

**OFFICE OF SELECTMEN  
6 HOLLAND STREET  
PO BOX 139  
MOULTONBOROUGH, NH 03254**

Selectmen's Meeting

August 15, 2013

**MINUTES**

Selectmen: Joel R. Mudgett, Jonathan W. Tolman, Edward J. Charest (absent with prior notice), Christopher P. Shipp, Russell C. Wakefield; Carter Terenzini, Town Administrator; Hope K. Kokas, Administrative Assistant.

**I. CALL TO ORDER:** Joel called the meeting to Order at 7:00 P.M.

**II. PLEDGE OF ALLEGIANCE**

**III. REVIEW / APPROVAL MINUTES:** Joel reported that he received a letter from Diane Bartlett asking that the minutes of August 1st be amended to reflect what she said in her letter that was presented to the Selectmen on that date. Ms. Bartlett's letter stated, "You may also wish to consider that if at a public hearing you choose to remove him from office and he appeals your action, we have been informed that removal of an elected official from office is a very serious matter and if the decision is reversed on appeal, there is precedent for the defendant being awarded his court costs." Russ Made the Motion to approve the Selectmen's Minutes of August 1, 2013 striking, "*She said they will appeal any decision to remove him from the Planning Board and if the court finds in their favor, the Town may be forced to pay any legal fees incurred.*", and add her statement from her letter as noted, and to approve the August 8, 2013 as written. Chris Seconded the Motion. The Motion carried unanimously.

**IV. CITIZEN INPUT:** 1) Paul Punturieri asked the Selectmen for the name of the petitioner to request the public hearing to remove Josh Bartlett and Judy Ryerson from the Planning Board. Joel replied that they had heard from a number of people. Russ asked the Board if they could reveal the person's name who initiated the petition before there was any discussion by the Board. Joel replied what he saw was paperwork from Town Counsel and he didn't see an actual petition. Russ said he thought he did. Joel said that after the decision had been made, people came to him saying they weren't surprised, although not happy about how it occurred, but it was typical of the Town and how the Board was doing things. He added that although he didn't know all of the names, those that came to him wanted to remain anonymous, as they were concerned that they might need to go before the Planning Board in the future. Chris asked and learned that the Town has a policy requiring formal complaints about employees must be put in writing, of which they have the right to read the written complaint. He thought that volunteers and elected officials should be treated the same. Jon said this was on his "radar screen" before the Board had acted. After that Planning Board meeting, he was spoken to by several people in Town that were upset about the decision. Jon said he talked to the Planner after the meeting about how the board members conducted themselves at this public hearing and during other applications and decisions. Jon stated that the Selectmen were given the information about the RSA and asked if they wanted to pursue this. This is when they decided as a Board that they thought there was enough to warrant the public hearing. Mr. Punturieri said that at the Planning Board's meeting of August 14<sup>th</sup>, that there is a complete contradiction of what they heard then and what is being said at this meeting. Mr. Punturieri asked when the Selectmen actually held deliberations and at what public meeting they voted to send the Town Administrator and Town Counsel to meet with

Mr. Bartlett and Ms. Ryerson. Joel replied that the meeting was with Town Counsel and couldn't confirm if it was an actual deliberation, but they all told both that they wanted them to go forward and talk to the two members. 2) Diane Bartlett asked if Town Counsel drafted the charges against her husband. Joel replied that Town Counsel was involved in it. Mrs. Bartlett said that at last night's meeting, Russ told them that the actual wording of the letter her husband received, which was signed by the Selectmen, was from one petitioner and that person had sent in a written request to the Selectmen. She added that she is concerned about the discrepancy of information being received. She found it disturbing that based on a citizen's individual complaint to members of the Selectmen, against volunteers/elected officials, and then the Selectmen met in a non-public meeting and decided that these concerns were at a level to ask people to resign, before going to the Planning Board or meeting during a public meeting with the individuals. Mrs. Bartlett complained that the Selectmen are protecting those who made the complaint. 3) Josh Bartlett said he was confused by Russ' statement from last night's meeting when he said that he'd seen a letter from one individual and that he directed the Town Administrator to show the letter to himself and Ms. Ryerson. Mr. Bartlett said his confusion comes from being told now that there is no such letter and that the Selectmen can't disclose who the individual might be. He expressed his concern that one person could write a letter, which is being kept in secret and protected, bringing about such an action. Mr. Bartlett said his reputation is being smeared and he is spending money on legal fees, which he thought was the same for Ms. Ryerson. Russ said that the document that Mr. Bartlett received notifying him of the hearing is not verbatim, but very close to the document the Selectmen received on the afternoon of the non-meeting with Town Counsel. He added they understood what it said and he was under the false assumption that Mr. Bartlett had received more than that. Mr. Bartlett asked again if he was entitled to receive this same letter. Russ replied that the letter Mr. Bartlett received is not exactly the same document the Board received, but it outlines all the same concerns as the letter he received. Mr. Bartlett said that isn't what Russ said at last night's meeting, but that it was word for word, and that Russ had directed Carter to provide him with a copy. When he went to Administration to ask for a copy he was told that no such document was available to him. Russ said he didn't realize that there wasn't something else. He added that reading the Selectmen's minutes of August 1<sup>st</sup>, that he distinctly asked Carter if Mr. Bartlett had received all the same documents and information that the Selectmen did and was told that, yes, without going too much into it. At that meeting, Russ recalled that Mr. Bartlett's response was that he didn't know anything about it, but in fact knew as much as the Selectmen. Mr. Bartlett said that Russ was contradicting himself. Russ replied that he wasn't, as Mr. Bartlett received in the letter in essence the same information the Selectmen had received and discussed. Russ felt that Jon said it very clearly. He added that there are a lot of people in Town who aren't going to show up at a meeting like last night's and aren't going to stick their necks out for their concern about having to go before the Planning Board. Although they won't speak publicly, there are a lot of people who are disturbed particularly about the decision on Bear's Nest and how it was handled. At last night's meeting the Planning Board agreed that mistakes had been made and they wouldn't happen again, but it was the process that was the problem. Mr. Bartlett reminded Russ that during that hearing, they had both voted the same way, and asked if Russ was also at fault for the bad decision. Russ said that he didn't think it was a bad decision and he voted the way he thought was proper and he didn't abstain. Joel expressed caution that there would be the public hearing about the issues and tonight wasn't designated as such. Chris repeated that Mr. Bartlett should be able to face his accusers which is part of the preparation, knowing who brought the charges against him. If anyone of the Selectmen were accused of something, the first question he would ask is who is making the accusation. Jon said that at this point the accusers are the Board of Selectmen, as they all signed the letter. He said he is approached all the time by people who

don't want their names known and then as a Selectmen, he acts on their behalf by gathering information and investigating the problem. Sometimes it is something that comes before the whole Board and is deliberated on and nobody knows who brought the initial complaint. Five Selectmen signed the letter based on looking at the information that it warranted having a hearing. 4) Diane Bartlett said that last night Russ said that the Selectmen were not the accusers. Russ said that he believes that the Selectmen are not the accusers. Mrs. Bartlett said that what Jon said made sense to her as the letter was signed by the five Selectmen. The Selectmen listened to people in Town without talking to anyone in the Planning Board about the hearings; the Board decided that there was enough information to ask two people to resign or face a public hearing. She added that the Selectmen will also be sitting on the hearing, people who are the accusers, will be making a decision as to whether there is cause for removal. Mrs. Bartlett said this doesn't seem fair to her. 5) Peter Jensen said he hopes that at the public hearing, the Selectmen will decide as the Planning Board decided last night that this isn't the right thing to do, removing people from the Planning Board. Mr. Jensen said that it was a difficult situation, as chair of the public hearing, he thought he had made some mistakes, but he wasn't called in or accused of making mistakes. He felt that not one person at this meeting, whether as a professional or a volunteer, can say that they've never made any mistakes. Mr. Jensen said that he thought this was the wrong way to deal with mistakes and the right way is to counsel people on what was wrong and how to change it. It is the positive way to help people make changes to do a better job. As a member of the Planning Board, Mr. Jensen said he asked himself what he could have done differently. The real problem is that there isn't any discouragement for violating the ordinance. This is what needs to be fixed, along with the procedural problems. The Selectmen's public hearing won't fix the problem on Red Hill. Mr. Jensen said that this action won't fix the problem and will discourage people from volunteering. Joel stated that this wasn't an easy decision for the Selectmen and they would've preferred not to have to do this. He added that he has known Mr. Bartlett for a long time and it isn't a good feeling being on the other side. The Selectmen are in a tough position and that is why they called for the public hearing to see what could happen, see if mistakes were made, see if anyone would be willing to admit that they'd made mistakes, and what can and can't be done. Joel said like so many things in this Town, this is being blown out of proportion. 6) Steve Maguire questioned how this all occurred, as they first heard it was a petition, now hearing that it was one person initiated the complaint and the Selectmen decided to discuss this in a non-public meeting. The Selectmen had Carter and Town Counsel call both individuals into a private meeting asking if they wanted to resign or face a public hearing. He questioned why the Selectmen didn't first go to Mr. Bartlett or to the Planning Board to state their concerns about the proceedings of the public hearing. He asked and learned that there are classes for board members. Mr. Maguire said this is very confusing to the public. 7) Paul Punturieri pointed out that the Selectmen don't have to have the public hearing, and they could then talk with the Planning Board and those accused. He felt it was unfair for them to say that the Selectmen's actions are based on the public's complaints, this is cryptic and lacking information. These people were asked to resign first and it was expected that they would do so quietly. Mr. Punturieri thought this was disgraceful. 8) Clelia MacKay felt that the people who violated the ordinance should be the ones who are in trouble. Joel responded that unfortunately there are people who do as they please and don't follow the rules. He added that the issue before them is how it went through the Planning Board. 9) Mr. Bartlett asked again for confirmation that that there wasn't a written citizen's petition. Russ responded that the letter he received has the same accusations that the Selectmen received, but he is unable to give out the name of the author. Mr. Bartlett felt that the Right to Know law had been violated. 10) Mrs. Bartlett asked if the letter was anonymous. Chris said he felt that it can't remain anonymous. 11) Linda Punturieri thought that there were errors in the procedure and asked if they can be

fixed now. Russ replied that there were errors made, but these are out of the ordinary. He added that there are no fines to discourage this and the tower is still in place. 12) Mr. Bartlett said that malfeasance is a criminal charge. He asked if the same would happen if there was a charge against the Selectmen. Russ said that it would be the same. Joel commented that he saw the paper work with Town Counsel. 13) Peter Jensen said he hoped the Selectmen will listen to the Planning Board's decision and the result will be something positive. 14) Mrs. Bartlett asked who would speak on behalf of the Selectmen. Joel said that Carter will present the information with the advice of Town Counsel. He added that there are the Planning Board minutes and tapes of their meetings. Chris said that if there is an issue with a board/committee member, there should be a training for that person to attend. 15) Nancy Wright asked if the name(s) will be disclosed at the public hearing. Joel replied that people spoke to him before and after the hearing. Jon said he too was spoken to before and after, and he reviewed the tapes and minutes. Russ said this was initiated in a meeting with Town Counsel and there is no document signed by people. Chris repeated that they should follow the employee written complaint process.

**V. NEW BUSINESS:**

1. Review for Approval: Payables/Payroll Manifest & Signature File:

<b>DOCUMENT DATE</b>	<b>DOCUMENT</b>	<b>MAP/LOT#</b>
8/7/13	Cease & Desist Order	164-022
8/7/13	Cease & Desist Order	072-004
8/7/13	Cease & Desist Order	023-014
8/15/13	Yield Tax	116-002 & 116-006
8/15/13	Application for Construction of Driveways	167-004
8/15/13	Notice of Intent to Cut	124-001 & 124-004
8/15/13	Payables Manifest & Signature File, \$723,503.67	N/A

Joel read the file for August 15, 2013. Russ Made the Motion to approve the Payable/ Payroll Manifest & Signature File for August 15, 2013 as written. Chris Seconded. The Motion carried unanimously.

2. Review for Approval: Setting Date of Volunteer Barbecue: Joel reported that Camp Robindel is booked through September 14<sup>th</sup> and thought that it would be open on the 21<sup>st</sup>. However, he would like to begin shutting the camp down by then. He asked if another location could be found. Russ suggested the Lions Club and asked Carter how many to expect. Carter said approximately 85 people which includes staff. Russ said he will check to see if the cooking facilities at the Lions Club can accommodate that number of people. Carter said he'd like to set the date soon in order to get out the invitations and hoped for a decision next week for the location and date.
3. Review for Approval: RSA 43:14-a Hearing Date Re: 970 Whittier Highway: Joel stated that this is about the Adele Taylor property. Carter reported that the Conservation Commission and Planning Board have given their approval to proceed with the Town's proposed purchase of the Adele Taylor property. Carter asked and the Selectmen approved of holding public hearings for September 5<sup>th</sup> and the 15<sup>th</sup>, with a vote on the 29<sup>th</sup>. He added that the final decision will be made by the voters at Town Meeting.
4. Review for Approval: Deep Woods Lodge Encroachment: Joel reported that this has been an ongoing issue. A complaint was made by one property owner against another,

and it was found that the complainant's fill extension for his leach field was encroaching on Town property. The property owner has proposed donating \$600 to the Conservation Commission. Chris said it didn't make sense to tear out the leach field until it fails, and then require they comply with the boundaries. Chris questioned the property owner's offer to plant trees on the strip of land in contention, adding that this would prohibit public access to the rangeway. Chris Made the Motion to authorize the Town Administrator to work with Town Counsel on a maintenance easement with the owners of 33 Deep Woods Lodge, Steve and Carolyn Schulten, requiring that the easement be abandoned upon failure of the leach field, a donation of \$600 be made to the Conservation Commission, payment for legal fees, and to decline the offer to plant trees in the subject area. Russ Seconded. The Motion Carried Unanimously.

5. Review for Approval: "Open Hours" for Colby Road Facility: Carter provided the Selectmen with a draft letter to Steven Tintle regarding the Colby Range Road, along with a proposed sign that states "Colby Range Road Facility, Open 6 a.m. to 10 p.m., No Overnight Parking, No Lifeguards on Duty – Use at Own Risk, No Launching or Recovery of Motorized Watercraft, Per order of the Board of Selectmen. Joel suggested that they needed to look at the rangeway ordinances. Chris thought people should be required to have a WMF/Beach sticker in order to access the rangeways. In looking at the proposed sign, Chris suggested and the Selectmen agreed to remove one of the two Town's seals, and making the one larger for better visibility. Russ Made the Motion to approve the letter to be sent to Mr. Tintle and the proposed sign as edited. Chris Seconded and the Motion carried Unanimously.
6. Review for Approval: Intent to Bequest Funds Re: Moultonboro Neck Pathway: Carter reported that the Town received a letter from Robert J. Anderson who would like to bequeath a portion of his estate to maintain, repair and extend the Moultonboro Neck Pathway. In his letter he said that his passion for running and his use of the Pathway has lead him to make this offer. Clelia MacKay asked and learned that Mr. Anderson wanted to bequeath a portion of his estate towards the Pathway. Ms. MacKay asked the Selectmen what happened to funds that were raised to repair and add on to the Pathway, suggesting that the Town spent the money budgeted. She learned that because the state would not give the permit the funds couldn't be held over for the next year, and therefore went into the general fund. Joel said that if the Town has a contract then the money is appropriated. The excess or unspent can't be spent on anything else and is used to offset the tax rate. Chris thought it was a very generous offer. Jon reminded everyone the purpose of the fund balance, and if the money is not spent or carried over to the next year, such as the Tax Collector's Computer program for \$100,000, the Town had to raise the same \$100,000 and appropriate it for the same reason for the next year, and any excess is applied to the tax rate. Joel added that any funds donated would have its own trust fund. Jon reiterated that this donation would be used for the general maintenance, repair and extension of the Moultonboro Neck Pathway. Russ Made the Motion to accept Robert J. Anderson's donation to bequeath a portion of his estate for the general maintenance, repair and extension of the Moultonboro Neck Pathway. Chris Seconded and the Motion carried Unanimously.
7. Review for Approval: Amendment to Noise Ordinance Re: Fireworks: Carter reported that he and Police Chief Wetherbee worked on the Noise Ordinance to include fireworks and prohibited times, between the times of 10 p.m. and 7 a.m. Sundays through Thursdays, and 12 a.m. and 7 a.m. Fridays and Saturdays. They felt that using sunset to sunrise was somewhat vague and wanted to be specific. Carter added that a violation could result in the confiscation of any remaining fireworks. Joel added that the ordinance

is being amended due to a citizen coming to them and complaining, along with other complaints, especially from veterans. Chris wondered how this would go over during New Year's Eve. Carter acknowledged this, but both he and the Chief felt it was better to be clear and state the prohibited times. Jon thought it was a good first step. Hollis Austin asked if sparklers would be included. Carter said that they are fireworks based on the definition used, 27 C.F.R. section 555.11 or as defined by RSA 160-C:1. Russ thought common sense will be used. Joel asked for a public hearing and asked Carter to schedule it and put the amended ordinance on the web for review.

8. Jon learned that Aubuchon Hardware through the Benjamin Moore Paint Company, has a program to donate \$1 per every gallon of Benjamin Moore Paint sold towards a community restoration project. This will be referred to the Heritage Commission and the Historical Society. Hollis Austin suggested that this might be suitable for the Grange building and Jon agreed. Joel asked if shrubs are being planted at the Playground Drive as Aubuchon Hardware has disease resistant elms which the owner might donate. Carter replied that DES required plantings and have been budgeted.

#### **VI. OLD BUSINESS:**

1. Personnel Amendment Re: RIFs & RIGs: Chris and Russ both said they were happy with the changes made. Carter pointed out that in the draft version, the Appeal process wasn't highlighted, but wanted the Selectmen to see that during an appeal the employee shall continue their employment during the process. Russ Made the Motion to approve the Personnel Manual Amendment Re: RIFs & RIGs and authorize the chair to sign. Jon Seconded. The Motion carried Unanimously. Joel asked how long before this would go out to employees. Carter said within 10 days along with an updated handbook, which employees will be asked to sign.

#### **VIII. OTHER BUSINESS:**

1. Board & Staff Liaison and Update Reports: Jon reported that the CIPC has everything posted for public hearings on August 22nd and August 27<sup>th</sup>.
2. CIPC Minutes, July 25, 2013, July 31, 2013, August 5, 2013: Acknowledged.
3. Trustees of the Trust Funds Minutes, July 31, 2013: Acknowledged. Jon pointed out that Paul Ardito is the new Chair and Paul Daisy is the new Trustee.
4. Zoning Board of Adjustment Minutes, August 7, 2013: Acknowledged.

#### **IX. CORRESPONDENCE:**

1. Time Warner Cable (2), July 31, 2013 & August 1, 2013: Joel reported that TWC will be converting additional analog channels to digital format, which might require people to obtain additional boxes or hardware.

- X. **CITIZEN INPUT:** 1) Hollis Austin asked the Selectmen the cost for the volunteer barbeque and how it is funded. Carter reported approximately \$1,250 for food and gifts. Joel added that it is budgeted and paid from a separate account. Mr. Austin asked how long had the Deep Woods encroachment been going on and how long has the Town known about it. Carter said the Town learned of the problem about 120 days ago. Mr. Austin asked who inspected the leach field. Carter replied that this is the responsibility of the State of NH and a survey isn't required. Carter reported that both encroaching parties have been very cooperative to resolve the matter. Mr.

Austin asked if other problems exist. Joel didn't think it was likely and this is a rare occurrence. Carter repeated that the state doesn't require a full survey. The Town also does not require it for building permits, as it can be very costly. Mr. Austin asked if the Town has a full map of the rangeways. Joel said that work was done many years ago by Jerry Hambrook and his son knows some of this information. Russ said that the widely used rangeways are known.

**XI. NON-PUBLIC SESSION:**

- XII. ADJOURNMENT:** Chris Made the Motion to Adjourn. Jon Seconded the Motion.  
Motion Carried Unanimously.  
Joel adjourned the meeting at 8:51 p.m.

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Approved

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Date:  
Respectfully Submitted  
Hope K. Kokas, Administrative Assistant