe that's accurate then your fees maybe too high and again if you get into a circumstance where you've encountered a situation where there's going to be an excessive fee you have a stipulation in your rules and regulations where you would charge more and that may need further looking into but that's the circumstance where we would take that money and that would be client's money it's not our money, it's not a fee, it's not an application fee or a renewal fee it's not our money so that would go into a separate account for that particular project and when the costs were complete and the project was done the client would get the money back but those are only in those extraordinary circumstances. **Tom Brown:** For the sake of argument; let's say half this money, (\$13000.00), we don't need; how do we get it to the town, to the general fund? **Katie Lavalle:** I would have to look into that... **Tom Brown:** I see no need to have this type of money. **Katie Lavalle:** I would have to look into that, it might just be a matter of transferring town meeting warrant article but I would have to ask the auditors to be certain of that before I'd say for sure. **Tom Brown:** I don't know how the other members of the board feel but I just don't see that type of money should be hanging around. **Katie Lavalle:** Right, and I know you've been working on the "Rules and Regulations" maybe there's a need for revision. **Al Peloquin:** I need to get back to the break-down basically of each developer, we do have an engineering fee of \$1000.00 that we charge each developer, the money that gets taken off the engineering account is just general, there's no specifics as to which developer it comes from. **Katie Lavalle:** Right, that's what the revolving fund comes from, it's like a pool of money; application renewal fees. **Al Peloquin:** But I need to go after that developer when it becomes below \$500.00; how do we know each developers account balance is? **Katie Lavalle:** You

don't need to worry, in a revolving fund you may have projects that go over and you have plenty of projects, as you can see, that go under and that's the purpose of the revolving fund and the funds take care of your costs and in fact they've done more than that. **Al Peloquin:** Then that's something we're going to have to look into with the rules and regulations if we want to try and change that to a little more specific in regards to the developer. **Katie Lavalle:** You would have to completely restructure it, you have to talk about different kinds of fees, any kind of fee you're asking for an application renewal, those are fees those are non-refundable because they're fees, that's what we take in like permit fees that's not refundable but if you want a refundable portion then you would have to break that up. **Tom Brown:** I thought we did, I thought we had the application fee as one fee, the engineering fee as a separate fee, I could have sworn we voted on it... **Katie Lavalle:** This may have been done by word of mouth but it's not written. **Tom Brown:** We voted on it, we said if it got below the \$500.00 **Anna Lewandowski:** If we didn't put it into our Rules and Regulation, I was under the same impression that one fee was for the town, maybe we shouldn't call it a fee... **Katie Lavalle:** There is another provision in your rules and regulations, there is a piece in there for those circumstances where it's a \$5000.00 fee, you may want to change how that's written, this is what we're telling people and our records have to match and that's what we've gone through and done so if you want to change that then we have to change what we do. **Mary Krumsiek** Special Activity Fund **Katie Lavalle:** And a "Special Activity Fund" essentially would not be our money it would be the client's. I have plenty of these with the planning board we have many escrow accounts and that's money that the town has in a special fund, it's not general or revolving it's an agency fund, it's not even revenue, it's not a grant or donation, it's an account where the town holds some ones money, it's actually a liability on our balance sheet. **Tom Brown:** Maybe we should rewrite it Mr. Chairman? Get that clause in there...I was always under the impression any of the engineering fees when they're not used and the project go closed out if it was remaining they got their money back, if my memory serves me correctly we did it went to your rules and regulations and it says nothing about that, you're telling people they're paying a fee that's non-refundable that's town money, if you want to change it and that's your understanding is then that's something you need to discuss amongst yourselves. **Tom Brown:** We will work on it I'm glad you brought that to our attention. **Anna Lewandowski:** On the "Special Activity Fund" page it says \$2500.00 it should be \$250.00, cross off a zero. **Mary Krumsiek** It says \$5000.00 it should be \$500.00. **Katie Lavalle:** And then again that would be in addition to, I have no record of anything of additional being collected from people you've only collected application fees and renewal fees, and those, based on the rules and regulations are non-refundable so if we do collect something different that's how you're going to write in your regulations and we also have to make sure that it's communicated correctly, currently the town clerk is taking in the deposits and they work using different accounts, I've got it so their just using the revolving so if something different were to come in that would need to be flagged in some manner someone would need to let me know so I can create an account if we don't have one already so we should have money set aside separately, certainly things can be done we just have to go through the correct channels make sure we've documented in the rules and regulations and then we're carrying forward how we're going to do it procedurally. And if you have any questions at any time, I went through this thoroughly, on the spread sheet, when you say, where's the \$13,000 coming from? You can see going back to fiscal "07" where all the revenues came in who they came in for and where all the expenditures... **Al Peloquin:** As Tom brought it up from 2007 those funds have been just hanging around, we don't really need them, we only need a minimal amount and any amount after that can be transferred to a general fund? **Anna Lewandowski:** I think we would have to do it every year **Al Peloquin:** Once a year, we'll work on that **Anna Lewandowski:** we can discuss this at the next town meeting we need to transfer this into the general fund. **Katie Lavalle:** I would need to check on that but certainly if that's the way it works then I would say yes you could do that every year as long as you have the funds and you wanted to do that. **Al Peloquin:** Maybe

after the period and once we collect revenue after that particular time we can then make a transfer afterwards just around the fiscal year. **Anna Lewandowski:** How do the other revolving funds work, do they have escrows this large?

Katie Lavalle: There all over the place, some cover what they need too but generally they have balances.

Anna Lewandowski: When you have a town meeting there's probably about 20 revolving accounts that they have approve, do they have balances? **Katie Lavalle:** Some of them aren't even operable, some of them are there with an intention of being used but haven't yet, some of them are getting up and running like the Bark Park that one still has a special revenue fund that they can deplete first as the revenues go into their revolving they have a process to get rid of that, others generally carry a balance or they work the way they need to so you have the revenues that pay your expenses, generally they carry a balance. In the town meeting warrant there is an expenditure limit you're exceeded by the amount that's on the warrant.

Al Peloquin: Does anyone have any further questions for Katie? Thank you for the update, it looks like we have a little work to do in front of us. **Leonard Mort:** It was my impression for a long time that each one of those engineering accounts was a revolving account where we had absolute control over on how much was spent on each particular project and when it got to a certain los balance that they would have to bring it back up to \$500.00 or \$1000.00 whatever the total is and it would have to remain there and when the project was done the engineering was brought in and signed off and the developer was paid the balance. **Katie Lavalle:** and that is how we run the planning board accounts and certainly something you could implement and it was being done that way but there weren't any regulations to say that we're taking money that is the town's money and we're giving it back to me based on what is out there available for the people that are filling out the applications and saying it's non-refundable we're giving money back that is technically the town's money, so if that's how we want to do it, I'm not saying it's the wrong way of doing it, it's just not documented and we need to make it clear to applicants and those of us who are going to carry out the administrative end of it. And I will look into if there is anything that we can do with the balance and what the auditors would say about that. **Entire Board:** Katie thank you, we'll be in contact.

III. Jessica J. Drive Extension

Al Peloquin: Jessica J. Drive Extension; a possible 20 lot development with Baggie Realtor; basically just showing what the lay out is and where the lots are at this particular time, so let's let that go and it will need to go through with the planning board we'll probably have to take a look at it in the beginning of the year; January, February **Anna Lewandowski:** They are running into some problems with the extension, they're encroaching on private property and there is a lot of earth disturbing, they use to dump a lot of stumps, it was a dump site. **Leonard Mort:** What we'll have to do is wait for the planning board to see them and it should definitely come to this board; I'll call them up and get them in here. The next step from the planning board is the earth removal board. **Al Peloquin:** As Anna indicated; if they were having some earth refuge problems before then it's obviously something we need to get involved in, again if its causing the neighborhood the current residency that's going to be in there. **Tom Brown:** There was stumps, there was debris it looked almost like a trash site, cars and trucks backing in there dumping; just to let you know what I saw years ago. **Al Peloquin:** We'll have to get them in here and discussion and what their plans are in regards to the planning board and then we can kind of monitor as they go through.

IV. Earth Removal Board Website and Email Access:

Discussion on Earth Removal Board Website; has now since been updated including email access.

V. Rules and Regulations

Al Peloquin: Last month we have gone through this briefly. By Laws & Rules and Regulations. Katie has enlightened us about what we have to do or need to do if we want to change some of these things for accounting purposes which I seem to

think that we do. **Leonard Mort:** There is no reason why that the engineering money should go into a general fund when it's a balance, **Mary Krumsiek:** Questions the "Special Activity Fund" **Leonard Mort:** I would make a suggestion; for each account should have an engineering fund account. **Al Peloquin:** Suggested by the board; get rid of the "Special Activity Fund" and instead of the \$5000.00 fee place it at a \$1000.00 fee and call it an "Engineering Fund". **Leonard Mort:** Call it an "Engineering Fund Account or Engineering Funding Account" that way there is no question what it's for, entire board agrees on "Engineering Funding Account". **Al Peloquin:** Before any construction or excavation activities begin, the Applicant shall pay (entire board agrees on \$1000.00). **Leonard Mort:** \$1000.00 top and when it gets down to \$500.00 they have to replenish it to \$1000.00. (The board agrees on \$500.00). **Anna Lewandowski:** Observing the last sentence to the "Special Activity Account", any excess amount in the amount attributed to the project including interest accrued shall be repaid to the applicant or the applicant's successor. **Leonard Mort:** So that account is a revolving account, each one is a revolving account... **Anna Lewandowski:** It should be set up for each individual account, not a joint account for the Earth Board. **Leonard Mort:** So Cobblestone would have their own revolving account, Strafford Village would have their revolving account and so on... **Anna Lewandowski:** The only thing we're changing on there is the figures. **Al Peloquin:** So we're renaming the account? I think Katie understands that she just needs that information from us to move forward so that she can report accordingly as to the way we tell her what we want to do. **Tom Brown:** On the last couple of words; "shall be repaid to the applicant or the applicant's successor in interest, instead whatever remains in the account, no interest or fees? **Mary Krumsiek:** Questions; I don't think you can do that if it's an escrow account I think you have to repay all interest. **Leonard Mort:** Suggests for the Town Counsel to have the final word and approve it. **Leonard Mort:** The Town of Millbury doesn't pay interest on accounts so why should we have to pay interest on these accounts? It's in a Town account not a bank account. **Anna Lewandowski:** Therefore on the second to last sentence cross off, "including any interest accrued" and the last words, "shall be repaid to the applicant or the applicant's successor." Then we can state; "each individual developer will have their own account. Each one is separate, it's not into a revolving account. **Leonard Mort:** If we have 37 projects going so we would have 37 Engineering Funding Accounts and that's the way it should be. (The Board agrees). **Al Peloquin:** This was the situation when Brian held the reins at the time but then Katie took over and she wanted to read what was going on with the Earth Removal she identified this (special activity funds) form here saying that this was a special account and everything else was a revolving account when in fact this was our engineering account and we never really changed to reflect that. **Anna Lewandowski:** (to review) New Name: "Engineering Funding Account", first line changing \$5000.00 to \$1000.00, ½ of that will be \$500.00, the second to last line, "any interest accrued" is going to be crossed off, last line; "in interest" is crossed off, and I added each developer will their own account. **Leonard Mort:** Are we taking off, "shall be repaid to the applicants successor"? The board agrees; "Shall be paid to the applicant, leaving out applicants successor and instead "If the original applicant is no longer available the funds will revert the Town of Millbury's General Fund after the following fiscal year. (Entire Board Agrees). **Continuing discussion #2 PLANS SUBMITTED WITH APPLICATIONS**, all dates need to be updated reflecting 2016. "Wetlands" On & Off site maximum 500'- is to be added, **APPLICATION FEES**" update the years, "FEES FOR INCOMPLETE APPLICATIONS" The board agrees that; "the applicant shall be required to pay an additional non-refundable application fee of \$100.00" it's a penalty for not being sufficient within the application guidelines and its being corrected and we can still waive that fee if it is determined that the developer made an error in the process, "MONITORING WELLS" private or town? All wells should be certified reading April 1st to November 30th of each year. By-monthly and/ or as determined by the Earth Removal Board. (The board agrees this will be added in), "VIOLATIONS" #9 a. (after consideration the Board is in agreement that it should be stated) the Earth Removal Board Bylaw will result in a verbal then written violation of \$100.00 per day per violation and immediate

review by the Earth Removal Board & b. Violations of Permits, the Rules and Regulations of the Earth Removal Bylaw can result in penalties up to a "STOP ORDER" and/ or revocation of permit. Section 12 "APPEAL TO CHANGE OR MODIFY PERMITS" a. Once a permit has been issued, the Permit holder has sixty (60) days to appeal for a change or modification to any condition(s) assigned to that permit for a fee of \$100.00. (The board agrees this will be added in).

VI. APPROVAL OF LAST MEETINGS MINUTES; Tom Brown made a motion to approve the minutes, Anna Lewandowski seconds, rest of the board all in favor.

VII. Nancy's Time Card: Approved.

VIII. ADJOURNMENT: Leonard Mort: Made the motion to adjourn? Tom Brown second the motion, all were in favor.

Adjournment
At 8:30 PM

Next Meeting January 19, 2016 @ 7:00 PM (December 15th Closed for the Holidays)

Possible Topics:

- 1.) Revisit Bylaws and Rules & Regulations



TUESDAY, Nov. 17, 2015

Signature of Attendees and Approval for Minutes

Al Peloquin - Chair Person: [Signature]

Leonard Mort - Vice Chair Person: [Signature]

Tom Brown - Member: _____

Mary Krumsiek - Member: _____

Ann Lewandowski - Member: [Signature]

Nancy Young - Secretary/ Assistant: _____

Comments: _____

Multiple horizontal lines for additional comments.

MILLBURY, MASS
16 FEB 18 PM 12:04
MILLBURY, MASS
TOWN CLERK