

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

Selectmen's Meeting

April 23, 2015

MINUTES

Selectmen: Christopher P. Shipp, Chair, Russell C. Wakefield, Vice Chair, Josiah H. Bartlett, Jean M. Beadle, Paul T. Punturieri; Carol Granfield, Interim Town Administrator; Scott Kinmond, Administrative Liaison; Hope K. Kokas, Administrative Assistant.

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

II. PLEDGE OF ALLEGIANCE:

Chris welcome the Town's Interim Town Administrator, Carol Granfield. He also announced that the Town has a new Deputy Tax Collector, Bonnie Gucwa.

III. REVIEW / APPROVAL MINUTES: Paul asked to amend the business meeting minutes of April 16, 2015, page 4, Old Business, #5, last sentence, striking *Paul* and adding *Chris*. Chris asked to amend the same minutes, page 5, Old Business, #11, before Paul made the motion, to add the following sentence: *Chris wondered, should this be an agenda item for public comment.* Paul Made the Motion to approve the minutes of April 16, 2015 (2) as amended and the Non-Public (1) minutes. Jean Seconded. The Motion carried Unanimously.

Paul asked the Board and it was agreed to move the letter from Attorney Dwyer (Correspondence #1) to Old Business. In addition, Paul stated that that the work session scheduled for today at 4 p.m., as he pointed out in his email to Chris, which was moved to 10:30 p.m., according to the Selectmen's Rules and Procedure does not allow the Chair or anyone on the Board to move a meeting as an individual. Paul said that he wasn't able to attend the 10:30 a.m. meeting. He added that the Board is exchanging emails inappropriately. By trying to re-schedule via email, which then turns into a discussion is a violation of the Right to Know law. He said it is a violation to conduct a meeting via email. He felt that based on the first paragraph of the Board's rules there should have been and there wasn't ever a vote. It is a common courtesy if one member can't make it then to not change the time. Paul stated that this is a very serious issue and he wants to make certain it doesn't happen again. Chris respectfully disagreed, adding that he felt that the rules were followed. The original work session that was scheduled was done by consensus and not by a vote. Chris added that because a majority of the Selectmen would be in Town Hall for morning meetings, it made sense to move the work session from 4 p.m. to 10:30 a.m. He said that he received replies from everyone about changing the time of the work session except for Paul. Chris said that he knew Paul was scheduled for a 9 a.m. meeting and 10 a.m. appointment at Town Hall, so it made sense to change the work session time. Chris said he emailed the Board to reschedule the work session as a common courtesy, to find out their availability, and the work session notice was posted. No information was being shared or votes being taken. He said that based on Paul's thinking that a meeting would have to be called in order to schedule a meeting. Paul said that was correct. Chris said he disagrees with Paul's

interpretation. Josh reminded the Board when responding to an email, they shouldn't use the "reply to all" button. He added that this question should be asked at the upcoming Right to Know Training on May 4th. Chris said the same rules state that the chair can call a special or emergency meeting and this was a special meeting. Everyone had the opportunity to object, and Paul never replied. Paul said he wouldn't reply because it was by email. Paul said if it happens again he will request for an interpretation by the superior court.

IV. CITIZEN INPUT: 1) Eric Taussig spoke of the April 6th meeting scheduled for 7:45 a.m., which didn't start until 7:56 a.m. due to having to wait for a Board member who was late. He said that he noted that at the beginning of the meeting per the agenda that was posted, they skipped over the first Citizen Input and went to the purpose of the meeting. Mr. Taussig said that when he did ask to speak, the meeting had been adjourned. He felt if an agenda was posted with Citizen Input on it, then it should've been allowed. He questioned why on April 6th nothing was posted on News & Announcements on the Town's website about the meeting or there wasn't an announcement until the following day. There were two meetings posted for April 16th, a meeting notice that stated that the Board would immediately go into a Non-Public meeting, and alleged without a notice of the work session which began at 5:02 p.m. Mr. Taussig said he is concerned about the compliance with notices of agenda/meeting notices, adding that if an agenda has Citizen Input on it, then it should be allowed. Mr. Taussig said his goal is more transparency. He then spoke of his initial request regarding the TA's contract and the severance arrangement, which he has since received copies from the Town Clerk's office. The extension of the TA contract, which he initially thought was for one year, was in fact for two years and was drawn up by the TA, which was conflict of interest, and then reviewed by Town Counsel. Mr. Taussig said he was troubled to learn that the contract stated that four out of five votes would be required to terminate the TA and wanted assurances that won't happen again. Chris agreed that a simple majority should work. Chris said that on April 6th the key staff person who posts agendas and meeting notices was not in on the Friday before the meeting. He apologized that a "boiler plate" agenda was posted with the usual items on it, when in fact a meeting notice should've been posted. At the time of Mr. Taussig's request to comment, the meeting had been adjourned. Russ said that he did not *vote on* any of the TA contracts due to the four to one vote clause, and agrees that all is needed is a majority. He added that the Town now has special counsel specializing in labor. Josh agreed that he would never sign a contract like that. 2) Hollis Austin asked when the Board would revise the TA job description. Chris said they will be discussing that at this meeting.

V. NEW BUSINESS:

1. Review for Action: Consent & Signature File:

DATE	DOCUMENT	MAP/LOT#
4/23/15	2015 Beach Permit	N/A
4/23/15	Disposal Agreement	162-004
4/23/15	2015 Charitable Exemption, Historical Society	052-024 & 052-028
4/23/15	Elderly Exemption, 2015 Renewed	13-2015-E
4/23/15	Elderly Exemption, 2015 Updated	12-2015-E
4/23/15	Elderly Exemption, 2015 Approved	11-2015-E
4/23/15	Elderly Exemption, 2015 Renew	10-2015-E
4/23/15	Discretionary Preservation Deed & PA-36A	003-001

4/23/15	Discretionary Preservation PA-36A	115-021
4/23/15	Tax Collector's Yield Tax Warrant	114-033-001
4/23/15	Tax Collector's Yield Tax Warrant	279-001

- Chris read the Consent & Signature File. Russ Made the Motion to approve the Consent & Signature File for April 23, 2015. Josh Seconded. The Motion carried Unanimously.
2. Review for Action: 2015 Spring Newsletter: Scott asked the Board to review the newsletter. The Tax Collector needs the final by May 8th in order to go to the printers with the tax bills. If the Board has any comments or edits, to please forward them to him as soon as possible. Paul repeated his comment from the winter newsletter, that it is a little boring and something more interesting is needed. Russ commented that it is just information to the taxpayers and he was not in favor of spending more money on it. Jean Made the Motion to approve the newsletter as written. Russ Seconded. The Motion carried Unanimously.
 3. Review for Action: DPW Seasonal Employment: Scott explained that he is requesting to hire three individuals as seasonal laborers for Facilities and Grounds (cemeteries) and Highway. Paul Made the Motion to hire the three individuals as listed in the DPW Director's memo dated April 18, 2015. Russ Seconded. Josh asked if any special consideration is given for residents. Scott said that the scoring matrix does add extra points for Moultonborough residents. The Motion carried Unanimously.
 4. Review for Action: Trustees of the Trust Funds Alternate Appointment: Paul Made the Motion to appoint Donald Margeson as an Alternate Trustee of the Trust Funds for a one year term. Jean Seconded and the Motion carried Unanimously.
 5. Review for Action: 2015 Paving Bid: Scott told the Selectmen that the Town Engineer prepared the large bound packet that the Board received detailing the 2015 Paving Bid. He provided the Board with a couple of edits that need to be inserted, which are based on Monday's neighborhood meeting and public vetting, and the addition of the work needed for the Pathway. Another booklet will come out. The Town has budgeted approximately \$380,000 for paving. The bids should be in by the third week of May and then the contract can be awarded for the first meeting in June. Scott reported that the same contract as last year was used. Paul asked about plans for Old Route 109 and the intersection of Route 25. Scott said that the plan has been completed and reviewed by abutting property owners. Josh was concerned if the plan was "set in concrete". Scott said that this was the best option and Josh can view the plan in his office. Paul said he was concerned about the seams. Scott said that the seams are the weakest part and occur due to frost heaves. Reclaimed pavement is now being used instead of the virgin pavement, which in his opinion was stronger. Josh asked about fog lines on Town roads. Scott said that they don't use fog lines due to the width of the road. Josh thought they would slow speeds. Scott agreed, adding that the repair of the intersection will reduce the traffic on Old Route 109. The cost for road lines is 6-7¢ per linear foot and he will get more information and review it. Russ Made the Motion to approve the 2015 Paving Bid as edited and authorize the DPW/Highway Agent to put it out to bid. Paul Seconded and the Motion carried Unanimously.
 6. Review for Action: 2015 Adopt A Spot: Scott read the list of the 2015 Adopt a Spot, of which Hope and Andy opened this afternoon. The participants are: Miracle Farms garden spot #1 and #7, Karen & James Nigzus & Family #2, Moultonborough Women's Club #3B, Donnybrook Home Services #5, #8 and #10, and Bob Patnaude #9. All but two have chosen to participate again this year. Scott added that staff will reach out to the two that have chosen to not participate for feedback. Chris thanked all of the participants

and Don Muscavitz of Donnybrook Home Services, LLC (in attendance) for volunteering to beautify Town facilities.

7. Review: 2015 Adopt A Facility: Scott reported that the three local companies are again participating, McCarthy Lawn Property Management, LLC, Miracle Farm Landscape Contractors, and Donnybrook Homes Services. They have agreed to provide mowing, and trimming at Town facilities at no cost and will be compensated per building for other landscape services such as fertilizing, mulching, tree and shrub trimming, and flower bed weeding which has been budgeted for. Josh wanted to point out that the Historical Society is a private club, but the Middleneck School and Town House are Town properties. Scott said that the participants of the Adopt A Facility have been a great help.

VI. OLD BUSINESS:

1. Town Administrator Search Update: Chris reported that at this morning's work session and after discussion, the Board agreed by consensus to use the TA job description as recently approved on April 2nd. Paul asked if the Board voted at the work session and learned it was by consensus. Jean added that the job description was approved by this Board on April 2, 2015. Chris said the next step is to decide how to proceed. The options are to use a recruitment service (such as MRI), the Selectmen handle the whole recruitment process, or a hybrid of the two. Paul said he wanted the Board to do the whole process. Jean said the benefits of a hybrid is that the service brings the vetted candidates to the Board. Chris agreed adding that the Board does plan on seeking public involvement regarding the elements desired. Josh thought that the public should be surveyed. Jean reminded the Board that the interview is confidential. Paul disagreed saying that interviews in Massachusetts and other states are done in public. He added that there has been mistrust of the Town Administrator and having the interviews in public would provide transparency. Russ said he was in favor of receiving input from the public about what they want, but felt that the Selectmen should be allowed to do their job. As he stated earlier, Russ is not comfortable allowing a service to narrow down the list of candidates. Jean felt that the Board working with a recruitment service, allowing them to do the initial review and making a recommendation, and if desired the other applications can be reviewed by the Board. Chris thought it would be a difficult task to review a large number of applications. He thought that if they provide a service with the parameters of what the Town wants, then they won't need to review them all. Russ asked and Carol replied, that candidates are more likely to apply through a recruitment service, specifically for confidentiality. She added that some towns want to see all the applications, while others want them culled. Paul asked what she thought were the next steps. Carol said to decide the process (entity or hybrid) and the amount of the involvement wanted from the Interim Town Administrator. There are a variety of positions available and if the Board takes too long, qualified people will go somewhere else. Russ, replying to Josh's question, said he just doesn't trust a service will look at the same things as the Board would. He felt that the first step was to get public input of the elements desired. Carol said this can be done via a computer survey and/or meetings. Josh felt that using a computer survey cuts the responses in half. He added that a recent paper survey was very successful with a 25% response rate, although he doesn't recommend the returned stamped envelope this time. Jean thought a combination of computer, meeting, and a letter should be used, otherwise the process will take too long. Chris thought that they need to take action on this tonight and said he was in favor of a hybrid approach. Carol provided the Board with MRI's proposal of a hybrid approach

and the costs. Chris asked if the Board could agree on the concept as provided by MRI. Paul said he could if it included public input. Joe Cormier suggested that the Board look at job specifications versus job description. Paul Made the Motion to go forward with the hybrid approach for the Town Administrator Search as presented by MRI's proposal and provided at tonight's meeting. Jean Seconded. Josh and Paul said that they want public input added to the proposal. The Motion carried Unanimously.

VII. OTHER BUSINESS:

1. Rodney N. Dwyer, Esq., Wescott Law, PA, Re Devra Swinton's Cemetery Appeal, April 14, 2015: Paul said he didn't want to involve Town Counsel, adding that when the Board considered the appeal he voted against denying it and didn't sign the letter. He thought they need to find a way to compromise. Russ thought that Ms. Swinton's argument was based on what other grave sites have on them, and because of that her family member's gravesite should be allowed to have their memorial items too. He added that the state cemetery follows the same policy and if it is good enough for the state then it is good enough for Moultonborough. The Board agreed that one person's sense of taste is different than another's. Paul said that the problem was and remains that others continue to violate the policy. Chris agreed that the policy should apply uniformly to all and to stick to the original decision, and we need to do a better job on this. Jean said she was the one last year who brought this forward last year, and although it is better, it is still a problem. Josh agreed that the rules are for all and should be enforced. Jean said that the amendment to the policy was done in a public hearing and was posted in the newspaper. Scott said that he had Attorney Dwyer's letter was forwarded to Town Counsel for review and they discussed the situation, both agreeing that a step was missed in the process. She requested an appeal but didn't receive notice of when the Board would consider it. Paul thought that the policy should be amended to include the RSA and appeal process. He thought the Board should provide her notice of when her appeal would be heard again. Based on Carol's suggestion, Paul Made the Motion to send Ms. Swinton a proper notice of when the Board will re-consider her appeal. Josh Seconded and the Motion carried Unanimously.
2. Board & Staff Liaison and Update Reports: 1) Jean reported that 45 days after Town Meeting, the Police should contact the Selectmen to begin the new process. She added that former Selectmen, Joel Mudgett and Jon Tolman have agreed to work with Jean in the negotiation process, but they want to know to the extent of their involvement. Chris said he was fine with having Joel and Jon assist. Mr. Mudgett said he felt a non-meeting was needed. Chris said they will be having a Non-Public and then they could adjourn and go into a non-meeting. 2) Josh reported that the Town Engineer Screening Committee has reduced the list to four candidates and those have been invited to present on May 6th and 7th, at 8:30 a.m. 3) Josh reported that the Comcast and Time Warner Cable merger has fallen apart. After his discussions with his work group, he is ready to talk to the attorney. Josh asked and learned that Attorney Puffer was hired based on a list provided by the TA. The firm that seemed best suited, has in the past sued the Zoning Board of Adjustments and were not willing to refrain from this if they took on the TWC franchise negotiations. Attorney Puffer's firm was the next choice. Mr. Cormier, while questioning the decision of which firm was hired, recommended that the Board let the attorney do his job. Josh said he tried to talk to TWC but learned that they were aware that the Town was without a TA and stated that they would only work with the Town's attorney. A discussion took place about the Technology Trust Capital Reserve Fund,

warrant article #30 of 2007 Town Meeting, the meaning of communication technology, the continued technology advancements and rapid obsolescence of streaming speeds, etc., the percentage charged that makes up the franchise speed and who should and shouldn't pay it. Paul Made the Motion to have Josh work with Scott to go over Town Counsel's definition of the Article 30 of the 2007 Warrant. Josh Seconded and the Motion carried Unanimously. 4) Paul said the Master Plan Implementation Committee tried to meet but didn't have a quorum and the Town Planner is reaching out to the MPIC members to schedule another meeting. The Master Plan Steering Committee did meet on Monday. 5) Paul said that Carl Weber will be requesting the Board's goals for the upcoming retreat and he's received a request from a Department Head to attend, as last year. 6) Paul reported that the UNH Feasibility Study Committee met and based on Donna Kuethe's suggestion, he will be meeting with Tom Powers, the owner of the Elan Publishing building about his interest in helping the Town. This property abuts Mud Pond and also Playground Drive. This is information gathering only. The Committee will come back to the Board in June to make their recommendations. 7) Jean reported the IMA Milfoil Committee met. She added that Scott Bartlett will come before the Board and will be requesting authorization to sell the Town's share of the remaining boats. 8) Josh said he will request from the Historical Society their permission to use the building for the Selectmen's upcoming retreat on June 11th. Scott Kinmond reported that he checked and was assured that it would be approved.

3. Zoning Board of Adjustment Minutes, April 15, 2015: Acknowledged.
4. IMA Joint Board Aquatic Nuisance Plant Control Committee Minutes, March 12, 2015: Acknowledged.
5. Paul wanted to acknowledge Scott's draft memo that he provided the Board regarding communication. Scott reported that he hasn't distributed the memo yet, but will meet with Carol tomorrow to discuss it and get her ideas on this.

VIII. CORRESPONDENCE:

1. Rodney N. Dyer, Esq., Wescott Law, PA, Re Devra Swinton's Cemetery Appeal, April 14, 2015: Previously Discussed.
2. Fred Malatesta, Volunteer Application, April 16, 2015: Acknowledged.
3. Eric Taussig, Various Matters, April 17, 2015: Previously Discussed.
4. Time Warner Cable, Possible Program Changes, April 17, 2015: Acknowledged.

IX. CITIZEN INPUT: 1) Mr. Taussig told the Selectmen that he finds discrepancies between the notices posted and the web calendar. Chris stated that the legal posting of minutes and notices is at Town Hall and the Post Office. He added that staff try their best to ensure that all meeting notices/agendas, etc. are posted at Town Hall, the Post Office and on the website. Mr. Taussig said he is concerned about transparency. He agrees with the need of confidentiality when recruiting and is in favor of the Town hiring a recruiting service versus the hybrid approach. Mr. Taussig added that he agrees that the job specifications must make it clear that this is an Administrator's position and not a Manager's position. The Board all agreed that this is important and they will make this clear. 2) Mr. Austin asked Paul if the UNH Feasibility Study Committee is working with the School on all the recommendations. Paul replied that the School Board is working with the committee on all of the 5 recommendations. Mr. Austin asked if Paul's visit to the Elan Publishing building would be open to the public. Paul didn't think so, as there is a tenant in the building. He added that this visit is for information only, as he told the committee that he would view the property. Mr. Austin asked Jean why the Town's Milfoil

Committee is recommending that the IMA Milfoil Committee get rid of the boat(s) owned by the three towns. Jean said that the remaining areas with milfoil require hand pulling and are in shallow areas. She added that if he wanted more information to talk to Scott Bartlett and Karin Nelson. 3) Josh brought to the Board's attention that he recently learned at the Joint School Board and Selectmen's meeting that the gym has been regularly used by a private group for pick-up basketball games. He said he was concerned about liability issues. Chris said that it has been common knowledge that these games are going on and the School Board is also aware. He suggested that he talk to the School Board about this. Jean agreed that this not unique to Moultonborough, that it takes place in other schools.

- X. **NON-PUBLIC SESSION:** Chris said that the Selectmen need to go into Non-Public Session per RSA 91-A:3 II (e), and will reconvene for adjournment only. Jean Made the Motion to go into Non-Public Session and to return for the sole purpose to adjourn. Josh Seconded. A roll call was taken: Josh – Aye; Paul – Aye; Russ – Aye; Jean – Aye; Chris - Aye. The Motion carried and the Selectmen went into Non-Public Session at 9:17 p.m.

The Board exited Non-Public Session at 9:50 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 would likely affect adversely the reputation of a person other than a member of the public body itself 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:** Josh Made the Motion to Adjourn. Paul Seconded.
Motion Carried Unanimously
Chris adjourned the meeting at 9:51 p.m.

Christopher P. Shipp, Chair
Approved

May 7, 2015
Date
Respectfully Submitted
Hope K. Kokas, Administrative Assistant