

**Minutes
Nottingham Selectmen's Meeting
May 5, 2014**

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

Members Present: Mark Carpenter, Mary Bonser and Donna Danis

Others: Charles A. Brown – Town Administrator, Dawn Wirkkala – Secretary, Chris Sterndale, Paul Colby, Chris Pappas, Sandra Vilchock, James Calderone, Bob Desrosiers, Jaye Vilchock, Heidi Carlson, Jude Thibault, Jean Kane, Seth Peters, Elizabeth Saunders, John Morin, Scott LaPointe

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

6:35 PM Motion: Ms. Bonser, second by Ms. Danis to enter non-public under RSA 91-A:3 II(b).

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

Motion: Ms. Bonser, second Ms. Danis to exit the non-public session at 6:45 pm.

Vote: 3 – 0 in favor.

Motion: Ms. Bonser, second by Ms. Danis to seal the non-public minutes of May 5, 2014.

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

Chair Carpenter announced that Mr. Christopher Sterndale has been hired as the new Town Administrator and would be starting Monday, May 12, 2014. The Town reviewed 16 resumes, interviewed 5 candidates, and Mr. Sterndale was the candidate selected.

Fire Department: Chief Vilchock introduced the new full time Fire Fighter/EMT, Mr. James Calderone and reviewed his prior work experience.

Chief Vilchock stated he expects to have candidate interviews for the vacant third position soon; candidates are completing required academy training and qualifications.

MANIFEST SIGNATURE:

Motion: by Ms. Bonser, second by Ms. Danis to approve the May 5, 2014 manifest.

Vote: 3 – 0 in favor.

Town Administrator and Department Reports, Mail/Correspondence and Signature Items:

Mr. Brown stated salary history forms need initials, the Pole License signed at the April 21st Selectmen Meeting needed additional signatures, and there were additional emails from the Conservation Commission for Selectmen review.

Chair Carpenter confirmed the Selectmen would meet with the Conservation Commission on June 2nd to review the provided easement data and information.

APPOINTMENTS:

7:00 pm: Executive Councilor Pappas – Councilor Pappas stated he is the Executive Counselor for District 4 and has scheduled meetings with each of the Town's he represents to review his duties, answer questions that might be asked, and receive any thoughts or concerns Towns might have. Councilor Pappas reviewed the tasks the Council is required to complete, which included approving state agency and county contracts, accept federal grants, and work significantly with the Governor to complete necessary state department tasks. Councilor Pappas stated the Executive Council addresses all the appointments for state boards and committees.

The Council recently passed a Highway/Department of Transportation preservation plan to repair and maintain the conditions of state roads. While there were no current federal funds, some funds would be coming with the new \$0.042 gas tax; some funding will be applied to the Highway Block Grants which are distributed to municipalities.

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Ms. Bonser stated Nottingham is in good shape, as it does not have any bridges on the Red or Yellow repair list. Mr. Brown and the Road Agent made significant effort to complete necessary repairs. Mr. Brown stated funds have been received from FEMA in the past for repairs and the Block Grant also plays a part.

Councilor Pappas stated periodic emails are sent out to the municipalities informing them of issues and items the Executive Council has addressed.

Chair Carpenter asked what the Executive Council is doing to try and encourage new businesses to come to NH. Councilor Pappas stated the Commissioner of Economic Development is working on developing new relationships and expressing the benefits NH can offer to new companies. Ms. Bonser stated she is concerned about the ever increasing layers governing small businesses making it more difficult to operate; asking for a NHDES review of rules and regulations. Councilor Pappas stated he believes strongly in greater customer service and making state agencies more user friendly is something he is working on.

Ms. Danis asked Councilor Pappas about the types of issues Nottingham could receive help with. Councilor Pappas stated any dangerous intersection or road conditions, environmental issues, any situation that he might help connect the Town to the appropriate department official. Ms. Danis expressed her concern about Coe Brown Northwood Academy students exiting the parking lot, crossing the extremely busy Route 4 and asked if a light could be installed for their safety; it is a very dangerous intersection. Police assistance is provided during the before school drop off and after school pick-up, but not later during the day when after school activities are completed.

Councilor Pappas stated he would be willing to look into the situation.

Ms. Bonser thanked Councilor Pappas for coming, as she couldn't remember anyone coming before.

Councilor Pappas thanked the Selectmen for the time and the Selectmen thanked Councilor Pappas for coming.

7:15 pm: Realtor Jean Kane – Ms. Kane stated she is the realtor for the USA Springs property. Mr. Colby stated any discussion regarding the topic should be very generic and non-specific. Ms. Kane stated the property was marketed in the fall of 2013 as an Industrial property and received no response; it was then changed to Commercial which with low traffic counts has proven difficult to draw in an anchor store, and interest has been expressed with consideration for residential development. However, residential property development has also indicated possible difficulties with higher development costs and they are seeking cluster development plans or conservation deals. Ms. Kane asked the Selectmen if there were any incentives the Town offers for potential developments. Mr. Colby stated Nottingham offers Open Space Development, which includes both cluster development combined with conservation that might help with residential development.

Chair Carpenter and Ms. Bonser asked about methods that might be considered to encourage Commercial development, such as a distribution center. Ms. Kane stated her company has reached out to a variety of types of Industrial and Commercial companies for potential purchase and development but they are concerned with the additional expenses that might be needed because of the bankruptcy, developers but they are concerned about how long they might need to hold the property, and the lack of response is unusual given the length of road frontage, but has had the majority of interest from residential development.

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Ms. Kane stated her company completed an independent appraisal of the property using multiple Commercial/Industrial comparison properties within Rockingham County to establish a sale price of \$1.9 million dollars.

Ms. Bonser asked if demolition of the existing structure would assist in the sale. Ms. Kane stated it is her understanding that the building will need to be demolished.

General discussion took place about possible uses of the property. Ms. Kane stated the front portion of the property might receive more interest for retail development if there was residential development at the back of the property to help support tenants of the retail space.

Mr. Colby stated he has had some discussion with Ms. Kane trying to find a suitable use for the property given its history. Meeting with the Planning and Zoning Board isn't possible without a new owner.

The Selectmen agreed commercial development would be preferred and stated if there is anything the Town can do to help, Ms. Kane is welcome to contact them.

The Selectmen thanked Ms. Kane for keeping the Board of Selectmen informed of the process.

7:30 pm: Seth Peters/Winter Street Driveway Permit – Mr. Peters stated he was seeking a driveway permit and that he has road frontage on Winter Street. A civil engineer has completed deed research, going back to the 1700's that documents access on Winter Street and he would like to find a way to make the property viable, is not interested in a sub-division, and wanted to install a 10 foot drive with as little impact as possible on Winter Street.

Chair Carpenter stated the Selectmen had previously discussed the driveway permit and requested taking the right steps to make sure all the necessary information is received. However there are now questions about the Selectmen's involvement in the process.

Mr. Colby stated the original driveway permit for Mr. Peters was rescinded because it was issued in error as an abutter presented information that the Peter's property had no road frontage on Kennard Road. The Town had received prior property surveys which indicated that portion of Winter Street had been discontinued by an Act of 1842 and additional research and survey indicates Winter Street isn't a town road. Mr. Colby reviewed information provided by a legal representative of the Local Government Center (LGC) about legalities of roads, road history and acceptance of roads, which include acceptance of any original Town rangeways. Mr. Colby stated the LGC information encourages Towns to stay out of the process dealing with rangeways and disputes about road access on the rangeways. Mr. Colby stated the reference portion of Winter Street was never developed by the Town and there may be legal precedent that the road may already be considered abandoned.

Mr. Brown stated while there has never been a road, there is also no such thing as a land locked property; every property has some type of road access but it is up to the property owner to establish that access. Mr. Colby stated Mr. Peters needs to establish the owner of the property that is considered Winter Street and those owner(s) would provide him the needed access.

Mr. Peters stated he disagrees with Mr. Colby and provided copies of a Supreme Court case, Michael E. Gill versus Stephen G. Gerrato ruling that disputes the information Mr. Colby presented. Winter Street is the only access provided to the properties and the surveys completed for Ms. Saunders indicates there is a Winter Street. Property deeds consistently reference Winter Street as the access, original rangeways establish Winter Street, and in his opinion the ruling and current law indicates it is a road.

Discussion took place about rangeways, how they were originally established, and the number of differing opinions regarding rangeways and roads. Those in attendance reviewed information

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provided in the Saunders survey's as well as the current Town Tax Map which has known errors regarding Mr. Peter's land.

Ms. Danis asked what the role of the Board of Selectmen is in the process. Mr. Colby stated the Selectmen have no role in the appeal process; a driveway permit was issued and rescinded because of an issuing error and Mr. Peter's needs to appeal the decision to the Zoning Board.

Ms. Bonser stated the Town should determine if it has any responsibility regarding this issue as Winter Street was at some point a paper road.

Mr. Peters stated information from the court case indicates despite considered closures in the 1800's, rangeways should still be considered a road.

Chair Carpenter requested opinions from Mr. Colby and Mr. Brown regarding this issue, stating Ms. Bonser made a good point about Winter Street being a possible road and asked for Town council should be contacted for a legal determination about Winter Street. The Selectmen need to determine what, if any action is required from the Board of Selectmen regarding Winter Street.

Mr. Colby stated the appeal of the rescinded driveway permit will go before the Zoning Board and the information supplied by Mr. Peters should be included as evidence in his appeal. However, if Mr. Peter's agrees, further research can take place to determine the legal status of Winter Street as a road, possibly preventing the need for an appeal based on the response from Town council. Mr. Brown stated Town Council should be contacted for an opinion to make sure the correct action is being taken. Chair Carpenter stated the Selectmen can not currently take any actions regarding this situation.

Building Permits: Mr. Colby reviewed the number of building permits the Town has received for 2014, which currently match the total that was received in all of 2013. A number of new house permits are expected, along with a couple of new sub-divisions that are in the works and revenues will be much more than expected.

OUTSTANDING MINUTES:

Motion: Ms. Bonser, second Ms. Danis to approve the minutes of the April 7, 2014 meeting as amended.

Vote: 3 – 0 in favor.

Motion: Ms. Danis, second by Ms. Bonser to approve the minutes of the April 21, 2014 meeting as amended.

Vote: 3 – 0 in favor.

Board of Selectmen Reports:

Recreation: Ms. Danis reviewed upcoming activities for the Recreation Department – Fishing Derby on May 10th, a Senior Lunch on May 21st, and the Senior Picnic will be on June 18th.

Marston Property Exploratory Committee (MPEC): Ms. Danis stated a list of individuals has been established and participation requests to be on the committee have been sent. The first meeting will be Monday, May 12 at 6:30 pm and it will be televised. Monthly meetings are anticipated but more will be held if needed.

Mr. Brown stated he has received one bid for the Marston property demolition and a request for additional information has been received from another.

Planning Board: Ms. Bonser asked the Selectmen to review and comment on a new Lot Disturbance and Landscaping Ordinance. She is concerned about the proposed ordinance and has received citizen comments and concern as well.

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Chair Carpenter stated the Planning Board heard a lot of comments and concerns during the public hearing about the proposed Open Space Ordinance earlier this year, prior to Town Meeting. Statements have been made that the Planning Board is recommending ordinances that follow Master Plan recommendations. However there wasn't a lot of public participation and minimal comments were received when the Master Plan Sub-Committee completed their updates and changes to the Master Plan. Chair Carpenter asked for the Planning Board to consider taking a step back and review existing ordinances, public response to recent proposals and determine what might be the best changes moving forward.

Ms. Bonser stated she believes the proposed ordinance was drafted by a Planner who doesn't necessarily understand what is best for the Town of Nottingham and this type of ordinance is making Nottingham too controlling about property rights.

Ms. Danis stated she is concerned that the ordinance purpose indicates it is to protect the health and safety of the property and residents, and doesn't understand how it will protect health and safety. There is also concern about how restrictive portions of the proposal are being presented. Ms. Danis stated she agrees with the Selectmen's prior conversation about the Planning Board pausing and reviewing how the current ordinances are working.

Ms. Bonser stated she brought the suggestion about reviewing existing ordinance to the Planning Board, presenting a scenario and following it through the entire Planning and Zoning process, however, Planning members did not feel it was necessary. Ms. Bonser asked if the Selectmen should send a more formal letter to the Planning Board with the recommendation to review existing ordinances before introducing more.

Chair Carpenter stated he is concerned about the Town spending a lot of money on ordinances that will receive huge public opposition. Ms. Danis asked if it was appropriate to send a letter and Mr. Brown stated he would draft a letter for the Selectmen, Chair Carpenter stated he would also gather information for the letter.

General Business:

May Day Baskets: Chair Carpenter thanked the individuals who participated in the May Day Basket program. Those being thanked included all the volunteers and business that provided donations to fill the baskets, those who put the baskets together and those who delivered the baskets. Chair Carpenter stated the May Day Baskets program is privately funded and operated by Nottingham citizens, providing a gift to those who had a hard year, and stated the program does not receive any funding from the Town. Mr. Brown stated positive responses have been received by the recipients.

Recycle Center: The Selectmen reviewed the new sign quotes for the Recycle Center asking for additional information regarding delivery time. The Selectmen stated the lowest bidder, NH Department of Corrections, should be selected if they could provide a delivery time within 30 days.

The Selectmen reviewed the information about providing drinkable water to the Recycle Center, the lack of commercial water delivery and the available alternatives. Discussion took place about water dispensers and the Selectmen requested a dispense with a bottom load to eliminate having to lift the 5 gallon bottles and one that has both hot and cold water. WB Mason will deliver 5 gallon bottles of water either to the Town Office or if able, directly to the Recycle Center during their open hours.

Ms. Wirkkala stated Mr. Cinfo needs the updated version of the policies to include with a grant request. The Selectmen reviewed the amendments to the center policies.

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Motion: by Ms. Bonser, second by Ms. Danis to accept the Town of Nottingham Access to the Recycling Center Facilities Policy as amended and corrected.

Vote: 3 – 0 in favor.

Motion: by Ms. Bonser, second by Ms. Danis to accept the Town of Nottingham Recycling / Trash Disposal Policy as amended and corrected.

Vote: 3 – 0 in favor.

Board of Selectmen/School Board Joint Meeting: The Selectmen determined they wanted to try and meet with the Nottingham School Board on June 16, 2014 at 7:00 pm.

Proposed topics for discussion would be the Marston Property, Recycling Video with the students, and the Selectmen would consider other issues.

Space needs would not be discussed because there has been no movement with the prior discussion.

New Video/Audio Equipment: The Selectmen were presented the quotes for new video and audio equipment for Conference Room #2 and the Gym. Chair Carpenter asked to review the proposal in more detail at the next meeting.

Chair Carpenter asked about also adding an additional projector feed to Conference Room #1. Ms. Bonser asked about an on-demand service for meetings. Ms. Danis stated she supported the projector feed and a new review of on-demand service.

The Selectmen requested another review for possible on-demand video service.

Highway: Mr. Brown reviewed the paving bids for road construction and reconstruction of Lincoln Drive and Berry Road. A request was received to hot top areas at the Recycle Center but the current budget does not support the request.

Mr. Brown presented the received bid amounts and the recommendation of Mr. Brown and the Road Agent was for R&D Paving to provide the binding material at \$69.15/ton and the top coat at \$70.50/ton and All State Asphalt was selected to complete the reclaiming at \$0.70/squar yard.

Motion: by Ms. Bonser, second by Ms. Danis to accept Mr. Brown and Mr. Fernald's recommendations for All State Asphalt for reclaiming and R&D Paving for the binding and top coat materials.

Vote: 3 – 0 in favor.

Property Liability Quotes: Mr. Brown reviewed the four received quotes stating the Town must make a decision and respond to the quotes within nine days, before the current policy needs to be renewed. Mr. Brown stated some mistakes were made on a quote regarding the number of vehicles and over valuing building contents which should change the quote.

Mr. Brown reviewed information regarding a statute that applies to group pool insurance coverage. The statute appears to indicate a maximum amount of liability, but then seems to contradict itself and clarification about how the statute applies to municipalities is needed.

General discussion about the meaning of the statute took place. The Selectmen were concerned about who would be responsible for any additional funds if a lawsuit is brought against the Town with an award that is higher than the Town's liability amount. Mr. Brown stated he did not have the answer but he would ask the insurance agents the question.

Mr. Brown stated he would like to receive an answer from the Selectmen tonight.

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Ms. Danis stated it is difficult to offer a direction with so many questions outstanding. Ms. Bonser stated she is willing to stay with PLT for another year until more information regarding the process can be determined. Chair Carpenter stated he has more questions regarding the liability insurance. The Selectmen asked Mr. Brown to determine answers to their questions and considered staying with PLT. Chair Carpenter asked to have the insurance company provide the answer via email for a faster response

Ms. Danis asked about the coverage period and Mr. Brown stated it is July 1, 2014 to June 30, 2015.

Motion: by Ms. Bonser, second by Ms. Danis to remain with Property Liability if Mr. Brown receives satisfactory answers to questions asked by the Board of Selectmen.

Ms. Bonser stated in order to meet the nine day deadline the Town should remain with PLT, the Town has received good service and most policies are very similar overall; as long as the Town has property liability coverage.

Ms. Danis stated as she is new to this process and as the Selectmen have additional questions, she would prefer to have another meeting to review the details of the proposals. Chair Carpenter agreed to another meeting to gather answers before making a decision. The Selectmen agreed to another meeting to review the material fully.

Ms. Bonser withdrew her original motion to select PLT as the property liability company.

Motion: by Ms. Danis, second by Ms. Bonser to meet for a brief meeting on Friday, May 9, 2014 at 8:30 am for a brief meeting for the purpose of selecting a property liability company.

Vote: 3 – 0 in favor.

ADJOURNMENT: Having no further business,

9:30 PM **Motion:** by Ms. Danis, second by Ms. Bonser to adjourn.

Vote: 3 – 0 in favor.

Respectfully Submitted,

Dawn Wirkkala