

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

Selectmen's Meeting

November 20, 2014

MINUTES

Selectmen: Jonathan W. Tolman, Chairman; Joel R. Mudgett, Paul T. Punturieri, Christopher P. Shipp, Russell C. Wakefield; Carter Terenzini, Town Administrator; Hope K. Kokas, Administrative Assistant

- I. **CALL TO ORDER:** Jon called the meeting to Order at 7:00 P.M.
- II. **PLEDGE OF ALLEGIANCE:**
- III. **REVIEW / APPROVAL MINUTES:** Jon stated that the minutes for November 6th needed to be amended, New Business, page 4, item #6 and should read *Paul maintained his Motion and Jon Seconded*. Chris asked to also amend the November 6th minutes, page 2, New Business, item #2, after ...Police Department has used for years, adding *...and he would be in favor of a policy that addresses distance versus residency, and would rather see "circumference" considered instead of residency*. Paul asked to amend the same section, striking, *"...for out of town towing companies"* and adding *...based on resident as owner of the business vs. Moultonborough based business to be fair*. Joel Made the Motion to approve the Minutes of October 16, 2014 Non-Public, October 31, 2014, & November 6, 2014 (2) Public & Non-Public Minutes and November 13, 2014 as amended. Chris Seconded the Motion. The Motion carried Unanimously.
- IV. **CITIZEN INPUT:** 1) Joe Cormier, referring to last week's meeting on the unmerger of involuntarily merged lots, and the recommendation of staff to require a survey of the original four lots, asked if the Selectmen were going to pursue this. In addition, he asked if there is justification to require the owner to survey when the lots were merged by the Town involuntarily. Jon replied that he did not think there was any justification to require a survey and voted as such. He added that the RSA requires that the Selectmen approve or deny any application to unmerge involuntarily merged lots. He added that the Tax Collector in her research found that in 1968 the Town was billing for four lots. Mr. Cormier stated that this law sunsets on December 31, 2016.
- V. **NEW BUSINESS**
1. **Review for Action: Consent & Signature File:** None.
 2. **Review for Action: CIPC FY 2015-2020 Report:** Jon reported that during last week's work session, the CIPC Chair, Jordan Prouty and committee member Josh Bartlett attended to review the CIPC report. Paul Made a Motion to accept the CIPC FY 2015-2020 report based on the upcoming budget process. Town Planner, Bruce Woodruff said that the statute states that the CIP report is simply an aid. Joel questioned if the word *acknowledged* should be used in place of *accept*. He added that the CIPC charge states that the Selectmen will accept completely or in part, which he feels the Board can't do until after the budget process. Paul amended his motion to acknowledge the CIPC report

pending the upcoming budget process. Russ Seconded and the Motion carried Unanimously.

3. Review for Action: Heritage Commission, Mark Borrin, Alternate Resignation: Jon reported that in Mr. Borrin's letter to the Selectmen, he is resigning due to his personal responsibilities. Joel said that the Commission is fully seated, as this is an alternate position. He Made the Motion to send a letter to accept his resignation with regret, and thank him for his service. Chris Seconded. The Motion carried Unanimously.
4. Review for Action: Disclosure of An Actual or Appearance of Conflict, Form #1: Jon reported that Highway Agent, Scott Kinmond has submitted form #1, as he has leased his equipment to the Town for road maintenance and is receiving a financial interest. Joel thought that the financial interest wasn't substantial enough to be deemed likely to affect the integrity of the services which the municipality may expect from the employee or officer. Chris asked and Joel replied that Scott had leased equipment prior to being elected as the Highway Agent. Paul felt that Scott, doing so as an elected official, gives a bad perception. Chris thought the bigger issue was if he had done it prior to being elected. Joel again confirmed this. Chris asked what the actual amounts have been that he's charged the Town to lease his equipment. Paul added that the amount Scott reported, \$1,000 to \$10,000 is too broad. Jon suggested tabling this until they get more information. Paul asked why leasing is necessary, adding that the Town has plenty of equipment. Russ commented that Scott has been plowing for the Town even when he was the Chief of Police. Paul commented that Jon also plowed for the Town in the past, but now as a Selectman, he doesn't do this anymore. Carter asked the Board to recognize that there may be a limit as to how far back the records can readily be searched. The Selectmen agreed to look back as far as the present accounting records will allow. Paul Made the Motion to table this item in order to obtain more information and to check the RSA Scott quoted, RSA 231.62 to see if it is the correct RSA. Chris Seconded and the Motion to carried Unanimously.
5. Review for Action: Cease & Desist Order, 43 Watson Shores Road: Jon reported that the Code & Health Officer is requesting to serve this Cease and Desist order due to the property owner placing fill within 250' of the lake without a DES permit and building a shed, also without a building permit. Russ Made the Motion to approve the Cease and Desist Order for 43 Watson Shores Road. Chris Seconded. Paul thought the shed didn't look like a permanent structure. Russ said that the real issue is that they dumped the fill. The Motion carried Unanimously.
6. Review for Action: Proposal Re: Converting Staff Planer to Contract Planner: Jon said that Town Planner, Bruce Woodruff was in attendance. Paul thought that while Carter had made good points in his weekly report, he would be in favor of a temporary arrangement for a period of six months. Determine the number of hours Bruce would work in Town Hall and if staff are OK with it, then give it a trial basis. Paul thought the issue is face time with the public. Russ thought that if such an arrangement didn't work out, he felt certain that Bruce would be the first to say so. Jon asked Bruce if he would be willing to try this on a trial basis. Jon explained that Bruce has proposed to split the time at Town Hall and also work at home two days a week. Jon agreed that the big concern was the walk-in traffic. Bruce said that a trial basis addresses 2 out of the 3 concerns he originally stated. He added that his proposal was to become a contractor and to work home two days a week. This would be a budget savings of approximately \$20,500, which consists of fringe benefits, retirement, FICA, etc. Chris said that just a few months ago they felt that the office needed more staff as it was so busy. He thought that by doing this it would be a reduction of service to the Town. Chris added that Bruce would in

effect be retired, but still working and not paying into the retirement system. Russ felt that wasn't the issue. Bruce said that if his proposal was accepted he would retire with 27 years of paying into the retirement system. Paul thought with what he proposed the Town would still consider him a full time employee. Bruce again said this would address 2 out of his 3 concerns. Paul Made the Motion to approve a flex schedule for Bruce Woodruff, as a full time employee, with a schedule of two days working from home and three at Town Hall, and while not at Town Hall to provide support to staff via telephone or email. Russ Seconded the Motion. Carter asked Paul if the motion reflected that this is on a trial basis for six months, starting December 1, 2014. Paul amended his Motion to reflect this. Russ said that after 90 days the Selectmen will review this to see if it is working. Chris asked if this was to benefit the Town or the individual. Russ thought that the land use boards won't suffer. Chris reminded everyone that in 2009 the Town decided a full time planner was needed. Jon said that the concern is with the office dealing with the walk in traffic and called for the vote. 4 Ayes and 1 Nay (Chris). The Motion carried.

7. Review for Action: Transportation & Disposal MSW Contract, 12/1/14-3/31/20: Jon reported that Carter has worked on a better price. Carter said that the contract with Waste Management is due to expire on March 31, 2015, with a provision to extend for two terms of one year each. WMI proposed to replace the balance of the contract and extend it until March 2020. The current rate for tonnage of MSW of Demo materials is \$78.99 and is being reduced to \$70/ton. The rate per pull has been reduced by \$13.99 with a 4% cap based on the Town's preferred escalator of CPI-U for the Northeast Region. This will begin December 1 and the prices will hold until March 31, 2016. Paul Made the Motion to approve the Transportation & Disposal of Municipal Solid Waste and Demo with the Waste Management of New Hampshire, Inc. as presented. Russ Seconded the Motion. Chris asked if the Town were to change to single stream recycling would this be a problem with this contract. Carter replied that this is for MSW and Demo hauling only and would have no effect on any change in recycling. The Motion carried Unanimously.
8. Review for Action: Appointment of Special Counsel Re: Labor Counsel: Carter reported that the current labor counsel was hired in a different environment. Attorney Rice is aware and understands the reasoning why they are seeking special counsel that has more experience in labor unions. Paul questioned why in 2009 it was decided that Attorney Rice's experience was satisfactory. Carter replied that at that time they needed special counsel for a specific employment issue and not a union issue. She was working for the Town when the Police union issue arose and she was pressed into service on it. Paul said that the Selectmen's minutes of 2009 disagree with this. He asked why in 2009 Town Counsel recommended this attorney. Russ said that he agrees with Carter's recollection, that there was a personnel issue and this is when she was pressed into service. Paul said his concern is if the Town is getting the best advice from Town Counsel. Carter said that he reached out to other town managers and administrators for references. Discussion occurred about the various rates from each practice, the travel rates they charge and the various distances from Moultonborough. Chris said he has had experience with Attorney Mark Broth and was very impressed, and based on this he would hire his firm. Carter replied that his firm has the highest fee of all three, but felt all three practices were qualified. Jon commented that in the middle was Upton & Hatfield. Carter said he could go back to negotiate and see if Broth's office would consider reducing their fee. Paul Made the Motion to authorize Carter to negotiate fees and to come back to the Board at their next scheduled meeting, December 4th. Joel Seconded and the Motion carried Unanimously.

9. Review for Action: Setting of FY 2014 Tax Rate: Carter reported that the proposed tax rate is \$8.86 per thousand, which is a 1.96% increase, or up 17¢ from last year. He said that approximately 1,100 will have a lower tax bill, while 4,850 will see an increase between .1% to 2.5% and 200 will have an increase from 2.5% to 5%. The balance will have an increase above 5%. Carter further explained that Town Meeting approved a total of \$300,000 to offset taxes combined with the proposed \$540,000 from the Fund Balance as applied last year to attain the \$8.86 tax rate. He added that due to the Town's Fund Balance policy, this has kept the Town from going into the negative on cash balance while waiting for the state to set the tax rate. Paul Made the Motion to authorize the Finance & Personnel Director and the Town Administrator to use \$540,000 +/- of the Fund Balance to achieve a tax rate of \$8.86. Chris Seconded the Motion. Paul asked and learned that if the Town doesn't pay the county tax on time, there is a substantial penalty. The Motion carried Unanimously.
10. Review for Action: Health Insurance Opt-Out Provision: Jon explained that the opt-out provision for health insurance would change and what is proposed would be pro-rated on a bi-weekly basis, and based on 30% of a single plan only. Chris thought that this could be easily said in the first line to read...may receive 30% of the cost of a single plan. Carter suggested tabling this item and to work on it tomorrow, during the Selectmen's work session, November 21st. Joel so Moved, Chris Seconded. The Motion carried Unanimously.

VI. OLD BUSINESS:

1. Appointment of Special Counsel Re: Cable Franchise: Carter said that the proposed fee for each practice was pretty even. Discussion occurred about the various fees and each firm's travel fee policy and distance from Moultonborough. Paul asked if it was possible to partner with other towns. Carter replied that Moultonborough's contract is not in sync with surrounding towns' contracts. He added that there is a public hearing scheduled for December 4th to begin the process and he is intending to email surrounding towns to see if they are interested in attending and working together. Paul Made the Motion to hire DTC Lawyers. Russ Seconded. Carter said the motion needs to include the Town signing an agreement releasing them on conflicts with the Town and perhaps their promise to not practice against the Town. Carter said that he believed that DTC has represented 5 parties in Zoning Board cases. Paul amended his motion to include Carter's addition and Russ Seconded. Carter asked, in case DTC was not in agreement, who their second choice would be. By consensus the Selectmen agreed that the PretiFlaherty firm would be their choice. Carter pointed out that Attorney Puffer of PretiFlaherty had the least experience of all. The Motion carried Unanimously.
2. FY 2015 Health Insurance Plan(s) – Dental, Life & Long Term Disability: Carter reported that if approved, as of January 1, 2015, employees will have a 10% contribution for dental, life insurance and long term disability. Joel Made the Motion to authorize the Town Administrator to accept the 2015 HealthTrust contract for Dental, Life and Long Term Disability insurance as stated in his memo of November 7, 2015. Chris Seconded and the Motion carried Unanimously.
3. Paul reported that he sent information to Carter and Jon regarding overtime pay. He thought that the present practice is contrary to the FLA, which is hours actually worked. Based on Paul's desire to discuss this in relation to the CBA, Carter advised that this should be discussed during a non-meeting.

VII. OTHER BUSINESS:

1. Board & Staff Liaison and Update Reports: 1) Paul reported the School Board and Selectmen's subcommittee met today. The school is not interested in sharing a human resource professional, based on their staff numbers and declining enrollment. Regarding students participating in videoing the meetings, the School Board doesn't want students working during school hours, along with extra hours for meetings at night. They would like to see an automated system developed. Chris said that during this meeting two School Board members reported not receiving an invitation to the Convention of Committees. Jon said he was aware of this and confirmed that their names were on the mailing list. 2) Chris reported that the Village Vision Committee met and they are studying area boundaries and reaching consensus over major issues. To date approximately 1,000 surveys have come back and are being entered. Carter said that they will accept surveys through Monday, December 1st. Chris said that Ken Bickford would like a CodeRed announcement to be made, asking people to complete and submit their surveys. Paul felt that based on complaints he's received he doesn't want to use CodeRed for this purpose. Jon said he was OK with using the Code Red. Chris thought in the future any advertisement or notice should go out before hand and not after it has been mailed. Carter replied that he did what was asked by the committee. 3) Joel said that the Heritage Committee received Mr. Borrin's resignation and they identified repairs needed at the Taylor property which were made.
2. Planning Board Minutes, October 29, 2014 & November 12, 2014: Acknowledged.
3. Zoning Board of Adjustment Minutes, November 5, 2014: Acknowledged.
4. Heritage Commission Minutes, November 14, 2014: Acknowledged.

VIII. CORRESPONDENCE

1. Time Warner Cable, October 30 & November 5, 2014, Possible Program Changes: Jon reported this was their usual letter.
2. Keld Agnar, November 2, 2014, Fox Hollow Area: Jon said that Mr. Agnar wrote that the improvements made to the entrance to Fox Hollow were a good example of the proper approach to transportation safety issues. In addition he complimented the crew at the Transfer Station.

- IX. CITIZEN INPUT:** 1) Hollis Austin asked the Selectmen if they maintain a list of upcoming employees due to retire along with estimated dates. Carter said that while they know the ages of employees, they are not asking when they will retire, as this sets up a potential for age discrimination. However, he said they do look at it from a succession standpoint. The Selectmen have this on their radar to address it. 2) Bob Goffredo said that he hasn't received a Village Vision survey to date. Carter said approximately 150 have been returned, which is not out of the norm, and about double the amount of the recent Recreation survey sent out. He said that the difference between the two was the Village Vision addressed theirs to residents versus using names. Discussion took place for the need to have a database combining names of voters and tax payers and someone knowledgeable to do this. 3) Chris asked if there is electrical power to the Taylor property. Jon replied that they learned that there was from Scott during the last meeting. Carter added that while there is, there needs to be an outdoor ground fault for the proposed Christmas tree lighting.

- X. **NON-PUBLIC SESSION:** Jon said that the Selectmen need to go into Non-Public Session per RSA 91-A:3 II (e) for pending claims of litigation and will reconvene for adjournment only. Paul Made the Motion to go into Non-Public Session and to return for the sole purpose to adjourn. Chris Seconded. A roll call was taken: Paul – Aye; Chris – Aye; Russ – Aye; Joel – Aye; Jon – Aye. The Motion carried and the Selectmen went into Non-Public Session at 8:59 p.m.

The Board exited Non-Public Session at 9:13 p.m. having voted by a vote of 2/3 or greater of the members present to seal the minutes as it is determined that divulgence of the information discussed likely would render the proposed action ineffective, and to not disclose the minutes and decisions reached to the public until, in the opinion of a majority of the members, the aforesaid circumstances no longer apply.

- XI. **ADJOURNMENT:** Joel Made the Motion to Adjourn. Russ Seconded.
Motion Carried Unanimously
Jon adjourned the meeting at 9:15 p.m.

Approved

Date
Respectfully Submitted
Hope K. Kokas, Administrative Assistant