

BOARD OF SELECTMEN MEETING
Minutes of March 23, 2020

CALL TO ORDER: Chairman Ross McLeod called the meeting to order at 7:00 pm. Selectmen Bruce Breton, Roger Hohenberger, and Heath Partington were present, as was Town Administrator David Sullivan. Selectman Jennifer Simmons was in attendance via conference call. Mr. McLeod opened with the Pledge of Allegiance.

ANNOUNCEMENTS: Mr. McLeod thanked the voters, those who ran for office and those that had submitted articles, for their interest and participation in the Town Meeting.

Mr. McLeod noted that Al Letizio Jr, owner of AJ Letizio Sales and Marketing Inc. of Windham, was selected as the 2020 Small Business Administration's NH Small Business Person of the Year and also received the Jeffrey Butlin Family Owned Small Business of the Year Award. Congratulations was extended to Al Letizio and his team.

BOARD REORGANIZATION: Mr. Breton moved and Mr. Hohenberger seconded to nominate Ross McLeod to be Chairman and Heath Partington to be Vice Chairman for the upcoming year. Roll call Vote – all Yes. Motion passed.

VIRTUAL MEETING: Mr. Sullivan announced that anyone wishing to connect with the Board during tonight's meeting that they could send a text, email, or call and he provided the numbers for each.

COVID-19 UPDATE: Mr. Sullivan then provided an update as to how the Town is conducting business operations during the coronavirus pandemic.

He expressed his thanks and appreciation to the Fire and Police Chiefs and all the employees and residents for shifting to a "virtual town hall" environment as smoothly as they have done. He recognized Chief McPherson for his leadership during this unprecedented event, and his expert guidance as Emergency Management Director.

He notes that all offices have been closed to the public and employees are generally staying within their buildings with few exceptions noting that the IT Director, General Service Director, and Fire Chief may move about the various buildings as needs require. Services to the public are generally being provided through the town website, mail-ins, on-line portals, and by phone. Information about the closings have been posted on the Town Website and Facebook.

He expressed that his biggest fear is maintaining the Transfer Station as they need to stay operational and continue with public interaction. While the employees are maintaining social distancing with the public, he commented that we need a plan in place should employees at the transfer station become ill and the facility be possibly forced to shut down. He noted that he has been working with the department heads to develop plans for the potential of "team" staffing, meaning employees would alternate working schedules in groups to limit the possibility of full exposures that could shut down entire departments.

He asked for the Board's support to allow staff changes of this nature and possibly employees working from home. Additionally Mr. Sullivan asked for the Board to support maintaining the employee's compensation for lost time should an employee be stricken with the virus or be required to quarantine due to possible exposure, and other reasons as defined by the Federal Guidelines recently established for paid sick leave.

Chief McPherson was asked to update what has been happening with his department to which he stated that he and his team are busy keeping safe. They are staying on top of the situation and on calls daily with the State – noting a total of 101 case confirmed in the State, 23 of which are in Rockingham County. He then provided an update to the Board on the current state of the virus

according to the DHHS in NH. Chief then advised that his department is practicing social distancing, and the building is closed to public and employees who are not scheduled to work. Further he is conducting health screening of all employees as they enter the building including a list of questions and temperature checks. If an employee's temperature is above 100 or the employee answers "yes" to any of the questions, they are sent home. It was recommended that all other town buildings do so as well.

The Chief expressed his thanks to the residents and businesses for their support and offers to help. Chief Lewis explained that the Police Department is following the same protocols. He noted that there is one employee currently quarantined due to "out of country" travel. The department is also practicing social distancing and doing as much via email and phone as possible.

Chief Lewis assured residents they will see police presence often in neighborhoods, checking on things and just being extra present in the community. Also that the department is paying close attention to the area of Shaws and McDonald where more people are.

He stated that the officers have been instructed to arrive in plain clothes, change into their uniforms when they arrive, and change back before they leave. They are also installing a washer/dryer in the station for uniforms to be cleaned onsite.

Mr. Sullivan explained the provisions of the new Federal Sick Leave Law, effective April 2, 2020, that requires employers to pay two (2) weeks of paid leave for an employee who (1) is quarantined by order of a governmental agency, (2) is quarantined on advice of a health provider, (3) has COVID 19 symptoms and is seeking a diagnosis, (4) is caring for an individual subject to a governmental quarantine, or (4) is caring for a child whose school / daycare is closed, and (5) other similar circumstances not yet defined.

Mr. Hohenberger commented that as he understood the law the employer does not have to pay the first two weeks for the child care provision. Mr. Sullivan confirmed that that is how the law would operate, however he was asking the Board to support fully compensating the employee. Discussion ensued on the various factors under consideration and how a few employees currently out of work are being treated.

Mr. Hohenberger moved and Mr. Breton seconded to follow the federal guidelines of the new law effective immediately.

Mr. Sullivan asked for clarification on the motion as to how the first two weeks of leave would be treated, adding that his recommendation was for those weeks to be paid leave starting now and fully cover the employee during this time. Mr. Partington expressed that he would vote NO as opposed to only paying the 2/3rds.

Mr. Sullivan reviewed the sections of the law and how the employee would be paid, clarifying that those off due to child care were required only to be paid the 2/3rds of their pay. He however recommended that they be paid in full like the other reasons under the law.

He further noted that he would like for the provisions to be retroactive for four (4) employees currently out on recommendations of their PCP.

Chief McPherson explained that testing is few and far between which is why some employees showing mild symptoms or have underlying conditions, may be told to stay home and not be tested. He further described the protocols that are being used by the medical providers.

Chief McPherson explained that if a duty crew responds to a call and they were not aware that there is a potential COVID 19 case (i.e. a car accident), then the entire duty crew will need to be quarantined until COVID 19 test results are given. He has worked with the Haz-Mat District and secured a place in Manchester as part of a regional response for first responders should they need to be quarantined.

Mr. Breton stated that he felt the Board should support Mr. Hohenberger's motion to follow the law as described. Mr. Sullivan reiterated his recommendation that the employees be fully compensated in all cases as noted earlier, reviewing the provisions of the law and clarifying that the difference from the law and what he was recommending was that those that are to receive 2/3rds pay would receive full pay for the first two weeks.

Mrs. Simmons expressed she was in complete support of the recommendation to pay the employee who was off due to day care.

Vote on Mr. Hohenberger's motion – Roll call – Mr. Hohenberger and Mr. Breton voted Yes; Mr. Partington, Mr. McLeod, and Mrs. Simmons voted No – Motion failed 2-3.

Mr. Partington moved and Mrs. Simmons seconded to follow the recommendation of the Town Administrator, paying all employees in full. Roll call Vote - Mr. Hohenberger and Mr. Breton voted No; Mr. Partington, Mr. McLeod, and Mrs. Simmons voted Yes – Motion passed 3-2.

Mr. Breton requested that the Town Administrator provide the names of those employees out due to the new regulations on COVID-19 to the Board. No medical information can be shared unless the employee signs a waiver of their HIPPA rights.

Mr. Sullivan asked for clarification as to the effects of the motion on those employees presently out, which are three at this point in time.

Mr. Partington moved and Mrs. Simmons seconded to make the motion effective tomorrow for those employees currently out on leave for these reasons. Roll call vote – all Yes. Motion passed.

The Board took a call from a resident – Marcy Fink – who wanted to know what the Board was going to do about closing non-essential businesses and Town Parks. Caller also sent a detailed email outlining her request.

Mr. Sullivan advised that he spoke with Town Council who confirmed that as NH is not a Home Rule State and the Board's authority comes from the enabling statute, that the Board does not have the authority to regulate businesses as suggested, but rather it is the State who has that authority. The Board noted that the residents were encouraged to contact local State Representatives.

Tim Zurowski, on the phone, who is the husband of Marcy Fink, commented that the Town can shut down the local congregational places like the parks – basketball for example.

Mr. Partington expressed that he was not in favor of closing these locations completely as it helps to get families out, and is difficult to stop kids from playing basketball. Mr. Breton and Mrs. Simmons agreed, commenting that people seem to be keeping social distancing. Mr. Hohenberger and Mr. McLeod also agreed.

Mr. McLeod commented that no games are going on now and the leagues have suspended their seasons.

Chief Lewis supported the closure of the parks since we are supposed to social distance and he noted many people on the rail trail over the weekend.

Mrs. Simmons asked how any closures would be enforced and if Ms. Haas, Parks and Recreation Director had been involved. Ms. Haas, Recreation Director, has been monitoring parks and also what other towns are doing. At this time there is not a recommendation from her to close parks, and that the fields are not open as of yet for the season.

Marcy Fink commented that she was not requesting that the parks be completely closed but felt places like the basketball courts and playgrounds and other areas people congregate be closed.

Mr. Sullivan advised that the recommendations the town has received is to post area with such things that the play surfaces are not being cleaned.

Mr. McLeod asked the Board is they would consider closing the basketball courts, and / or and playgrounds, or staying with decisions as previously stated. Mr. Partington was not opposed to closing the playgrounds but was to the basketball. Mr. Breton felt we should close both. Mrs. Simmons was in favor of closing both. She asked how these would be enforced. Mr. Hohenberger felt people know what they need to do and was in favor of keeping things open. Chief Lewis stated he would have patrols drive through and move parties along if large groups were congregating.

Mr. Breton moved and Mrs. Simmons seconded to close the Griffin Park basketball courts. Roll call Vote – Mr. Breton, Mrs. Simmons, and Mr. McLeod voted Yes; Mr. Hohenberger and Mr. Partington voted No. Motioned passed 3-2. Mr. Breton suggested removing the hoops.

Mr. Breton moved and Mrs. Simmons seconded to close down the playgrounds at Griffin Park and Windham Wonderland. Roll call vote – Mr. Breton, Mrs. Simmons, Mr. Partington and Mr. McLeod voted Yes; Mr. Hohenberger voted No. Motion passed 4-1.

Mr. Breton moved and Mrs. Simmons seconded to close the basketball court at Nashua Road. Roll call vote – Mr. Breton, Mrs. Simmons, and Mr. McLeod voted Yes; Mr. Partington and Mr. Hohenberger voted No. Motion passed 3-2.

Text question received relative to what the Town should do relative to employees who are returning from domestic travel – ie can they return to work? Mr. Hohenberger expressed he had no problem with people returning.

Chief McPherson advised that employees should contact their PCP after traveling abroad or domestically based on the CDC guidelines and get guidance from them as to the ability to return.

Mr. Senibaldi requested that the Board reconsider their prior vote on the start date for compensation for those employees who are currently out. Mrs. Simmons moved for reconsideration. Motioned failed due to lack of a second.

Mr. Partington motioned and Mrs. Simmons seconded to retroactively the four (4) employees who are out currently. Roll call Vote – all Yes. Motion passed.

Mr. Breton asked if there was anything needed for the first responders beyond what has been already been done. It was confirmed by many that these employees are covered by the previous motions. Mr. Breton asked about the cleaning of police vehicles to which Chief Lewis stated that they are cleaning cars regularly. Further he advised that his department has completed a plan for handling operations in an efficient manner assigning specific duties to leaders, including Sergeants, Captains and Chief.

Mr. Sullivan then talked to the Board about “team staffing” should we need to reduce staff in the office. Mr. Partington agreed that work from home options should be considered. The Board agreed to address these types of issues on a situational basis should it come to that. It was noted that an emergency meeting of the Board could be called if needed.

Concerns about how the Transfer Station employees would work if we were to split shifts were discussed with the general understanding and expectation being that as they are not able to work from home we could reassign them to help in other areas – ie highway. Mr. Gary Garfield spoke in support of the need to look at alternate staffing plans to keep transfer station open.

PFOS UPDATE: Mr. Jim Ricker, our engineering consultant from Wilcox and Barton, presented the Board with an update as to the on-going site investigation and well water testing relative to the PFOS contamination in the area of the former and current fire stations. He explained that the current exceedance standards are 70 PPT for two PFOS compounds, however the State also has lower health

advisory standards of between 11 and 18 PPTs that are expected to become law soon which would replace the 70 PPT standard. He reviewed the most current test results which showed that 16 of 36 samples either exceeded the 70 PPT standard (3 of them) or the health advisory samples, with the most recent samples being taken in the Collins Brook and Lowell Road areas. Mr. Ricker further advised that he, along with staff met with the NHDES last week, to review the current results and discuss expectations for next steps. He explained that the DES is taking money from the Drinking Water Trust Fund to conduct upwards of 100 tests to the north of the area being studied and expects that the town will continue to do samplings to the south.

Mr. Hohenberger discussed fluid dynamics and how it works commenting that the concentration at the fire department is moving, opining that as it moves the concentration must be getting reduced. Mr. Ricker stated that with PFOS it does not naturally degenerate so it travels with the ground water at its concentration unless it is removed or destroyed.

Mr. Hohenberger asked if anyone at the DES had expertise in fluid dynamics, to which no one could respond with any knowledge.

Mr. Garfield, a volunteer resident, who is an environmental engineer assisting Mr. Sullivan, discussed how fluid dynamics is used in mechanical engineering however not in geothermal fracture. Further he explained how flow through fracture media works; noting that PFOS is a forever chemical.

Mr. Hohenberger asked if anybody can say without reservations that the Town is the responsible party. Discussion ensued as to the lower levels and how the DES can connect the contamination to the town. Mr. Sullivan advised that the DES, through their administrative rules, will require us to continue to test until we can determine a defined groundwater monitoring zone. Discussion then turned to the list of many products that contain PFOS.

Mr. Hohenberger commented that he had contacted Senator Birdsell to ask her what level of authority the DES has over the town to force additional testing. The Senator is looking into the question. He continued to question whether or not the DES is causing an unfunded mandate increasing the scope of the investigation by lowering the standard.

Mr. Sullivan and Mr. Garfield commented that the DES, under their administrative rules, has the authority to conduct the test themselves and then to bill the town to recover their costs.

Mr. Garfield asked the State, unsuccessfully, to look further at the Central Metals site as he has concerns with atmospheric deposition. He further asked the DES to come into town for a meeting to review our PFOS situation. He noted that while they were agreeable to do so, it may be 3-6 months from now given the current health crisis, and may be longer. He recommended getting the tests completed and then re-invite the DES for a meeting.

Mr. Sullivan confirmed that to date we have expended over \$100,000 for the studies and well testing and that we will have to expend more to not only test but to remediate those wells over the thresholds. He further detailed the cost expected on treatment systems for the three town buildings to date.

The Board came back to the discussion on the need to continue testing and how to handle the contract with Wilcox and Barton. Mr. Hohenberger wanted to continue to investigate the authority of the DES to require the town to continue to test. Mr. Garfield advised that the State is willing to come to speak with the town in the future.

After further discussion about who can do the work that is needed, staff's recommendation was to continue with Wilcox and Barton based on their experience and knowledge of the situation. Mr. Sullivan offered that the Board could extend the contract procedurally.

Mr. Hohenberger moved and Mr. Breton seconded to extend the contract with Wilcox and Barton to handle the additional scope of work to do further testing as discussed and for a cost not to exceed \$25,000. Roll call Vote – all Yes. Motion passed.

BID WAIVER – TRANSFER STATION LOADER: Mr. Senibaldi requested the Board support a bid waiver relative to the purchase of a new loader, requesting authority to purchase the same Tachushi brand that we have purchased the past two times. In addition he requested the use of a sole vendor to do so as there is only one authorized dealer in the area to sell the brand.

Mr. Partington moved and Mrs. Simmons seconded to allow the use of a sole source bid for the loader, and to trade in either the 2009 or 2013 loader as deemed appropriate by management towards the purchase. Roll call Vote – Mr. Partington, Mrs. Simmons, and Mr. McLeod voted Yes; Mr. Breton and Mr. Hohenberger voted No. Motion passed 3-2.

BID WAIVER – SEARLES ENGINEERING CONSULTANT: Mr. Sullivan advised that the Trustees are developing a grant submittal to the LCHIP relative to the repairs to the Tower. As part of that grant the town needs to prepare a Historic Resources Report. Two date they have attained quotes from two qualified firms but have yet been successful getting a third as required by our processes. He asked that allowance be approved to accept the two received. He noted that the Town has worked with one of the vendors before on the Depot Project.

Mr. Hohenberger moved and Mr. Breton seconded to waive the requirement for three quotes. Roll call Vote – all members voting Yes. Motion passed.

TIMBER TAX WARRANT: Mr. Sullivan presented the following timber tax bills for the Board’s approval: 7-A-2 (58 Governor Dinsmore Rd - \$148.63); 7-A-3 (60 Governor Dinsmore Rd - \$32.92); 7-A-4 (62 Governor Dinsmore Rd - \$180.76); 7-A-5 (64 Governor Dinsmore Rd - \$314.38); 7-A-30 (68 Governor Dinsmore Rd - \$188.29); 8-B-1000 and 1000D (108 Rockingham/1 Hunt Rd - \$371.05)

Mr. Hohenberger moved and Mr. Breton seconded to approve the tax warrant and to bill accordingly. Roll call Vote – all Yes. Motion passed.

OLD BUSINESS: none

NEW BUSINESS: Mr. Sullivan requested that the Board, given the current health crisis, consider extending the deadline for new applications for property tax exemptions (Elderly, Blind, Disabled, etc) as well as all applicable Veteran Credits from April 15, 2020 to May 1, 2020, as allowed under RSA 72:33.

Mr. Hohenberger moved and Mrs. Simmons seconded to approve extending the deadline from April 15, 2020 to May 1, 2020 as recommended. Roll call Vote – all Yes. Motion passed.

CORRESPONDENCE: Request received from Rex Norman, Community Development Director, asking the Board to vote to send letter to Planning Board requesting a “revocation” of the Clyde Pond subdivision under the provisions of RSA 676:4-a(I)(a). Mr. Sullivan noted that this subdivision is no longer active given the Town’s purchase of all the land for conservation at the 2019 Town Meeting.

Mr. Hohenberger moved and Mrs. Simmons seconded to send the requested letter to the Planning Board requesting that they “revoke” the Clyde Pond subdivision. Roll call Vote – Mr. Breton, Mrs. Simmons, Mr. McLeod, and Mr. Hohenberger voted Yes; Mr. Partington abstained. Motion passed 4-0-1.

MINUTES: Mr. Hohenberger moved and Mr. Partington seconded to approve the minutes of October 7, 2019. Roll call Vote – Mr. Breton, Mr. Hohenberger, and Mr. Partington voted Yes; Mr. McLeod abstained as he was not present for the meeting and Mrs. Simmons abstained as she was not on the Board. Motion passed 3-0-2.

Mr. Hohenberger moved and Mr. Breton seconded to approve the minutes of November 4, 2019. Roll call Vote – Mr. Breton, Mr. Hohenberger, Mr. Partington, and Mr. McLeod voted Yes; Mrs. Simmons abstained as she was not on the Board. Motion passed 4-0-1.

POST OFFICE EASEMENT: Mr. Sullivan advised the Board that he was working with Town Counsel relative to the town’s “Option for an Easement” across the Post Office property that expires in June and will be contacting the property owner to see if they were amendable to extending such agreement.

Mr. Hohenberger welcomed Mrs. Simmons back as a member of the Board of Selectmen.

NON-PUBLIC SESSION: Mr. Hohenberger moved and Mr. Breton seconded to enter into non- public session in accordance with RSA 91-A:3 II c. Roll call Vote – all members voted Yes.

Reputation: The Board and Mr. Sullivan were present.

The Board discussed an employee matter but made no decisions. Mr. Sullivan will follow up and schedule a meeting for the employee to meet with the Board.

Mr. Hohenberger moved and Mr. Breton seconded to come out of non-public session and adjourn the meeting. Motion passed 5-0. Roll call Vote – all members voted Yes.

Meeting adjourned at 10:00 pm.

Respectfully submitted,
Paula Carmichael, HR Director