

Minutes
Nottingham Selectmen's Meeting
July 30, 2012

6:30 PM Chair Bonser opened the meeting and asked all those present to stand for the Pledge of Allegiance.

Members Present: Mary Bonser, Hal Rafter and Mark Carpenter.

Others: Charles A. Brown – Town Administrator, Dawn Wirkkala – Secretary, Pete Lachapelle, Chris Mills, Arthur Jenks

Outstanding Minutes: Motion by Mr. Carpenter, second by Mr. Rafter to approve the minutes of the July 16, 2012 meeting as amended.

Vote: 3 – 0 in favor.

Chair Bonser asked to have the PEG Channel 22 policy on the Town website. The selectmen agreed the policy will need changes only for processes, but agreed it was good in explaining the acceptable uses of the channel.

Manifest Signature: Mr. Carpenter asked if the paving cost was close to the anticipated amount. Mr. Brown stated the road agent indicated it did fall within the expected ranges and are within the budget amounts. Paving is completed but building up the road side ditches continues.

Motion: Motion by Mr. Rafter, second by Mr. Carpenter to approve the 7/30/2012 manifest.

Vote: 3 – 0 in favor.

DEPARTMENT REPORTS:

Recycle Center: Mr. Brown introduced Mr. Lachapelle from Waste Management who reviewed the Bagster program and new costs for Town disposal of solid wastes at the recycling center. Mr. Lachapelle stated the cost of a bag is \$29.95 and are available for purchase at Lowes and Home Depot. There is a \$164.00 disposal/pickup fee but the Town has been given \$10.00 coupons reducing costs. The bag can hold approximately 3300 pounds of debris, and can be a good fit for home renovation projects or spring/fall clean ups. Informational flyers will be available at the Town Office. It is a compact easily carried bag, convenient for some citizens, while helping reduce solid waste disposal by the Town. The Town will be given 50 bags and coupons to distribute. Mr. Lachapelle stated the Town can be a reseller of the bags if they choose.

The new proposal from Waste Management was reviewed for haul and waste tipping fees. It is a reduction from the current fees and could save the Town approximately \$12,500.00 over a three year period, depending on disposal amounts. Mr. Lachapelle explained that the contract has a three year term and would increase based on the Consumer Price Index. Mr. Carpenter asked what the CPI generally is, and Mr. Lachapelle thought it was about 3.2% last year. Mr. Carpenter explained that the town does everything possible to limit increases to 2% per year and asked that the Waste Management contract be amended to a maximum 2% increase per year. Mr. Lachapelle state that the new rates go into affect as soon as the town signs the new agreement, making it effectively a three and one half year agreement. Mr. Lachapelle stated he would be able to provide the Selectmen with a contract proposal options prior to their next meeting.

Discussion took place about the current Recycling center holiday schedule. Mr. Brown would review how busy the center is during holiday weekends with Mr. Cinfo and what is currently posted regarding holidays for possible changes.

Police Department: Chief Foss is on vacation and all is quiet.

Fire Department: There are increased costs due to the forest fire on Pawtuckaway Mountain. There were significant difficulties reaching the fire because it was so far out into the woods and

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foam was needed to smother the fire in between rocks. The total cost may be \$4000.00, with an approximate 50% reimbursement from the State. The cost of the foam has not been established yet.

Chair Bonser asked about the July 10 letter regarding Rymes and if there had been any responses. Mr. Brown stated two letters were mailed requesting submissions being signed and there has been no response regarding the issue. The Selectmen don't need to take any action at this time.

Recreation Department: Programs are running smoothly. Mr. Carpenter asked to have the beach sign clarified; no breath holding. Mr. Brown clarified it may mean there should not be swimmers under water holding their breath to prevent panic for a lifeguard believing there is someone drowning. However, Ms. Horvath would be asked to verify.

Building Department: Mr. Colby is on vacation until August 10 and Gene Perrault is filling in at the Building Department office. He will have temporary hours on Monday, Tuesday, and Thursday's from 5:30 to 7:30 pm and Mr. Perrault would hold inspections upon appointment.

2013 Budget: Chair Bonser asked to have a warrant article drafted for a new account and a planned \$10,000 deposit to start planning for Nottingham's 300th Birthday celebration.

Mr. Brown stated another new account may be needed, as information has been received from Exeter Hospital regarding payment for Advanced Life Support (ALS) ambulance services. It is a new request, he isn't sure why it is a new change, but the biggest affect would be for Medicare patients. Mr. Brown is unsure as how the billing will work, possibly a revolving account, because Medicare only allows one bill per ambulance call. The selectmen should keep the issue in mind for potential solutions. Mr. Carpenter asked that we find out who was paying for the ALS fees in the past and what has changed, so that the town can determine the right course of action.

USA Springs: Mr. Mills stated there are motions before the court requesting a conversion from Chapter 11 to Chapter 7 for USA Springs to be heard on August 7. The conversion would give authority over the property to a US Trustee. Mr. Mills feels it would be in the Town's best interest to support a motion in converting the bankruptcy and offer support for auction to possibly provide moneys to be given to the unsecured creditors. Mr. Brown stated he heard from Mr. Raymond regarding the motion indicating Roswell is supportive of the motion and to have the auction process continue under the guidance of the US Trustee.

The Selectmen discussed their options in how to best make a decision regarding possible support for the motion on the bankruptcy conversion, if the conversion from one chapter to another would benefit the town, and whether it was the right course of action, to support the unsecured creditors. It was decided the Selectmen would have a conference call with Attorney Raymond to determine if there should be support of the conversion and whether to support the efforts of the unsecured creditors in attempting to receive their payment due. Mr. Brown would schedule the call between the Selectmen and Attorney Raymond.

Mr. Mills would forward the unsecured creditor complaint that was filed with the bankruptcy court to the selectmen.

Pawtuckaway Draw Down: Mr. Rafter stated the comment period has been extended until August 27, 2012 for individuals to submit questions and concerns regarding the Pawtuckaway Winter Drawdown. An email was received from Therese Thompson summarizing the July 26, 2012 Lamprey River Advisory Committee meeting. Chair Bonser stated information should be given to NH DES about how the meetings regarding this issue should be held during the times when people would be able to attend, in the evening versus during the day. Chair Bonser asked to hold a meeting with Attorney Donovan to verify if all the questions have been asked and exactly what are the rights

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of the Town regarding the draw down change. Mr. Brown stated many of the questions the board wants answered have already been asked and answered in one format or another. Mr. Carpenter stated it is to review the possible legal concerns. Chair Bonser stated she would like to clarify with NH DES why notice wasn't given early on to Pawtuckaway land owners and the Town about the decision to change the draw down on the lake, and what the actual participation of Durham's water withdrawal is in the process.

Voter Registration: Mr. Rafter asked about the potential additional costs included with the change in the voter registration law. Chair Bonser stated there is information on the Town website, the new law was more complicated than originally thought, and wants to make sure everyone is aware of the potential change in costs and procedures. It was requested to hold a meeting with the Moderator and Supervisors of the Checklist to review the potential changes.

Website Review: Mr. Rafter asked about reviewing the website for potential changes and updates. Mr. Brown stated Virtual Town Hall, the web master, had been contacted previously about possible upgrades. Chair Bonser stated she felt there could be some improvements, but it was a good site overall. Mr. Rafter agreed to lead a website update task force.

Channel 22: Mr. Rafter asked if more microphones had been ordered for the conference room. He has had heard from citizens the audio was still hard to hear from the Planning Board Meeting. Ms. Wirkkala would contact Access AV for two additional microphones.

Upcoming Agenda Items: Ms. Wirkkala reminded the Selectmen about the planned meeting regarding the water ordinance on August 27, 2012 and reviewed the attendees.

APPOINTMENTS: 7:00 pm: None, 7:15 pm: None; **7:30 pm:** Non-public with Mr. Jenks.

NON-PUBLIC SESSION: The Board entered non-public under RSA 91-A:3 II (c).

8:12 PM Motion: Motion by Mr. Carpenter, second by Mr. Rafter to enter non-public under RSA 91-A:3 II(c).

Roll Call Vote: Rafter – Yea, Carpenter – Yea, Bonser – Yea. 3 - 0 in favor.

Motion: Motion by Mr. Rafter, second by Mr. Carpenter to seal the non-public minutes.

Roll Call Vote: Rafter – Yea, Carpenter – Yea, Bonser – Yea 3 – 0 in favor.

8:29 PM Motion: Motion by Mr. Rafter, second by Mr. Carpenter to leave non-public session and return to public session.

Vote: 3 - 0 in favor.

NON-PUBLIC SESSION: The Board entered non-public under RSA 91-A:3 II (d).

8:30 PM Motion: Motion by Chair Bonser, second by Mr. Carpenter to enter non-public under RSA 91-A:3 II(d).

Roll Call Vote: Rafter – Yea, Carpenter – Yea, Bonser – Yea. 3 - 0 in favor.

8:37 PM Motion: Motion by Mr. Rafter, second by Mr. Carpenter to leave non-public session and return to public session.

Vote: 3 – 0 in favor.

SIGNATURE FILE:

During non-public session the Selectmen agreed to a payment agreement with a taxpayer.

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General Information: It was determined to find a way to put a television into the conference room to verify when the camera is airing a live picture and when it isn't.

Ledge Farm Road Intersection: Mr. Carpenter asked about the Ledge Farm Road intersection that Mr. Claxton had a concern about. Mr. Brown stated the intersection will remain as planned. Mr. Carpenter asked if Mr. Claxton has a valid point to his complaint. Mr. Brown stated based on his observation there doesn't appear to be a problem on the road and there does not appear to be an issue with sight distance. Mr. Brown will draft a letter to Mr. Claxton regarding the matter.

Groundwater Withdrawal: Mr. Carpenter stated he has researched the groundwater statutes and discussed the information with people knowledgeable about the information and determined there are three actions the Town could possibly utilize to help prevent future plans for large ground water withdrawal. The steps include Master Plan changes, a Health and Safety ordinance or amendment to current ordinances for exclusion to vesting, and an attempt to get legislation passed similar to the 2008 HB1353.

The Master Plan change should include language for consideration of the Town's planned future water usage requirements for its own citizens based on growth and changing needs. The language would cause consideration of the future water plan by NH DES prior to their issuance of a permit.

The Health and Safety exclusion to vesting reference two attorney letters regarding the issue. The NH Supreme court has ruled on past cases that there is no protection, or no vesting, from subsequently enacted health and safety regulations in the case of zoning or building permit approvals. Also RSA 674:39 expressly excepts regulations and ordinances "which expressly protect published health standards, such as water quality and sewage treatment" from the statutory vesting against zoning, subdivision and site plan review regulations.

The town does not currently have an ordinance that directly protects health and safety, in particular water quality, but one could be drafted. The generic special exception amendment enacted by the Town in 2010 does not directly indicate that it is intended to protect public health and safety by preserving water quality. A new ordinance is needed, or an amendment to the appropriate existing ordinance to directly protect public health and safety when it comes to water quality and perhaps availability.

Legislative changes can include using the previously submitted and reviewed 2008 HB1353. This house bill was sponsored by NH DES and has the intent to increase the Municipal role in any large groundwater withdrawal permitting process.

Representative Kyle Tasker committed to helping the town work on legislation to help give water rights back to the community. Mr. Carpenter stated his initial impression of HB1353 is that it provides the Municipality with a substantial seat at the table and while it isn't perfect, it's a good place to start. NH DES has indicated they are in support of the 2008 bill. It has been expressed in the past that NH DES "wants to control all water resources and would object to anything we brought forward", the sentiment should be put behind and the Town should embrace new legislation as a starting point. The bill appears to have supporters outside of Nottingham and they can be called on for help. Representative Tasker needs a place to start with drafting new legislation, and the 2008 bill is a good start. Asking only for the language removal of "except for groundwater removal" from RSA 485-C:20 is a shot in the dark at best.

General discussion took place between the Selectmen regarding the potential options.

Chair Bonser stated it is her understanding that it is up to individual home owners to establish their water troubles caused by the large ground water withdrawal. Chair Bonser stated the bill did not

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170 appear supported by NH DES and certain legislators. Chair Bonser stated she is in support of
171 contacting Representative Tasker for legislative changes.

172 Mr. Brown stated changes to the Master Plan have recently been received and are being put together
173 for final approval. Mr. Rafter stated the Planning Board has been reviewing the master plan and
174 doesn't believe there is anything in it that reviews water. Chair Bonser stated the Master Plan
175 Committee should be contacted for possible changes

176 Mr. Rafter asked if the water supply must be part of a municipal water system or private wells. Mr.
177 Carpenter stated no, it is for any residential water use and he would send the link reviewing the
178 information to the other Selectmen for review.

179 Mr. Carpenter stated Northern Springs, in the NH north country, was sold with grandfathered rights
180 to the water were sold at auction for \$500,000.00. The large drink companies are already
181 dominating the bottled water business and the small distributors can not break through. There is
182 new groundwater toxicity testing available that wasn't available before and that may change results
183 and whether or not NH DES would allow withdrawal. New pump testing will have to be run, the
184 pump test wells were closed but isn't sure about the actual wells, but it needs to be verified and Mr.
185 Carpenter will continue with his research.

186 **Newsletter Submissions:** Submission are due Friday, if anything is requested. Mr. Carpenter stated
187 the BOS should have something, a summary of their quarterly tasks. It was stated the Selectmen
188 report their changes in the Annual Report. Suggestions for additions were for the new Bagster
189 program and the new Recycling driving route. It was suggested that people should watch Channel
190 22 when meetings are taking place, or better yet, come to the meetings.

191 **ADJOURNMENT:** Having no further business,

192 **9:08 PM Motion:** Motion by Mr. Rafter, second by Mr. Carpenter to adjourn.

193 **Vote:** 3-0 in favor.

194 Respectfully Submitted,

195 Dawn Wirkkala