

**Minutes
Nottingham Selectmen's Meeting
October 21, 2013**

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

Members Present: Hal Rafter, Mark Carpenter and Mary Bonser

Others: Charles A. Brown – Town Administrator, Dawn Wirkkala – Secretary, Senator John Reagan, Lynn Crowell

MANIFEST SIGNATURE:

Motion: by Ms. Bonser, second by Mr. Carpenter to approve the 10/21/2013 manifest.

Vote: 3 – 0 in favor.

OUTSTANDING MINUTES:

Motion: by Ms. Bonser, second Mr. Carpenter to approve the minutes of the October 7, 2013 meeting as amended.

Vote: 3 – 0 in favor.

Town Administrator Reports, Signature Items:

Police Department: The Chief is looking at options for a new police vehicle in 2014; he is undecided between the Ford Taurus and another Ford Explorer. All the officers are very happy with the Explorer; it is comfortable provides enough space with all the installed equipment, the gas mileage is acceptable, and has extra safety and security features because it is specifically designed for police use.

2014 Budget: Department budget information has been received and the Selectmen will need to meet with Department Heads very soon; the Town has fallen behind in their budget schedule.

Fire Department: There are no reports from the Fire Chief.

Highway Department: The Road Agent remains on light duty and is using the time to take care of administrative items and issues.

Recycle Center: There are no reports from Mr. Cinfo. Mr. Carpenter asked if the quote from the roof replacement has been received. Mr. Brown responded two quotes are expected soon.

Town Office: Mr. Brown stated he signed the agreement to upgrade town building lighting fixtures with PSNH but funding won't be available until April 2014. The savings from the lighting upgrades will help pay for the installation expenses. Dowling Corporation has inspected all town building heating systems and would like to enter into an annual inspection and maintenance agreement with them starting in January 2014. Mr. Brown stated he is very happy with them, they have provided quick and thorough service.

Board of Selectmen Department/Board/Committee Reports:

CIP Committee: Ms. Bonser reported the committee has requested current debt service information and asked about the Assessing funds account type and why it is a Capital Reserve Fund (CRF) and not a Special Revenue Fund? Mr. Brown stated the funds are in a CRF and will be used to pay for the NH requirement of updating values once every five years. The Selectmen can expend the funds in either account but will look into why it was created as a CRF. However, there are minimal differences in the statute language between a CRF and Special Reserve Fund.

Budget Committee: Ms. Bonser reported she attended the Budget Committee meeting for Mr. Carpenter. The committee asked to receive a summary of the amounts received from the Land Use Change Tax, also asked when the Rooms & Meals Tax (R&M) revenue funds would be received

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and gave a reminder that the first draft Town budget will be reviewed at the November 14th meeting.

Mr. Brown stated the R&M and Highway Block Grant funds will be received later in the year and the first draft of the budget will be ready for November 14th.

Planning Board: Chair Rafter reported the board held a work session meeting with Mr. Mettee to review the proposed four or five Master Plan items the board has decided to work on. The majority of discussion had to do with the Open Space ordinance and the suggested change of making it a mandatory requirement. Current correspondence regarding a mandatory requirement indicates it is unconstitutional; however the board will continue to try and draft language for a conservation requirement because it is considered important and is worth looking into.

Mr. Carpenter asked about the rights of the owner versus a mandatory land requirement. Ms. Bonser stated she feels the requirement may be confiscating lands from land owners. Ms. Bonser stated she believes if a Town board with a Selectman Representative on it is going to set a specific policy the Selectman Representative vote, regarding that policy, should be the discussed and reviewed opinion of the entire Board of Selectmen and not just the single Representative. Ms. Bonser asked to discuss the policy changes suggested by the Planning Board at the next Selectmen's meeting.

Mail/Correspondence/Bills/Etc.

Mr. Brown reported information regarding the newly separated duties of the Local Government Center, Property Liability Trust, NH Municipal Association and Health Trust can be reviewed at the convenience of the Selectmen. The County tax warrant has been received in the amount of \$593,843.00, which is close to last year, and signatures are due Tuesday, December 17th, 2013.

The issues with the tax rate setting delay appeared to be resolved; however appointments are still not being scheduled; the NH Department of Revenue is still waiting for required NH Department of Education information. Many towns have expressed concern about meeting obligations with the delayed mailing of tax bills and receiving payments; there are payments for the County Tax and School District, in addition to regular bills and payroll. If towns do not have enough funds available the County and other entities can charge penalties for late payments. The Selectmen expressed their objection to any County fines because it is a state agency that is causing the delay.

Mr. Carpenter asked what will happen if tax payments aren't received timely and don't have the funds. Mr. Brown stated a tax anticipation loan will be needed in order to make required payments. Mr. Brown stressed that the delay in setting the tax rate is not because of the SAU. Senator Reagan stated the delay is because of a change in what year must be used to estimate the number of students to establish the adequate funding costs; the agency did not start the calculations soon enough.

Mr. Brown reported he received information regarding health insurance and short term disability increases, with the expected approximate 7.9% increase in insurance expenses. Mr. Carpenter stated while the amount is better than the 19% from the prior year, 7.9% is still an unacceptable amount.

Mr. Brown reported fund transfer from the bookkeeper need to be signed, and one salary history needs to be initialed.

Motion: by Chair Rafter, second by Ms. Bonser to transfer of \$667.00 from each of the impact fee accounts to the General Fund for a total of \$3,335.00 representing the Fire Department portion of the impact fee.

Vote: 3 – 0 in favor.

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Motion: by Chair Rafter, second by Ms. Bonser to transfer \$766.46 from the Conservation Fund to the General Fund.

Vote: 3 – 0 in favor.

Motion: by Chair Rafter, second by Mr. Carpenter to transfer the amount of \$15,429.97 from the Ambulance and Equipment Special Revenue Fund to the General Fund to pay for nine months of ambulance operation use in 2013.

Vote: 3 – 0 in favor.

Motion by Chair Rafter, second by Mr. Carpenter to transfer the amount of \$29,769.84 from the Ambulance and Equipment Special Revenue Fund to the General Fund to pay for 2012 Town Meeting Warrant Article #15 (new defibrillator).

Vote: 3 – 0 in favor.

Motion by Chair Rafter, second by Mr. Carpenter to transfer the amount of \$136,844.00 from the Ambulance and Equipment Special Revenue Fund to the General Fund to pay for 2012 Town Meeting Warrant Article #14 (new ambulance).

Vote: 3 – 0 in favor.

APPOINTMENTS:

7:00 pm: NH Legislator Discussion – Mr. Brown reported information was received from Representative Mann indicating she had a conflict and would not be able to attend, but her email reviewed the proposed legislative action regarding groundwater law changes. Representative Danaïs and Duarte declined the invitation, Representative Tasker did not respond. The Selectmen welcomed Senator Reagan.

Senator Reagan stated there would be no penalties with the delay in setting the tax rate; the Counties may end up having a harder time with the delay than the local municipalities. A bill has been submitted to change the timing of posting hearing dates between the SB2, Budget Committee and Towns to make the complicated timing issues easier to resolve.

Senator Reagan stated the LSR for groundwater changes has been received and new language is being drafted with intent to have the groundwater permit expire when the building permit expires. There may be a battle regarding the change during legislative meetings if there is a major objection from the NH Department who oversees the issue.

Chair Rafter reviewed DES indicates there are large and complex requirements that USA Springs must meet before the permit could be considered for renewal. Senator Reagan stated NH DES indicates they are required to follow the Federal EPA requirements, ultimately because it provides them with more federal funding.

Senator Reagan stated he is now the Chair of Joint Legislative Committee for Administrative Rules (JLCAR), which is the committee that approves all NH department rule changes, and gives him a little leverage over some of the state agencies.

Chair Rafter asked if there were any other changes that might be coming. Senator Reagan stated the state budget has been steady, there are no new taxes and if additional funds are received there is always the question of holding the excess in a rainy day fund or using them to provide help through Health and Human Services. There is no plan to currently assist with retirement payments.

Mr. Brown stated R&M revenue has remained steady but the Highway Block Grants funds have been decreasing over the last couple of years. Ms. Bonser stated the Budget Committee asked if revenue amounts will remain as proposed; it was expected they would.

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Senator Reagan indicated the deadline for House bill submission was a couple of weeks ago, the Senate is this Friday. The mood of the legislators is currently good.

Mr. Carpenter asked how the legislators will deal with the Affordable Care Act. Senator Reagan stated things are moving along well, an extension for Medicaid expansion rules of operation will be established during special session and there is the expectation that an extended simultaneous session will take place to determine how the changes will be determined to prevent a significant future bill.

The Selectmen thanked Senator Reagan for attending.

7:30 pm: Crowell Easement Legal Opinion – Chair Rafter stated additional information was received from town counsel regarding the Selectmen's inability to deed property without a Town Meeting vote. Ms. Crowell stated she is disappointed, understands why the entire town must accept the easement, but it isn't helpful in her current situation.

Ms. Crowell asked if the selectmen were allowed to lease the portion of land the garage is physically located on or can there be any type of consideration that when the Town accepted the road as a public road did it include the road in its current conditions? Ms. Crowell stated she understands this is her problem, but she does need some type of answer because she will have limited time to submit title information to the new buyer. In addition, she would be willing to submit a citizen petition warrant article if the Selectmen did not want to do so.

Mr. Brown stated the Selectmen can choose to submit a warrant article if they choose but will let her know if she should submit a warrant article and the law is clear that it does not allow the Selectmen to provide any lease or easement without citizen approval at Town Meeting.

Mr. Carpenter stated he understands the idea about the conditions of road acceptance and does that acceptance include all of the faults present at the time of acceptance and asked to contact the LGC to determine if this consideration is a possible solution.

Chair Rafter asked if the Town accepts a road, does the town own the land under the road by deed or only as a right of way. Mr. Brown stated there are multiple scenarios, with and without deeds, where the Town owns the land under the road, owns only a ROW for land owned by the surrounding land owners, and where the road and land is owned solely by the land owners.

It was stated if the Town only owns the ROW, the land is then still owned by the homeowner and there is a question about who actually owns the land at this time, because of when the transfers took place. Ms. Crowell asked about the possibility of consideration of the Adverse Possession law.

The Selectmen asked Mr. Brown to contact the LGC to clarify some of the issues and determine who owns the land. Ms. Crowell should contact her attorney about using the Adverse Possession law, which Mr. Brown stated is not applicable for Town owned property.

General Business:

2014 Budget Discussion – Mr. Brown stated much of the individual department information has been received and final steps for the spreadsheets will take place this week. Ms. Bonser stated the School Board has indicated they will have a 1.9% increase over the prior year budget.

Discussion took place about the percentage of increase for an employee cost of living increase.

The Selectmen indicated they wanted to establish actual insurance costs prior to determining a cost of living increase. Mr. Brown stated he is confident with the 7.9% insurance increase, which equal an approximate \$20,000.00 budget increase. Mr. Brown stated he expects the new health insurance quote to fall in line with the LGC amounts and if it is minimally less, swapping would not be worth the administrative hassle with new forms and processing.

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Mr. Brown reminded the Selectmen the Town is grandfathered in its existing policy and offering 50% deductible payment, but that offer is no longer allowed by insurance companies.

Mr. Brown stated he would present the first draft of the budget to the Budget Committee.

Mr. Carpenter asked about warrant articles and the selectmen would receive the information.

Ms. Bonser reported the School Board is considering all options to decrease crowding at the school, including considering tuitioning out the middle school students and asked if the Selectmen want to offer using the back area in the Town Offices for kindergarten classes. Mr. Brown stated that option was reviewed in the past and the renovation costs would be too high. Ms. Bonser suggested the access solution to the back of the building may be through the ball fields once they are moved to the Marsten property; the Selectmen should consider planning to work the renovation and Marsten property plans together.

Chair Rafter asked if the structural engineer report on the back rooms has been received. Mr. Brown stated it has been received and will be scanned and emailed to the Selectmen. The engineer reports the building is in better shape than expected, but it will need a new roof structure. The Selectmen asked that Mr. Brown draft an RFP for roof repairs to determine if continuing renovations will be cost effective; to try and get a better idea of actual repair and renovation costs with no or minimal additional expense.

Discussion took place about how the Town should proceed with renovation to the building. The Selectmen stated establishing what the space will be used for must be determined before making any decisions to move forward with renovations. Suggestions for use including talking to the School Board, Recreation Department, providing access to the back area through the ball fields when they are moved to the Marsten farm, consideration should be given about making it a private or commercial leased space, preschool or kindergarten classes could be moved to the area. The Selectmen agreed they want an estimate on the cost to repair the roof and renovating the space for general use.

Upcoming Agenda – Ms. Bonser requested time to discuss upcoming PB ordinance changes.

Motion: by Ms. Bonser, second by Mr. Carpenter that for cluster developments, whether it is found to be legal or not legal the word “mandatory” be removed from the land conservation requirement and it shall be the opinion and vote of the Selectmen ex-officio position to the Planning Board.

Chair Rafter asked for additional clarification regarding the rational of the motion. Ms. Bonser stated it is an unnecessary regulation and many developers already take advantage of conservation to decrease the road development cost, and there may be people with a personal disagreement and aversion to the requirement. Mr. Carpenter stated fundamentally he does not believe the government has the right to dictate what an owner is allowed to do with their property; to develop the property from either a commercial or individual purpose. If there is wording for optional incentives to save land for conservation, it is then up to the owner to decide.

Chair Rafter stated a town vote will ultimately be required for any changes and implementation. Ms. Bonser stated she objects to having a mandatory requirement.

Ms. Bonser called the vote for the motion for the Selectmen to oppose using the word mandatory conservation in cluster development changes.

Vote: 2 – 1 in favor. Chair Rafter opposed.

The Selectmen decided the Board of Selectmen should discuss and establish an opinion for the ex-officio member to present regarding suggested policy changes before any board votes on the policy change.

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Rymes Meeting: Mr. Brown asked the Selectmen when they wanted to meet with Rymes and their attorney. After discussion the Selectmen stated Rymes and his attorney should identify the meeting discussion topics and suggested meeting during the regular Board of Selectmen November 4, 2013 meeting. If a meeting can't be held on November 4th then alternate dates should be suggested. The Selectmen agreed the meeting should be public, unless it is specifically with counsel.

Meeting Request: Mr. Brown reported a request has been received from Mr. Reid to meet with the Selectmen and discuss culverts. The Selectmen asked for more details about the culverts to be prepared at the next meeting.

ADJOURNMENT: Having no further business,

8:19 PM **Motion:** by Mr. Carpenter, second by Ms. Bonser to adjourn.

Vote: 3 – 0 in favor.

Respectfully Submitted,

Dawn Wirkkala