

BOARD OF SELECTMEN MEETING
Minutes of August 10, 2020

CALL TO ORDER: Chairman Ross McLeod called the meeting to order at 7:00 pm. Selectmen Roger Hohenberger and Bruce Breton were present in the meeting room; with Mr. McLeod, Selectmen Heath Partington and Jennifer Simmons, and Town Administrator David Sullivan in attendance via Zoom.

Mr. McLeod opened with the Pledge of Allegiance, then conducted a roll call of the members participating electronically and Mr. Sullivan, who all advised they were conferencing in alone. He then read a statement relative to the Governor's Executive Order 2020-04 #12, which authorizes the Board of Selectmen to meet electronically provided public access is available via telephone or electronic means, followed by the phone and text message numbers and email address available for use by the public during the meeting.

Mr. McLeod then requested a moment of silence for the passing of Joan Normington, noting her lengthy involvement with the Historic District Commission and Campbell Farm and extending condolences to her family.

ANNOUNCEMENTS/LIAISON REPORTS: None.

DROUGHT STATUS/OUTDOOR WATERING RESTRICTIONS: Mr. McLeod noted that the Town is still in a moderate drought, thus the Board can continue the restrictions currently in place; polling the members as to whether they wished to make any changes. Mr. Hohenberger noted that he had passed three houses on the way to the meeting that were watering their lawns; suggesting notice of the restrictions be put in the newspaper again, on the front page, to make sure all are aware. Mr. McLeod also suggested the sign on the corner of Route 111 and Church Street be changed; perhaps to "odd/even watering ban" as opposed to "level 1".

It was the consensus of the Board to support the suggestions made and make no changes to the restrictions in place.

COMMITTEE APPOINTMENT: Mr. McLeod noted the Board had received a letter of interest for the last meeting from Chris Mancuso for appointment to the Local Energy Committee, and had requested Mr. Mancuso come in for an interview before making a decision. Mr. Mancuso was present and provided the Board with information on his background and interest in energy; then fielding questions from Mr. Hohenberger regarding green energy.

Mr. Breton moved and Mr. Hohenberger seconded to appoint Mr. Mancuso as an alternate to the LEC for a term of 3 years. Roll call vote – all "yes".

DONATION ACCEPTANCES – CONSERVATION COMMISSION: Mr. Sullivan advised that both donations relate to improving the parking area at Clyde Pond; explaining that Jim Logan will be providing labor/resources/materials, and Cairns 140 cubic yards of crushed stone and several large boulders. He indicated the estimated values of the donations were \$4,700 and \$4,200, respectively.

Discussion ensued, with input from Conservation Commission Chairman Dave Curto, regarding the condition of the parking now and subsequent to these improvements, safety concerns at the property and the high rate of use during the pandemic, and the need to put safeguards in place to ensure access for safety and rescue. Mr. Curto also outlined his ongoing efforts to GPS the trails throughout Town, and the mapping/posting of same to increase safety and ease of navigation, as well as making it easier for fire and rescue to find individuals who may need assistance while in the woods.

Mr. Hohenberger moved and Mr. Breton seconded to accept the donation from Cairns and Son valued at \$4,200 with gratitude. Roll call vote - all "yes".

Mr. Hohenberger then moved and Mr. Breton seconded to accept the donation from Jim Logan of time and resources valued at \$4,700. Roll call vote – all "yes".

GENERAL SERVICES DIRECTOR – SALE OF KODIAK TRUCK: Mr. Sullivan noted that the Board had requested some history on the truck and its sale. He indicated the Board had last discussed this on January 27, minutes of which had been provided to the Board, and at that time the sale had been authorized; adding that the vehicle has been listed four times. Mr. Sullivan noted that Mr. Senibaldi had provided details on the truck and its condition to the Board, as well as bids that were received; asking that Mr. Senibaldi be authorized to sell the truck for the best price he can get, with no minimum price or, if one is required, that it be \$4,000 at the most.

Mr. Partington noted that the Board had not set a minimum price when first discussing the sale, and he would not do so now. Discussion ensued in that a minimum or reserve price is not usually utilized.

Mr. Senibaldi advised he would like to explore one or two other options to see if the maximum value can be obtained; clarifying the only real value is in the plow and sander. He noted the truck does still run, however, two mechanics looked at and found the same issues/costs. Mr. Senibaldi advised that another offer had been received that day, which he will explore.

Discussion ensued, with Mr. Hohenberger noting the Board had already voted to allow Mr. Senibaldi to surplus the vehicle as he deems appropriate, and it was the consensus no further action was necessary. Mr. Senibaldi will proceed to get what we can for the truck.

BID AWARD - FINANCING: *Searles Tower & Rail Trail* - Mr. Sullivan advised that Finance Director Daniel Popovici-Muller had put out requests for quotes to several banks, four of which had responded. He indicated the best price had been received from Northway Bank as follows:

- A 12 year loan for Searles, which allows them time to generate some income towards the payment, with an interest rate of 2.3%. Annual payment of \$28,808.
- A 2 year loan for the Rail Trail at 1.8%; annual payment of \$40,989.
- Total combined annual payment would be \$40,989, with total interest paid being \$47,676.

Mr. Breton questioned where Northway Bank was located, and Mr. Sullivan advised it is in Portsmouth; adding the Town had utilized them several times for vehicle leases.

Mr. Partington sought clarification as to the project costs versus the amounts bonded; with Mr. Sullivan clarifying the Rail Trail cost was \$180,000, with \$80,000 being bonded, whereas the Searles bond was \$300,000. Mr. Sullivan noted that, thus far, approximately \$114,000 has been allocated to the Tower repairs and the balance of it will go towards the roof; adding that if the latter comes in less, then the loan can be prepaid.

After further, brief discussion, Mr. Hohenberger moved and Mr. Breton seconded to award the financing to Northway Bank for the terms as outlined in the narrative agenda. Roll call vote – all “yes”.

Mr. Sullivan requested that the Rail Trail financing be clarified.

Mr. Hohenberger then moved and Mr. Breton seconded to award financing to Northway Bank for two years at the amount as specified in the narrative agenda for the Rail Trail. Roll call vote – all “yes”.

USE OF TOWN HALL MEETING SPACE: Mr. Sullivan noted the intent of this agenda item was to discuss the possible reopening of the Town Hall to groups such as the Women’s Club, who have made inquiries, but in light of the news the previous Friday, he would recommend waiting another 30 days and having no uses other than governmental until after Labor Day,

Mr. Partington indicated he placed this kind of in the same category as Searles School; if one wants to use the building they sign a waiver. Mr. Hohenberger concurred, however, Mr. McLeod noted that a waiver protects the Town, but not the people; questioning how the Town enforces social distancing and masks and citing that Crossing Life Church indicated they had been adhering to the guidelines, yet the incident there had happened.

Mrs. Simmons inquired what the numbers would look like at 50% capacity. Mr. Sullivan indicated he did not have the exact figures, but they would pale in comparison to normal use of the building; citing Sunday Serenity which is over 100 people. He felt you may be able to have 45 people at 6', but echoed Mr. McLeod's concerns regarding enforcement and adding his own regarding cleaning and bathroom use.

Chief McPherson concurred with Mr. Sullivan; noting that the Town Hall is a place of business whereas the Searles is a function facility where, once the function is over, there is time to get in and clean the building. He noted that, at the Town Hall, there are employees and, if anyone comes down with the virus, what will happen; adding the Board has to think of it differently than the Searles as far as opening. Chief McPherson noted he could have Assistant Chief Brady look at the layout and overall numbers for a place of assembly, but questioned again who would enforce the restrictions on the weekends.

Lengthy discussion ensued as to the current cleaning schedule under Covid versus prior to, staff's recommendation, and the Searles facility. It was the consensus to revisit the use of Town Hall after Labor Day and that the Searles reopening, as previously approved by the Board, remain unchanged.

Mr. Sullivan then noted that, in response to Friday's announcement, the Town officers were open and staffed, but closed to the public today. He indicated his recommendation would be to return to previous procedures beginning the following day, including being open to the public, requiring masks/social distancing, etc. After a brief discussion, all members concurred; with Mr. Sullivan clarifying that he had met with members of staff and believed all were on board, as well.

PFOS INVESTIGATION UPDATE: Mr. Sullivan extended thanks to Mr. Hohenberger for sitting in with he and Gary Garfield on the last conference call with Wilcox and Barton. He then advised he had forwarded the Board a letter he had received from the NH DES, in which they concurred with the consultant recommendation, however, they now wanted the Town to take additional steps including precursor testing; adding the estimated cost for the latter has been received. Mr. Sullivan asked that the Board support staff's recommendation to continue with Wilcox and Barton, and with Jim Ricker who has left the company but continues to work on the Town's contract through an agreement with Wilcox and Barton, and that they also support amending the contract to incorporate the next steps in the process.

Gary Garfield, EDC member, approached and encouraged the Board to stay with Mr. Ricker wherever he may end up; adding the issue at hand is, if the Board competitively bids the next phase then whoever bids would pad their price in order to get up to speed; adding we have been doing this for a number years, with over 70 homes, and do not want to lose the institutional knowledge and relationship with the State.

Mr. Garfield then noted that, as to the precursor testing, this is really becoming a science project; citing the current standards for five compounds which do not generally break down but, when they do, create chemicals that are problematic. He noted the State is asking the Town to spend a lot of money to search for these other chemicals, which would be one thing if they were on the list of standard chemicals tested for, however, the State is asking for top analysis which is approximately \$1000/test. Mr. Garfield urged caution, noting the more we agree with the State's wish list, the more it becomes routine and the more expensive it becomes; adding we are being asked to re-sample sites that are below the new standard in order to build a database. He indicated that in other cases, when a sites tests once or twice below the standard that is it, whereas the State is asking the Town to do quarterly sampling of those; suggesting that Wilcox and Barton develop something wherein the Town will do so only to a certain point.

Mr. Hohenberger agreed that the relationship between Mr. Ricker, Mr. Garfield, Mr. Sullivan and Mr. Gregory is very good, and that all communicate well. He expressed support for the recommendation to stay with Mr. Ricker, however, he felt there are things the Town should be doing that were not part of the NH DES letter that will help alleviate future problems, such as capping the site on Fellows Road that is causing the contamination to prevent leaching. Mr. Hohenberger also felt we should not continue down the path of just saying yes to the NH DES, and suggested Wilcox and Barton develop a set of tasks for presentation to the NH DES that has an end in sight; reiterating it is a mistake to say yes to continued letters from the State asking for new things each time plus the retesting of old sites.

Mr. Partington concurred with Mr. Hohenberger, noting we are going down a path with no end, which is awfully hard to finance. Mrs. Simmons concurred in that costs continue to rise; expressing support with keeping Mr. Ricker on as consultant and coming up with a plan for the future.

Mr. Breton inquired what the price will be, in total. Mr. Garfield replied the Town is going to be required to provide treatment systems to sixteen locations, at a cost of \$50,000 to \$60,000; adding that by the time we get to Town meeting we will be at almost \$300,000 spent on PFOS contamination. He noted all that gets us is to where the contamination is and where it may go to, but does not clean up the source area. Discussion ensued.

Mr. Hohenberger moved to amend the contract with Wilcox and Barton to include Jim Ricker's new relationship with the company. Discussion ensued, and Mr. Sullivan suggested an appropriate motion would be to amend the contract with Wilcox and Barton on the condition that Jim Ricker be retained as Project Manager for a price not to exceed \$70,000.

Mr. Hohenberger expressed concerns that expending \$70,000 does nothing for the Town other than answer the NH DES letter point by point; reiterating he would like to see Wilcox and Barton put together a plan and go to the NH DES with it as a proposed answer to the PFOS situation in Windham. Mr. Hohenberger noted he is willing to mitigate the sites we are currently required to after the State lowered the levels, however the NH DES will continue to make other requests. Lengthy discussion ensued regarding the NH DES and their requirements/requests, input/assistance from Senator Birdsell, and possibly having the NH DES down for a meeting with the Board in November.

Mr. Curto, 20 Lowell Road, noted his property may be one of those planned for secondary testing; explaining it sits between two aquifers. He indicated he had been tested by the NH DES, who advised it was above the ppt considered safe and then, not more than 2 weeks later, had been tested by the Town and come back in the safe range. Mr. Curto noted the NH DES had come back again to do a confirmation test, however he had not received those results; expressing concern that there are two different values and questioning whether the State and Town were working off the same standards. He then noted there is more than one PFOS situation in Windham, the other being on Ledge Road from a metal finishing company; adding the latter should be responsible for half of the testing costs. Discussion ensued, and Mr. Sullivan clarified that Mr. Curto's property is not on the Town's list of testing sites, thus it may have been a Central Metals representative.

Further discussion ensued, and Mr. Sullivan advised that the NH DES knows the Town is spending a lot of money, as they are testing upwards of 100 homes, as well. Discussion ensued regarding Mr. Hohenberger's motion.

Mr. Hohenberger reiterated his earlier motion to continue with Wilcox and Barton on the condition our relationship with Mr. Ricker is maintained. Mr. Breton seconded. Roll call vote – all "yes".

Brief discussion ensued regarding budget funds available, those being \$40,000, and the expectation that these costs will exceed same. No further decisions were made.

WATER ALLOCATION PURCHASE REQUEST: Mr. McLeod noted a request had been received from Pennichuck Utilities East (PEU) to purchase the rights to 30,000 gallons of the Town's allocation of water from the regional water line.

Mr. Sullivan further clarified that the Town had pre-bought rights to 200,000 gallons of water per day from Manchester Waterworks, at a cost \$714,000, and in the future will be able to purchase an additional 110,000; likely in 2025. He indicated that PEU had contacted him and, although they have a 500,000 gallon allocation they can purchase, they are willing to purchase 30,000 from us in order to generate some revenue for the Town. Mr. Sullivan advised it makes no difference to PEU either way, and based on current MSDC costs could bring in \$100,000 to \$110,000 to the Town. Lengthy discussion ensued regarding the allocations available, the lack of current tie-ins in Windham, current costs and recouping bond payments, timing of Pennichuck's use, which would be in the future, and that it will be used within Windham for a spigot that runs into the W&E area.

Mr. Partington sought confirmation that the deal was as simple as it sounded, and Mr. Sullivan replied in the affirmative; reiterating the rights are being passed to PEU who may use it tomorrow or five years from now. Further discussion ensued regarding PEU's timing, that this will allow the Town to recoup some of the funds laid out, and that PEU will have to pay for this 30,000 allocation up front.

Mr. Breton then moved and Mr. Hohenberger seconded to authorize the sale of 30,000 gallons of water to PEU at the current MSDC rate from Manchester at the time of the purchase. Roll call vote – all “yes”.

OLD/NEW BUSINESS: Chief McPherson advised that, per the 2019 Aid to Firefighters Grant warrant article, the Town has been notified by FEMA that we have been awarded \$50,000 for use towards purchasing a new, battery operated rescue tool. He advised that Town's portion will be 5%, and extended thanks to Assistant Chief Brady and Firefighter Fischer for their work on the grant. Brief discussion ensued as to whether any action was needed by the Board, and it was determined nothing was required.

Thanks were extended to the Chief, who will proceed to arrange for the purchase.

Mr. Jim Ricker phoned into the meeting, and Mr. Sullivan updated him on the Board's vote to continue with Wilcox & Barton and him; with Mr. Ricker advising he will put something together.

MINUTES: Mr. Hohenberger moved and Mr. Breton seconded to approve the minutes of 6/29 as written. Roll call vote – all “yes”.

Mr. Hohenberger moved and Mr. Breton seconded to approve the minutes of 6/15 as written. Roll call vote – all “yes”.

Mr. Hohenberger moved and Mr. Breton seconded to approve the minutes of 7/13 as written. Roll call vote – all “yes”.

Mr. Hohenberger moved and Mr. Breton seconded to approve the minutes of 7/27 as written. Roll call vote – all “yes”.

CORRESPONDENCE: None.

NON-PUBLIC SESSION: Mr. Hohenberger moved and Mr. Breton seconded to enter into nonpublic session in accordance with RSA 91-A:3 II c and e. Roll call vote – all “yes”. The Board and Mr. Sullivan were in attendance.

Legal – Mr. Sullivan updated the Board on negotiations with the Town of Salem in regards to a Water Operations Agreement between the two communities.

Legal – Mr. Sullivan updated the Board on a pending legal case. No decisions were made.

Reputations – Mr. Sullivan updated the Board on a matter dealing with reputations. The Board agreed to meet with the individual in non-public at the next meeting.

Mr. Hohenberger moved and Mr. Breton seconded to come out of non-public session. Roll call vote – all members voting Yes.

Mr. Hohenberger moved and Mr. Breton seconded to seal the minutes from the legal session regarding negotiations with Salem until negotiations were concluded. Roll call vote – all members voting Yes.

Mr. Hohenberger moved and Mr. Breton seconded to adjourn the meeting. Roll call vote – all members voting Yes.

Meeting adjourned at 9:12 pm

Respectfully submitted,

David Sullivan, Town Administrator
Wendi Devlin, Administrative Assistant