

MINUTES OF THE MARCH 23, 2009 BOARD OF SELECTMEN'S MEETING

MEMBERS PRESENT: Chairman David Canada, Selectmen Bruno Federico and Tim Copeland, and Town Administrator Paul Deschaine.

The meeting opened at 7:44 PM after the Stratham Hill Park Association.

TREASURER'S REPORT: Town Treasurer Kevin Peck reported that he had \$367,085.39 in the general checking account and \$2.6 million invested that will be partially used this month to pay school invoices.

DEPARTMENT REPORTS:

Town Assessor: Andrea Lewy was present to report on various assessing matters. She had the following recommendations regarding applications for Veteran's credits. She recommended denying Richard Brow for a Veteran's credit. He did not have sufficient active duty time. She recommended approval of Robert Carney's Veteran's credit, meeting the criteria establishing the statute. She also recommended William and Carol Hughes be approved for a Veteran's credit, who also met the criteria. The Board of Selectmen acted and accepted each of her recommendations.

Ms. Lewy also had a recommendation in levying a Land Use Change Tax on the property located at 43-45 Portsmouth Avenue, LLC, Map 1 Lot 13-12. This is the location of the proposed new Nissan garage. Based on the sale price, her recommendation for a Land Use Change Tax was \$91,000. This took into consideration that one acre of the property that was bought was already out of current use. Mr. Canada moved to accept the recommendation. Mr. Copeland seconded the motion, which passed unanimously.

Ms. Lewy related that the statistical update was moving forward. She also reported on the Board of Tax and Land Appeals hearing that occurred with Golf Club of New England. The BTLA was going to render a decision in several weeks. She felt confident the Town presented its case fairly.

Recreation: Tara Barker was present to report on her department's activities. She first handed out a report of the balances in the Recreation Revolving Fund. Various accounts were reviewed and discussed particularly the cash flows regarding the ski program and other accounts.

Ms. Barker informed the Board that she had received the study guides necessary to study for the State pesticides license. There are at least two tests, which will be required to do what it is that the Town wishes to do in applying pesticides and herbicides. The first test is the base test, which covers all the regulations and the best management practices. The second test is for specialization. There are at least two possible specializations that the person should study for. Those being the ornamentals and turf study guides and the right-of-way study guide. There are two separate tests for those licenses. Her recommendation is to do the ornamentals and turf study guides first since the Recreation program is more dependant on maintaining the fields. Mr. Canada said the right-of-way study guide is more about roundup application and herbicide

control. After deliberating, the Board accepted Ms. Barker's recommendation of concentrating on the ornamental and turf tests first.

There was a discussion regarding the pending vacancy at the Gifford House. The tenants have let it be known that they will not be renewing this year's lease. Mr. Deschaine will work on an ad and Ms. Barker will field the calls and arrange for showing of the house along with the Park Ranger.

Mr. Canada asked Ms. Barker if she had a desire to have an off-site office at the Park. Ms. Barker said she was reluctant to do so because of the possible confusion to the public of where her office is, either at the Municipal Center or at the Park. She also regularly needs to interact with other Town Office staff members so she believes an office here at the Municipal Center would be better suited for her needs.

The possibility of getting a uniform for the Park Ranger was discussed. Mr. Copeland felt that it was needed in terms of providing him a shirt and pants for a more professional appearance. Mr. Canada agreed especially if Mr. Murray is going to begin enforcement activities related to dogs at the Park.

Nancy Hunter, from the audience, asked if the 2008 appropriation in the Capital Improvements Program of \$50,000 was being used to create a softball field at Stevens Park. Ms. Barker explained her plan for Stevens Park. Ms. Hunter questioned then the reports in the 2007 and 2008 Town Reports that indicated it was being used for that purpose. Mr. Deschaine explained that the Capital budgets for Stevens Park were not specific to what fields, but referenced general improvements to Stevens Park allowing the money to be used both for baseball and softball fields. Recently, the priority has changed to focus on the Babe Ruth Field due to the immediacy of losing the Great Bay Community College fields. If the Town were to lose those fields, there would be no possibility of having a Babe Ruth program. Currently, the Town has softball fields that they can use.

Ms. Barker spoke about the opportunity to obtain 2,000 yards of free fill from a site at the Pease Tradeport. The cost estimate to load and truck that material is approximately \$12,740. Mr. Hutton is evaluating the suitability of the material and will report back to Ms. Barker. The Board agreed to obtain the material if it is indeed suitable for use as fill at Stevens Park.

NEW BUSINESS:

The Chairman introduced Kate Miller, an Attorney from Donahue, Tucker, and Ciandella, who was present to discuss the progress in negotiating a renewal of the cable TV franchise with Comcast. Mr. Deschaine summarized the purpose of having Ms. Miller present due to the expiration of the fifteen-year franchise agreement. Ms. Miller explained that cable TV franchises are a monopoly without the usual regulation; however, they are not exclusive under New Hampshire law. During the last fifteen years, there have been no new providers in the market. Verizon started two years ago but they suddenly pulled out of negotiations and sold their interest to Fairpoint. Fairpoint Communications has expressed an interest in providing TV services at some time but has had difficulties due to the large amount of debt they hold and

technical issues. They are currently offering two pilot programs while experimenting with services. They may begin, in the next two years, to offer a cable TV service.

The process of renewing cable TV franchises under the Federal Cable Act is a three-year process. Consequently, their firm is suggesting the current renewal of the Comcast franchise be for only five years to see if competitors do enter the market. Donahue, Tucker, and Ciandella, as a firm, is representing Kensington, Exeter, and Stratham currently. There has been interest in developing an educational channel for all six towns in the SAU 16 area. She suggested the option of creating an educational channel be included in Stratham's contract. The Board should also consider having another ascertainment hearing to see if Comcast has been meeting their current contractual obligations. Ms. Miller noted, under the Federal Cable Act, price and channel selections are the two areas the Town is not permitted to regulate. Mr. Copeland mentioned that that is the largest area of complaints he has heard. Ms. Miller said Comcast has been reorganizing their service tiers and has been aiming most of their marketing efforts in the higher end tiers.

The discussion continued on the possibility of an educational channel. Kensington is adding this as an option to their new franchise agreement. Donahue, Tucker, and Ciandella is making sure the normal legal items are there in the contract to protect the Town in its rights-of-way. Mr. Deschaine asked about the requirement to offer a basic tier of low-cost programs to be available to either seniors or low-income people. Ms. Miller said she would determine if our current contract has such a requirement. Unfortunately, the basic tier is regulated by the Federal Communications Commission who regulates both its content and cost. Mr. Deschaine said the second most common complaint he has heard has been on service response times since they now provide phone service. There is a greater expectation on the part of customers for a better response since Comcast began to offer telephone services. That expectation is different from from when they were just offering cable TV. Ms. Miller will see if there needs to be a better requirement for greater response protocol.

The discussion turned to the need to schedule an ascertainment hearing in extending the current contract perhaps an additional five to six months in order to be able to wrap up the final negotiations and hearings. The current contract expires sometime in May.

Mr. Canada opened the floor for questions. Dick Alsterberg asked if a monetary penalty could be levied against the cable company if they do not respond to a repair call when scheduled. Ms. Miller said that was possible but hard to enforce. Richard MacCallum asked how to get channels added to the Comcast lineup. Ms. Miller said that subscribers need to contact Comcast directly and repeatedly and ask for a specific channel. The Town is not able to regulate that. With that, the Board thanked Ms. Miller for reporting on the status of negotiations.

Mr. Copeland reported that three eighteen-gallon tubs needed to be stored somewhere at the Fire House for the benefit of the 76'ers who are meeting there. Mr. Copeland approached the Fire Chief and the President of the Fire Association to find a suitable place for a cabinet in which to store these tubs. After due consideration, an appropriate place was found and the tubs are now secure.

Dick Alsterberg asked about security at the Fire House. He questioned why the 76'ers were relocated to a secure portion of the building during the ice storm. He felt that it was not appropriate and that they should have been moved to the Municipal Center. He expressed that the 76'ers might even desire to permanently return to the Municipal Center if there is a full and operating kitchen again. Mr. Deschaine expressed his understanding that they wanted to be in the Fire House. Mr. Copeland agreed but felt the move occurred during the Municipal Center renovations of last year. They were welcome to meet anywhere they wanted to; they would only have to ask.

Mr. Canada invited people to apply for appointments to various positions on Boards and Commissions of the Town and all are welcome to complete an application to submit to the Board for consideration by March 30, 2009.

Mr. Deschaine explained the results of a meeting with Dan Crow and Mr. Canada on the next stage of the Library expansion. If a classic bid approach were taken, it would require a design to be developed around a scope of work in order to go into a bid process. A design build effort requires more of a construction management approach where Mr. Crow could bid out all the trades and return with three bids for each trade for the Selectmen to select. Mr. Crow has proposed to do a construction management project for a not-to-exceed price. Mr. Deschaine was reluctant to release or disclose that price until the Board decided which approach the Town would take next because disclosing the price would put Mr. Crow at a disadvantage if it were to go to a classic bid. Mr. Crow explained his approach to the project. Mr. Canada explained his reasons for supporting Mr. Crow's proposal. Mr. Crow has a wealth of knowledge of the building that all would have to be reinvested should another contractor be selected. The Board agreed to go into non-public session to discuss the particulars of Mr. Crow's proposal and render a decision of which approach to take.

Michael Daley, Jr., was present to ask about a former campsite at Stratham Hill Park. There was one constructed twenty-five to thirty years ago by the Boy Scouts. It has become overgrown from lack of use. He proposed, along with the Boy Scouts, to redevelop the site into a functioning campsite. There was some question as to whether there was a Town ordinance, which prevented overnight camping at Stratham Hill Park. Mr. Deschaine will look into the ordinance and report to Mr. Daley if there is a prohibition against that. As Mr. Deschaine understood it, there was a prohibition but the Selectmen could waive that upon application.

Mr. Federico moved to go into non-public session to discuss the particulars of the contract for the Library renovations as part of negotiations. Mr. Canada seconded the motion, which passed unanimously. At 10:06 PM, Mr. Canada moved to come out of non-public session and to seal the minutes due to contract negotiations. Mr. Federico seconded the motion, which passed unanimously. Mr. Canada summarized the decision regarding the Library renovations. They further discussed the relative merits of accepting Crow Construction's proposal to continue to work on renovating the Municipal Center. Mr. Copeland moved to accept the proposal from Crow Construction dated March 19, 2009 for the renovation of 3,840 square feet of space in the Municipal Center under a construction management contract not to exceed \$240,000. Mr. Canada seconded the motion, which passed unanimously. Mr. Canada stated this decision was reached after determining Crow Construction was the most efficient and cost-effective means of

implementing the Library portion of this project under a design build concept. Crow Construction will provide the ongoing design services, demolition and miscellaneous labor and repairs. Mr. Crow will secure bids for the individual trades portion of the work and supervise all components of the job. This will allow the Town to take advantage of Mr. Crow's extensive knowledge of the building learned in part during the 2008 renovations, while using any excess labor in the labor markets that is currently available in the building trades due to the poor construction climate. Mr. Crow will formulate specifications, secure bids for components such as flooring, electrical, plumbing, insulation, painting, etc., and will bring these bids to the Board of Selectmen with the recommendation and their approval. At the same time, Crow Construction's offer to cap the expenses of the not-to-exceed contract of \$240,000 was advantageous to the Town. Under this contract, it is anticipated that some of the infrastructure work required under Phase II of the project will be accomplished during Phase I of the Library work. This would include replacing electrical panels, refurbishing bathrooms and the entire Phase II design will be accomplished under Phase I. The Board has appointed Selectman David Canada, Town Administrator Paul Deschaine, Building Inspector Terry Barnes, and Library Director Lesley Kimball to oversee the project on a day-to-day basis on behalf of the Board. The Board also acknowledged Crow Construction's past performance of providing the Town with construction services that have consistently come in under budget and on time and of a high quality.

Mr. Canada asked Mr. Crow about the sign for the Fire House. Mr. Crow said the lettering for the sign attached to the Fire House has been ordered. When delivered, Mr. Crow will arrange for its installation, which includes the lighting. He reminded the Board this was all part of the donation from Mark Stevens and Susan Conway.

Mr. Federico asked about a loose panel on the soffit on the hose tower. It appears to be coming loose. Mr. Crow was aware of it and will be repairing it shortly.

Mr. Canada asked Mr. Crow about the water heaters at the Fire House. He wanted to know if the defect that was discovered during the ice storm had been found and repaired. Mr. Crow said that it has and it has been limitedly tested but not fully stress tested. Mr. Canada asked about the kitchen hot water. Mr. Crow explained how the hot water system worked and the kitchen could only improve with another unit specifically for the kitchen. The Board thought the hot water heaters needed to be tested under a stressful condition to make sure it was fixed. Mr. Crow will coordinate such a test.

The possibility of insulating other sections of the Municipal Center building to include the new hearing room and the cafeteria were discussed. Mr. Crow felt that it was more appropriate to do that type of work before the Town moved into that space. He will provide estimates to do so. The Board thanked Mr. Crow for all his efforts.

Mr. Canada asked about the status of the cell tower contract and whether there were any issues resulting from the Town Meeting vote to reject it. Mr. Deschaine said Town Counsel said it was defensible; however, anyone can file suit against anyone if they felt they were wronged. If there were more detailed responses necessary, he would suggest another non-public session to discuss those items.

There was further discussion on the American Recovery and Reinvestment Act and if the Town was missing any opportunities for Federal Stimulus money that might be available. Mr. Deschaine noted that information seems to change daily; however, there seems to be very little available for communities of our size particularly when discussing sewer and water facility upgrades. Mr. Canada mentioned he had spoken to State Senator Maggie Hassan with whom the Board stays in regular contact. She believes there may be some opportunities for grants to help the energy efficiency of municipal buildings. The Board will look into this possibility since work in the Library and other sections of the Municipal Center will require additional insulation. Mr. Canada noted that there was a web cast scheduled for April 7, 2009 that is being sponsored by Governor John Lynch and being held at the University of New Hampshire that will more specifically inform municipalities and business leaders about the availability of such programs. The Board of Selectmen will monitor that web cast here at the Municipal Center.

There being no further discussion, Mr. Canada moved to adjourn at 10:45 PM. Mr. Copeland seconded the motion, which passed unanimously.

Respectfully Submitted,

Reviewed By,

Norma Corrow
Recording Secretary

Paul Deschaine
Town Administrator