

Selectmen's Meeting
15 December 1997
7:00pm

The regularly scheduled Selectmen's meeting was called to order by the Chair, Dick Wollmar, at 7:00pm. Those present included Allen Hines, George Lagassa (Selectmen), and Russell McAllister (Town Administrator).

The Selectmen reviewed the previous meeting minutes and Mr. Lagassa voted to accept the minutes as published. Mr. Hines seconded the motion. The vote was unanimous and so moved.

The selectmen reviewed correspondence and/or signed:

- Payroll
- Manifest
- DRA Sales transaction data review
- Executive Council Newsletter - Ruth Griffin
- NHMA Pooled Energy Plan
- Bill of sale for C12 Fire Pumper = \$3,600 payable as credit for FD educational purposes

Topics of Discussion

Mr. Wollmar briefed the Board on the status of the streetlight conversion program and the costs incurred to date. As of 12 December there were charges of \$24,424 exclusive of contract labor costs. Mr. Wollmar expressed his belief that the project would come in under budget.

Submittal of the management letters detailing department activities from Town department heads for the Town Report was briefly discussed. Mr. McAllister mentioned that there were more than 5,000 calls for service in the police department.

The Board turned their attention next to the DRA sales transaction data that was reviewed by Howard Promer (Town Assessor) and required the signatures of the Board members. Mr. McAllister explained that Selectmen are by statute the assessors for the Town. Therefore, the DRA requires their signatures concerning the sales transaction activity that occurred during the past year in Town. In this way Selectmen are able to judge which transactions constitute qualified sales transactions which the DRA in their turn use to calculate the Town's assessment ratio which indirectly affects the tax rate. It was also mentioned that realtors can access data concerning sales transactions in a particular Town through Real Data Corp. which tracks house sales and furnishes the data for a fee. It is, however, more difficult to tie sales information with a Town's assessment data. The Town Administrator suggested that assessment data could be made available via the Web in conjunction with Real Data Corp. on a fee basis, thereby creating a more specific revenue stream.

The next order of business concerned the swearing-in of Brian Page as the new Lieutenant in the police department. The Town Clerk, Delores Chase administered the oath of office in front of those assembled for the occasion. The Board and Town Administrator welcomed Mr. Page aboard in his new capacity.

The next order of business centered around the issue of the Building Inspector's position, and whether the position was still part of the Teamsters Local 633 bargaining unit. Mr. Hines explained that he had, back in August, written Local 633 asking that the Building Inspector position be reclassified and removed from the bargaining unit. A change in the employment letter and agreement with the union concerning the reclassification of the position resulted in a compromise position whereby the position of Building Inspector was classified as a management position. However, employees within the Building Inspector's

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office will be part of Local 633 bargaining unit. There was, Mr. Wollmar, explained the matter of compensation for the building inspector. The Board, previous to Mr. Lagassa's appointment, had agreed to alter the rate of compensation for the position of building inspector from an hourly rate to a salary schedule. The letter received from the Teamster's Assistant Shop Steward, James Giguere, exempting the position from the union, was reviewed. Mr. Wollmar made the motion to accept the Shop Steward's letter and change the position's compensation schedule from hourly to salary retroactive to December 1st. Mr. Lagassa seconded the motion. All were in favor and the motion was so moved.

The Board next addressed the issue of a petitioned warrant article concerning the adoption of an Interim Growth Management Ordinance. Mr. Lagassa expressed his belief that the warrant article was illegal. Mr. Wollmar went on to explain the procedure for adoption of the petitioned warrant article. The petitioners first present their warrant article to the planning board justifying the unusual circumstances that necessitate the adoption of an Interim Growth Management Ordinance. The planning board, after deliberation, decides whether or not to endorse the adoption of the interim growth controls. The Selectmen would then place the petition on the warrant. Mr. Lagassa's contended that under RSA 674:23 the planning board must initiate the interim regulation and that RSA 674:23 (listed below) does not grant citizens the authority to initiate such an interim regulation.

"An interim regulation may be proposed by the planning board if it determines that the requirements of paragraph I exist and make findings of fact so indicating."

Mr. Lagassa further stated that the Planning Board previously considered the proposed interim regulation and as a body reviewed the facts and voted that the conditions necessary to warrant the adoption of an interim regulation do not exist. Mr. Wollmar commented that the Board of Selectmen are required to place petitioned warrant article on the Warrant as the language found in RSA 675:4 (listed below) indicates.

"Method of enactment by petition provides for petitioned amendments to zoning ordinances, historic district ordinances, or building codes, but twenty-five or more voters are required and the petition must be submitted to the selectmen who, in turn, pass it on to the Planning Board for public hearings, a recommendation, and placement on the ballot. If the proposal is in the "proper" form, it must be placed on the ballot."

Discussion regarding the conflicts between these two statutes ensued with the Town Administrator reading a letter of opinion regarding these discrepancies from Attorney Charles F. Tucker.

"On the face of it, these two statutes are in conflict since RSA 674:23 clearly states that the Planning Board must propose an interim growth management regulation and must make certain findings before it goes on the warrant.

If an interim growth management regulation is proposed by petition, and if the Planning Board then makes the findings required in RSA 674:23, it can then go on the warrant. Presumably, the petitioners at the public hearing would present the appropriate information to the Planning Board so that it could make such a finding, and then the article could go on the warrant, the Planning Board having made the appropriate findings, which would be contained in its minutes. On the other hand, if the Planning Board cannot, or does not, make the appropriate findings, I believe the article cannot go on the warrant.

There are two principles of statutory interpretation which, lead me to this conclusion. The first is that a more recent statute supersedes a previous statute, if they are in conflict. The interim growth control section is far more recent than the petition section.

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Further, the second principle of statutory interpretation is that the more specific governs over the more general. RSA 674:23, in requiring specific findings by the Planning Board before an interim growth management regulation is proposed, is more specific than the general requirements of RSA 675:4 for petitioned articles, and therefore, RSA 674:23 would govern if there were a conflict.

Finally and perhaps most importantly is that there is a rationale behind a greater limit on the powers to adopt interim growth management regulations than on other types of zoning ordinances. An interim growth management regulation can work a great economic disadvantage on property owners who are planning to develop their property during the year in which the regulations is in effect, a far greater deprivation of economic advantage than either a permanent growth management regulation, which has a number of antecedent requirements and a number of limitations on its operation, or a normal zoning ordinance which generally controls the placement of activities but not the timing of them. Therefore, given the extraordinary limitations potentially available under the interim regulation, it is appropriate that there also be more extraordinary safeguards in its adoption in order to be sure that its adoption is well considered.”

Brief discussion ensued regarding the inherent conflicts between the two RSA's. However, the Board was unanimous in their agreement that petitions to the Selectmen must, as a democratic precept, be placed upon the warrant.

Mr. Hines briefed the Board regarding the conditions of the tennis courts, particularly the surface cracks. Jill Brandt entered the meeting and resumed the Recreation Department briefing. Ms. Brandt explained that they were seeking to increase the appropriations to the capital reserve fund for the tennis courts from \$7,500 to \$15,000 per year. This would have the effect of decreasing the time frame established for replacement of the tennis courts from 10 years to five. There was approximately \$22,500 in the capital reserve fund at this time. Ms. Brandt also explained the warrant article request for an additional \$15,000 to construct an outdoor pavilion in Dearborn Park. It would provide relief from the sun and offer picnickers shade and shelter from summer sun and rain. Questions were asked concerning the subsurface conditions of the tennis courts and whether the site was suitable to investing almost \$100,000 dollars in rebuilding the courts. If subsurface conditions would lead to surface cracking shortly after court refurbishment, Mr. Hines reasoned, then it would not be prudent to rebuild at the current location. Ms. Brandt suggested that borings through the courts could be taken which would reveal subsurface conditions. The Town Administrator asked what the costs might be to have such borings taken. Ms. Brandt agreed to look into the matter. Language changes to the warrant articles proposed by the Recreation Department were recommended by the Board with Ms. Brandt agreeing to rework the language.

Questions and comments were solicited from those assembled. It was asked whether timers on the tennis court lights could be provided to help reduce electricity costs. Ms. Brandt commented that the lights helped reduced loitering and vandalism. Previous to their installation vandalism had been a problem.

There being no further business to come before the Board the meeting adjourned at 8:57pm.

Respectfully,

Russell McAllister
Town Administrator