

Minutes
Nottingham Selectmen's Meeting
August 13, 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, Joan Carpenter, Dee-Ann Decker, Therese Thompson

OUTSTANDING MINUTES:

Motion: Motion by Mr. Carpenter, second by Mr. Rafter to approve the minutes of the July 30, 2012 meeting as amended.

Vote: 3 - 0 in favor.

Chair Bonser reviewed action items from the July 30, 2012 meeting regarding the breath holding at the beach sign and the drafting of a letter to the Master Plan committee about addressing the water concern with protecting town water.

MANIFEST SIGNATURE:

Motion: Motion by Mr. Carpenter, second by Mr. Rafter to approve the 8/13/12 manifest with a payment date of 8/17/12.

Vote: 3 - 0 in favor.

DEPARTMENT REPORTS:

Fire Department: Mr. Brown reported the Chief and the new employee are attempting to establish a start date; however availability schedules and previous employment commitments are complicating establishing a start date; part of the complication is coming up with a date both are available to meet for orientation. The Chief will be requesting assistance from other Fire Department officers if the new employee must start on a date the Chief cannot be there. It has been determined the potential start dates for the new employee would be either August 20 or September 13. In addition, a second physical was required because the first was not intensive enough, per the requirements. Mr. Carpenter asked about the hiring of the second fire fighter. Mr. Brown stated his focus is on the first new employee and the process will start over again for the second position.

Highway Department: One person is out on vacation this week. Mr. Carpenter stated he was happy with the road results. Mr. Brown stated there were some speeding concerns that were addressed.

Building Department: Mr. Brown reported that Mr. Colby is back from vacation. There were no major concerns or issues with Mr. Perrault, except for one supposed emergency inspection call from a contractor needing the certificate of occupancy and Mr. Perrault had under control.

Recreation Department: Mr. Brown reported the kids have been very quiet and well behaved this summer and the counselors have been doing an outstanding job with them. Mr. Carpenter reminded everyone that there was a free concert this week.

Police Department: Mr. Brown reported there have been continuing problems with the air conditioning not working, but repairs are taking place.

Recycling: Mr. Carpenter stated the new road pattern has been implemented. Mr. Brown reported there have been mainly positive comments. Mr. Carpenter stated the new pattern is a one way direction, which is more orderly and more efficient way, providing a quicker and safer route. Mr. Brown stated there had been previous concerns about watching your children in the road way and warning signs were put up.

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APPOINTMENTS: 7:00 pm: Supervisor of the Checklist and Town Moderator, 7:15 pm: Therese Thompson/SEWA, 7:30 pm:

7:00 pm: Mr. Rafter stated he wanted to review the voter changes and let citizens know of the upcoming changes. Ms. Decker reported training is planned for August 23 for all individuals involved in the voting process: Supervisors, Moderators, Selectmen, in addition to others. Ms. Decker reported the major change will be the clerks needing to ask for photo ID's during the check in process. The request for ID will start at the September 11 primary vote, but everyone will be able to vote regardless of whether they have an ID with them or not. However, at the November general election, if someone doesn't have an approved photo ID they will need to sign a Qualified Voter Affidavit in order to vote. The affidavit will be used by the Secretary of State to send documentation for validation. Ms. Decker stated the misinformation about a requirement to take photos of people is not actually a requirement. All people will be available to vote, with or without an ID, people can use any type of official ID: drivers license, passport, school ID, work ID, including expired ID's. Mr. Carpenter asked if you don't have an ID, will you be prevented from voting. Ms. Decker stated everyone will be able to vote, the affidavit will need to be completed to vote. Mr. Rafter stated the US Dept of Justice is reviewing the law to determine its validity, and there may be additional voter changes coming.

Ms. Decker stated there is concern that asking for IDs will hold up the line, causing extended delays. To resolve this potential issue additional trained staff has been requested to attend to decrease possible wait times. Ms. Decker stated Republican Ballot Clerk volunteers are being sought, if anyone is interested in helping they should contact the Town Clerk. Ms. Decker stated information is being posted letting people know about the new requirement to provide your ID, including information on the Town website, Town newsletter, and flyers. Mr. Rafter asked if there would be additional costs due to the new requirement. Ms. Decker stated she doesn't feel there will be any additional costs; there has always been an attempt to keep voting expenses down. However, this year the only unplanned item that will increase the budget will be the cost for the new ID training, but those attending are planning to car pool. Mr. Rafter stated these changes may be unfunded mandates that the Selectmen may want to review the voting changes.

Ms. Decker requested to have the Selectmen attend a meeting on September 4 at 7:30 pm for training and testing of the voting machine. Ms. Decker stated the more critical time consuming task at the end of the night is verify that the tally sheet information matches the voter checklist information, having as many people available at the end of the night to verify counts is helpful, and Ms. Decker plans to make sure the information is correct before everyone leaves the building. Citizens can continue to register to vote until September 4 for the September 11 NH Primary Election, but then not until the actual voting day. Additional registrations days will be available after the September Primary, until October 27, for the November General/Presidential Election.

7:15 pm: Ms. Thompson stated she would be resigning her post from the SEWA committee. Ms. Thompson reported at the last SEWA meeting representatives were asked to determine what, if any of the storm water regulation have been or are already implemented in their municipal ordinances. However, Ms. Thompson stated she was the only person to contact her Planning Board to review such information. Mr. Colby very kindly reviewed the report and clarified the areas where the storm water regulations could be or are in use for Nottingham.

Ms. Thompson reported information was brought forward by the Great Bay Municipal Coalition that indicates the studies and results from nutrient testing, which required new EPA nutrient criteria

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for storm water run off is flawed. The group has asked for an independent peer review of the previous study for validity. Ms. Thompson stated the Great Bay Municipal Coalition is reporting that the standards the EPA is requesting can never be met, the increased nutrient levels come from more sources than just waste water treatment plants, recent rainfall levels and flooding have caused declines in the eelgrass versus the nutrient levels, and some of the original testing results were deliberately omitted. SEWA will be reviewing the situation further and making a decision on whether or not to support the independent review.

Ms. Thompson stated the Selectmen should attempt to find a replacement, meetings are held quarterly, and the information received from the meeting is good for Nottingham to have. It would be helpful if the person had knowledge of Nottingham planning regulations, someone specifically from the Planning Board would be a good candidate to attend meetings. Mr. Brown stated Ms. Thompson has done a great job representing Nottingham and reporting the SEWA information to the town. Mr. Rafter asked for criteria about exactly what SEWA does and Ms. Thompson stated there is a great website that explains the information, www.southeastwatershedalliance.org/.

GENERAL BUSINESS/REVIEW:

Pawtuckaway Draw Down: Mr. Brown reported Attorney Donovan will provide the Selectmen with the draft of the proposed letter to NH DES from Nottingham regarding the concerns about the newly planned draw down by August 22 or perhaps sooner. This will give the Selectmen time to review the letter prior to the required NH DES submission date of August 27, 2012. Once the letter to NH DES is completed Attorney Donovan will then work on the rights of the town regarding the draw down.

Mr. Carpenter asked if an emergency meeting would be needed in regards to the letter from Attorney Donovan. Chair Bonser and Mr. Brown stated they did not believe a meeting would be needed. Chair Bonser stated the letter is first to put into words the questions and concerns the town has regarding the reasons for changing the draw down and the second task is to preserve the Town's rights. Mr. Brown stated information has been received from Ms. Thompson that additional testing of the lake would be taking place because of the concerns brought forward. Chair Bonser stated the report distributed to answer the original round of questions and concerns regarding the draw down mentions information about Pawtuckaway being an impoundment, but not necessarily an impoundment for what. Mr. Rafter stated he feels the report indicates the water is for the river and stream, and NH DES is required to hold a hearing if they change the draw down levels. Mr. Carpenter stated there has been a study of the river and the need for additional water, but no study has taken place of what will happen to Pawtuckaway when you take the water from the lake, or the potential consequences of the water that will come into Pawtuckaway further up stream; by creating a cure to one problem they are potentially creating many other problems on the other end. Chair Bonser stated there has not been a clear answer to what is wrong with the river. General discussion took place about the origins of Pawtuckaway Lake.

Groundwater Withdrawal: Chair Bonser asked if a conversation was needed with Attorney Raymond, due to the change of bankruptcy type and the involvement of a Trustee. Mr. Brown stated Attorney Raymond indicated his attendance is not required at the Trustee meeting on September 11 but he would be willing to attend if requested. Discussion took place about who would attend the meeting with the Trustee. Mr. Brown stated he was told he should attend the meeting. Mr. Carpenter stated he would be interested in attending as well. Discussion took place about who would attend the meeting with the Trustee, because the date is also the Primary Election day, which the Selectmen must also attend. Mr. Rafter stated if a Selectman could attend there

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would be no need for the attorney to also attend. It was decided that if Mr. Carpenter attends there is no need for the attorney.

Discussion took place about which parties are considered secured creditors and who might receive payment first, where the USA Springs attorney's fall within that list, especially because of the conversion to Chapter 7 bankruptcy. Chair Bonser stated she was told Mr. Braunstein is now a preferred creditor and moves above the town in possible repayment. Mr. Carpenter stated he thought it was the opposite; the Town is first then the attorneys. Mr. Rafter stated the Town has a lien that will need to be paid by someone, if not through the proceeds of the bankruptcy process, then at least by the new purchaser. The Selectmen asked Mr. Brown for clarification of the payment situation.

Mr. Rafter stated the Planning Board is reviewing the most current modifications of the master plan. Chair Bonser asked to have a letter drafted to the Planning Board to include some type of language to protect the Town's water.

Mr. Carpenter stated the language in the master plan must establish what the Town will need for future water planning; it must quantify the activities that will require groundwater. Mr. Brown stated it has taken the Master Plan committee three years for the current updates, and a request for more changes probably won't be included for this version of the report. Discussion took place about the suggestion of modifying the original water ordinance or a new ordinance with health and safety language that could include reference to the Master Plan. Mr. Rafter stated the language should not reference the Master Plan until the language is in the Master Plan. Mr. Carpenter volunteered to write to the Master Plan Committee and Planning Board explaining the request for changes to the Master Plan and a new or modified ordinance. Mr. Carpenter stated if the Master Plan changes are in effect, NH DES would take them into consideration before issuing any new permits. If HB 1353 or equivalent is passed, there are provisions that would require NH DES to prioritize town needs in a large groundwater withdrawal application.

Chair Bonser stated original work and requirement for the Master Plan was because of the impact fees. Mr. Carpenter stated the Town could also get creative in its efforts to protect ground water and could include a possible ground water impact fee.

Chair Bonser stated the ordinance language will be worked on with Attorney Donovan. Mr. Carpenter stated Attorney Donovan has answered some of the questions the Selectmen have, but not his personal questions and he would like to get answers to the other questions. Chair Bonser stated a meeting with Attorney Donovan should be requested to review the new water ordinance language. Mr. Brown stated he will be proactive in getting new ordinance language completed before warrant article and town meeting deadlines.

Mr. Carpenter stated in regards to legislation changes, he recommends asking Representative Tasker to take action and ask him to meet with Mr. Kernan from NH DES; to possibly restart legislation similar to HB 1353. Chair Bonser and Mr. Carpenter asked to have an official invitation sent to Mr. Kernan and Representative Tasker to meet with the Selectmen to review the best methods to move forward with legislative changes. Mr. Carpenter stated there has been too much vilification going on of the Town, NH DES, and scientists; at the end of day this process should give the town rights on the groundwater issue and cooperation should be given by all parties. Chair Bonser stated cooperation must be given.

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PEG Policy: Chair Bonser stated she was surprised to see language regarding use of a studio that can be used, especially when Nottingham doesn't have one. The meeting room could be used by individuals if wanted.

Upcoming Meeting Topics: The Selectmen would be holding a hearing regarding changes to the updated Hazard Mitigation Draft Plan on September 10 and then the possible approval of the plan after the hearing, there would be the quarterly Selectmen and School Board meeting for hopefully October 17. The meeting to review any new information on Voter ID and the legislative proposal review with Representative Tasker and Mr. Kernan on August 27.

Waste Management Agreement: Mr. Brown presented the newly proposed contract with Waste Management. Mr. Rafter asked if the contract should be signed. Mr. Brown responded no and reported the Town attorney is asking for clarification on a few points in the contract. Mr. Brown reviewed the recommended changes. Mr. Carpenter stated there should be a removal of "other days" from the contract, the indemnification clause, and there was discussion of the limitations of liability information.

Mr. Brown stated he would contact Waste Management for the suggested changes. Mr. Carpenter stated he does like the terms and Mr. Brown had in addition requested removal of some of the included surcharges. Mr. Brown stated the contract has been simplified over the last three years. Mr. Carpenter asked for clarification of the contract, if it would always increase by the maximum annual 2% or if it would be lower if the CPI was at a rate below 2%; if the clause is written in, they will increase it by the maximum.

SIGNATURE FILE:

Mr. Brown stated there is a nomination of candidate Steven Bartlett for the Primex Board of Trustees due by September 7, 2012, and required official signature on the form by Selectman.

Motion: Motion by Mr. Rafter, second by Mr. Carpenter to approve the nomination of Steve Bartlett to the Primex Board of Trustees.

Vote: 3 - 0 in favor.

Motion: Motion by Mr. Rafter, seconded by Mr. Carpenter to approve the non-public minutes of July 30, 2012 as amended.

Vote: 3 - 0 in favor.

ADJOURNMENT: Having no further business,

8:51 PM Motion: Motion by Mr. Carpenter, second by Mr. Rafter to adjourn.

Vote: 3 - 0 in favor.

Respectfully Submitted,

Dawn Wirkkala