

MINUTES OF THE SELECT BOARD
Monday, May 20, 2019 – 7PM

Present: Thomas Maher, Chair, Bill Stewart, Selectman Damon Frampton, Selectman, Bette Jane Riordan, Secretary.

Also present: Ken McDonald, TAPC, Christiane McAllister, Accountant, Tom Smith, Jim Cerny, Dave McGuckin, Andy Schulte, Gary Rumph, Jennifer Rumph, Carl Roediger, Joe Morone, Lindsay Evans, Rick Stanton, Michael Antosca, Nick Diana, Bill Kingston, Marion Clough, Jane Finn, Kate Murray, Connie White, Beth Barnhorst, Guy Stearns.

1. Approve Select Board Minutes of May 6, 2019.

Selectman Frampton made a Motion to Approve the May 6, 2019 minutes of the Select Board as amended. Selectman Stewart seconded, and the Motion carried.

2. Public Question and Answer.

Chair Maher asked that members of the public who wish to speak on any issue not listed on the Agenda to keep their comments to 5 minutes if possible.

a. Nick Diana Road Race Report.

Chair Maher recognized Nick Diana, Race Director. He asked for any feedback. Chair Maher noted that all feedback was very positive. He gave the Town a check for the registration fees, in excess of \$500.00. He will be dropping off a check in the next couple of weeks in the range of \$2500 to \$3000 for a donation to the New Castle Sidewalk fund. The Select Board congratulated him on a race well done. He stated that next year they are planning on having the race on the second Saturday in April, which will be April 11, 2020, beginning at 9:30 AM. The event lasts approximately two hours. Chair Maher hopes to confirm the date at the next meeting, keeping in mind Easter activities. Nick will check with Pam Cullen. Selectman Stewart reiterated that the feedback from police and DPW was very positive.

Agenda

3. New Business:

a. Anne Miller of Spring Hill Road, Lavenger Lane water concerns.

Anne deferred to Gary Rumph to speak on behalf of the group of neighbors. He is speaking on behalf individual taxpayers and citizens of the Town. A point he wished to emphasize is that Spring Hill Road and Lavenger Lane is not a Home Owners Association in any legal sense. They are individual parcels, (approximately 20) with no road ownership. There is no Map and Lot reference on the Town Tax maps and no taxes have been paid. The subdivision was made in the early 1970's. The Town is aware of the enigmatic nature of this subdivision. Originally there were six homes which has now grown to 20. Continuing along without some action on the part of the Town to rectify it could put the town and the neighbors in a risky situation. It poses an unfair burden on the residents, and is not equitable. He realizes that the current Select Board did not create this situation but may be able to help resolve the problems. The first concern is the potholes at the beginning of the street (Spring Hill Road), which they believe is a hazard and would like the Town to fix them. The second concern is with the water looping, planned for the water project. They

would like an update as to how this will work for Spring Hill Road and Lavenger Lane. In conclusion, he noted that the Town is the steward of the health and welfare of its citizens, and the current situation is not prudently sustainable.

Mr. Rumph is asking that the Town work with the group and get these issues resolved.

Anne Miller stated she views this as a start of a conversation.

Chair Maher stated that Gary Rumph summarized the situation, recognizing the ownership issues, and how the Town can rectify the issues. The tricky legal situation with respect to ownership is a problem and the Board needs to begin the dialogue on resolution. The Board realizes the need to resolve the situation.

Selectman Stewart addressed the looping and water project. Most of the work to date on the water project has focused on the main transmission line from Pierce Island to the corner of Wentworth Road. Surveying is ready to begin in the looping area and the Board is waiting for a few letters from those living on private roads to give permission. The Board is currently deciding on whether to proceed with the surveying on those properties where permission has been already been given, or wait for the remaining responses, to make it cost effective. We don't know the quality of the Lavenger line. The anticipated survey work will begin this summer, with the expectation that late summer 2020 would be the start date for the looping work. The larger project is at the bid phase. The Town is waiting for DES to give its approvals and comments. DOT has already their comments. The bid package will go out June 14, 2019. There will be pre-bid meetings, and there is an expectation bids will be back by early July 2019. (July 12th). This is for the main transmission line section. Simultaneously with that, the Town hopes to begin the survey work on the looping areas.

In response to a question about clarifying the easement and permissions issue, Selectman Stewart indicated that we need easements from the private looping sections. The main section does not require permissions as the work is being done on Town or State land. There is an additional fund of \$500,000 that private roads can apply for to assist with upgrading the lines. If permissions are not given, then the Town would look to identify alternative locations to site the lines. But if there are no permissions received then the Town would pull the loop from the plan. Mr. Leavitt questioned a prior discussion about looping to get clarification. He is concerned about the condition of the water line and the defunct trust as well as the fact that presently there are twenty homes plus the homes on Abigail, with no legal remedy so the residents are looking to the Town to provide a remedy. Selectman Stewart explained that the Town does need to address the ownership issue. Anne Miller that that originally the looping discussion at the prior meeting with residents assurances were given that with respect to the Lavenger loop, the pipe would be repaired/replaced. Selectman Stewart stated that although that was discussed, it is not in the current package. He noted they were trying to incorporate that piece but further noted that was why they included the extra funding for private owners to apply for the additional funding provided by the warrant article. He concluded that replacement of the Lavenger pipe is not currently in the final package. Other residents expressed concerns including issues such as trying to determine the identity of the actual owner and the status of the trust. In response to a question from Dave McGuckin regarding the status of responses

from private owners, Selectman Stewart noted that 75% have responded. As for the next steps, Chair Maher indicated to Mr. Leavitt that maybe this subject could be further discussed at the second meeting in June. Selectman Stewart stated that information from the survey will be critical in determining the ownership issue. Chair Maher stressed the need for a certain degree of clarity in order to move forward. Guy Stearns returned to the Spring Hill Road pothole situation, and asked if the Board could work with DPW, as this is a public safety issue. Chair Maher agreed that this matter should be addressed. Selectman Frampton recommended that the Board take the matter under advisement. Mr. Stearns stated the residents are not looking for the Town to take over the road. Tom Smith noted a similar pot hole on Abigail Lane, and stated that if the Town repairs Spring Hill, a private road, then he wants to go on record to request similar assistance from the Town. Guy Stearns pointed out that because there is no clear responsible owner, and the repair of the pothole is a safety issue makes this a unique situation. He feels the Town has some responsibility. After further discussion, the Board agreed to take the matter under advisement, and agreed to have an answer for the June 3rd meeting. Rebecca Goldberg asked the Board to consider other ancillary legal issues, such as lack of clarity on easements, and look at how they are sequenced. She reminded the Board that the City of Portsmouth has jurisdiction over the water lines. Chair Maher thanked the residents for their input.

b. Friends of Lavengers Creek.

Joe Morone spoke on behalf the Friends which is an informal group of residents who are concerned about the dock proposal application and use of jet skis on Lavengers Creek as per the pending NH DES decision, and presented a petition signed over 100 residents, representing 81 households. This petition represents the residents' concerns over the permit, and urges the Select Board and the Town to continue its support of this opposition. He stated that they just started the petition last Saturday, and is confident more residents would be in support of this petition. He pointed out the reasons for opposing the permit, including disturbance of the peace and tranquility of the area and potential environmental damage. The petition thanks the Board for representing the community interest in this case, and to continue its support. He also urged the Board to communicate this sentiment to DES. The case has been remanded and is awaiting a final decision.

Jim Cerny asked for a brief overview of the issue. Connie White, Chair of the Conservation Commission, stated that there was an application to construct a dock on Lavengers Creek. The Commission denied the application, and DES approved it. The Conservation Commission appealed the DES decision, and retained legal counsel. The grounds for the appeal were procedural as there was not sufficient public notice on the application. Resident Mary Jo Anacosta spoke to the "no notice" issue as she was affected and expressed her concerns about disturbing the environment, and feels her rights as a property owner would be infringed if the dock were to built and jet skis allowed. Ms. Clough, the applicant, indicated she would not be speaking as the matter is in litigation. Chair Maher did indicate that the Select Board would continue to support the appeal. Beth Barnhorst spoke about Lavengers Creek being the sole fresh tidal wetland remaining on the Island, and would love to follow the example of York Maine's disallowing docks in the York River. She urged the Select Board to consider what is the greater good for the whole island.

Bill Kingston spoke on behalf of Ms. Clough, and expressed that the case has no merit. He feels that everyone is ganging up his neighbor who has done nothing wrong. He feels she is entitled to what she asked for, and that it has been approved and is legal. He feels there has been nothing but delays, and the process is unfair. DES has already decided the impact is minimal. Selectman Stewart explained the procedural notice, and the fact that now DES has the full range of information in order to make its final decision. Hank Stebbins of Ducks Head reminded the room that NH wetlands law applies, and the land is held in trust for the public benefit. He stated the law does not have to be changed as was previously suggested. Selectman Stewart relayed the work that has been done by the Town and the Conservation Commission to date. He believes that the Select Board intervened in a responsible way.

Chair Maher thanked the public and concluded the discussion.

c. Jim Cerny- Cemetery Trustees Rules and Regulations.

Jim presented the final revised rules and regulations to the Select Board. He also asked that Holly Fraumeni be appointed as an Alternate. He has also asked DPW to put up some small signs identifying some of the smaller cemeteries.

d. Computers – Building Inspector/Secretary.

Chair Maher stated they have a couple of bids in for the BI's computer. Ken McDonald has taken one from the accountant's area and updated it somewhat to use in the interim but it is painfully slow. Also, there has been a recommendation to replace Pam Cullen's computer. Ken McDonald has helped with the specs for the BI's computer. Ken is waiting for input from Justin Mayrand, as to the cost differences. Chief Hartman is also purchasing two computers for the Fire Dept. Chair Maher believes it is necessary to purchase the BI computer, and one for the Secretary. Chair Maher stated they looking at purchasing 4-5 computers. Ken indicated he had a question about Pam's computer which Justin has said was ok. Chair Maher said further assessment is needed.

e. Personnel Policy.

By Motion of Chair Maher, seconded by Selectman Frampton, all proposed changes to the personnel policy were adopted by the Select Board, including taking out the provision for buy-outs. There is one grandfathered employee. This policy is effective as of this date.

f. New Castle Wholesale Water Agreement.

This agreement was done in conjunction with the City of Portsmouth. Selectman Stewart has given the agreement to legal counsel for review. If we were to eliminate the flow meters from the vaults, Portsmouth would continue to charge us wholesale rate plus a 15% lost water factor.(ie., a hydrant flush or anywhere where there is no meter) He has also given this proposed draft agreement to the Water Sewer Commission.

g. Water Update.

All wetlands permits responses from DES are due by the end of May. Bids will be going out June 14th, and the pre-bid meeting with contractors on June 25th. The bids will be opened on July 12, 2019. There is some flexibility in this schedule.

Jim Cerny asked about the amount of money available for the private road looping. After discussion, it was acknowledged that if all private owners came forward there would not be enough funding. We have no mechanism yet of how this will be allocated. This will need to be worked out. Beach Hill Road has expressed interest in upgrading their water line. All letters have been sent out to the private road owners.

h. TAPP application.

Ken McDonald will be posting all information/documentation regarding this project on the Select Board's home page in a specially marked area.

4. Committee Reports.

Water and Sewer Commission:

Selectman Frampton reported that the Commission reviewed the FY Budget and discussed transferring \$10,000.00 to the newly created water trust fund and \$20,000 to the newly created sewer trust fund. They are also slowing down the asset inventory project upon Christiane's recommendation, as there are certain policies and procedures that need to be drafted and followed.

5. Election of New Chair.

Chair Maher made a Motion to Nominate Damon Frampton as the new Chair of the Select Board, which was seconded by Selectman Stewart. Vote was unanimous and Motion carried. He thanked everyone present and read a brief statement. He will do his best to keep things moving forward. He is a less is more kind of guy. He wanted to make a Motion to continue to keep on track, communicate with our employees, and continue to improve our Town as a whole team. Bill seconded and the Motion carried.

Newly elected Chair Frampton made a Motion to Adjourn, which was seconded by Selectman Stewart. Motion carried.

Meeting Adjourned at 8:35 PM.

Respectfully submitted,

Bette Jane Riordan.