



**BOARD OF SELECTMEN**  
**Town of Greenland • Greenland, NH 03840**  
11 Town Square • PO Box 100  
Phone: 603.431.7111 • Fax: 603.430.3761  
Website: greenland-nh.com

**MINUTES OF THE BOARD OF SELECTMEN**

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Monday, March 20, 2017 – 7:00 p.m. – Town Hall Conference Room

*Members Present:* Vaughan Morgan, Kevin Forrest, John McDevitt, Jim Rolston, Paul Sanderson

*Members Absent:*

*Staff:* Karen Anderson – Town Administrator

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Chair Morgan opened the Board of Selectmen meeting at 7:02 p.m. A roll call was taken by the Chair; he announced a quorum was present and the meeting was being recorded.

1. Presentations to Retiring Board and Committee Members

*This portion of the meeting was held after the public hearing.*

Presentations were made to retiring Board and Committee members for their years of service to the Town. The following plaques were presented: K. Forrest to Brian Pafford, Recreation Committee; P. Sanderson to Mary McDonough, Budget Committee; Chair Morgan to J. McDevitt, Planning Board and Board of Selectmen; and Chair Morgan to K. Forrest, Board of Selectmen.

In addition, K. Forrest noted that upon recommendation of the Recreation Committee and approval of the Board of Selectmen, the multi-purpose field at the Maloney Complex will be named the Brian Pafford Multi-Purpose Field. The dedication will be made in the spring.

**I. PUBLIC HEARING**

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1. Comcast Franchise Agreement Renewal

Chair Morgan opened the public hearing for the Comcast Franchise Agreement Renewal at 7:05 p.m. The Town Administrator explained the public hearing was being held pursuant to the requirements of the Federal Telecommunications Act. The purpose of the hearing was the renewal of the current Comcast agreement with the Town of Greenland and to establish the franchise fee. Greenland currently charges a 1% franchise fee; a range of 1% to 5% is allowed. The Town Administrator reviewed the items the Town of Greenland is required to consider under NHRSA 53-C:3-a (copy on file). Programming and costs are not subject to negotiation. Brian Christianson from Comcast was present to answer any questions.

Steve McKenzie, 195 Portsmouth Avenue: He has done an in-depth review of the contract. He felt there was an opportunity to look at public access channels, and it should be part of the contract. Serious consideration should also be given to the franchise fee; if the Town were to include a public access channel, it may use revenues. Currently, franchise fees, which are nominal, go to the Town's general

fund. S. McKenzie commented that there was a great deal of information for the Selectmen to consider with other pressing matters. He suggested a volunteer cable committee would be useful to analyze information.

Chair Morgan questioned if only one community channel was allowed; the current channel is Portsmouth. B. Christianson responded that was correct, adding that channel capacity was the “tricky” aspect of the discussion. There was the potential, if Greenland wanted its own channel, that the Portsmouth channel would be removed. S. McKenzie noted there was a local channel (13) used by Comcast in addition to Channel 22. B. Christianson responded that a local channel would be in the 20 range; they would not be relocating channels. Meetings would be live-streamed, and there would be reruns. S. McKenzie added that a community bulletin board could be also be utilized.

Leonard Schwab, Great Bay Drive West: Agreed there needed to be a communications services committee. He continued that he felt the technical efficacy was not good; he was also not happy with the quality of service and cost.

K. Forrest asked if Comcast was within tolerance for what’s recommended by service providers for technical difficulties. He stated that if a cable committee was established, they should have access to those types of metrics and data. B. Christianson responded that they keep all types of metrics; however, cautioned that much of the information may be considered proprietary and not to be shared in a public forum. He added that they can work in a committee setting, but would not make data available that’s not required by law.

S. McKenzie stated that the timing of the contract is too soon, especially if a committee were to be formed. B. Christianson offered a 90 day extension, bringing the date to Monday, June 19, 2017. The contract is non-exclusive and another provider could be come in. Adding a PEG channel may lengthen the term of the contract, which is currently 10 years.

Currently, cable is over a coaxial-type system. P. Sanderson asked if that would continue with a new contract. B. Christianson explained the Comcast network system, stating that it was expandable and upgradeable. P. Sanderson clarified that they were committed to providing cable service opposed to pure internet streaming. B. Christianson assured the Board that Comcast was committed to cable television as a cable television service. There are potentially over 1,000 customers in Greenland that a PEG channel would reach.

Cheryl Strong, Great Bay Road: Would a refund be issued if cable was out for a week? B. Christianson responded that RSA 53-C states if cable is out for more than 24 hours a refund will be issued upon request.

Chair Morgan asked if there was a discount program for Senior Citizens in New Hampshire. B. Christianson stated there is a program for seniors who are Medicaid-eligible, and it could be discussed during the franchise renewal.

P. Sanderson stated that a cable committee, as mentioned by S. McKenzie, was a good point. He suggested that S. McKenzie find out if there was any interest in a committee. S. McKenzie stated he has reviewed the contract in-depth. There were some things in the contract that could be fine-tuned and discussed with the Town Attorney.

Steve Gerrato, Post Road: Noted that not all members of the Boards want to be taped. J. McDevitt stated that as a taxpayer he would be interested in a total cost analysis of a public access channel, which

would include setting up to broadcast meetings from another location (example: School Board meetings held at the School).

There being no further discussion, Chair Morgan closed the public hearing. A request for committee interest will be posted on Facebook and the Town website.

## II. APPROVAL OF MINUTES

### 1. Monday, March 06, 2017

MOTION: K. Forrest moved to approve the minutes of Monday, March 06, 2017. Second – J. Rolston; all in favor. MOTION CARRIED

## III. OLD BUSINESS

### 1. Coakley Update

P. Sanderson reported that he has been in contact with Representatives Messmer, Rye, and Malloy, Greenland, regarding some of the bills that will be coming forward. Rep. Messmer has been trying to arrange a meeting between the Greenland Board of Selectmen and the Portsmouth City Council. She has enlisted the help of Senator Morse, Salem, NH Senate President. The tentative date was set for Friday, April 07, 2017, but may be rescheduled to Monday, April 03, 2017.

Senator Morse is the Trustee of the MTBE Trust Fund. P. Sanderson explained that the State of New Hampshire received a settlement from oil companies for the oil additive MTBE that was put in gasoline. \$300 million was put into a trust fund and earmarked to deal with issues regarding public infrastructure. Senate Bill 131 was recently passed and loaned \$5 million to the City of Amherst to extend public water lines which were affected by Saint-Gobain issues. Rep. Messmer has been working tirelessly for Greenland to be heard in-the-same-vein. Potentially, the Town may be able to access some the MTBE funds for the purpose of a water line on Breakfast Hill Road.

The meeting is being held so that Senator Morse and Rep. Messmer can see that the Selectmen and City Council are working to identify alternatives to serve the health and safety of our citizens. P. Sanderson stated he planned to participate; he requested that the Town Administrator and other interested Board members attend the meeting as well. Brian Goetz, City of Portsmouth Water Department, will be present at that meeting and be able to provide technical information regarding studies that Portsmouth has done. P. Sanderson's goal for the initial meeting is to sit down and develop a structure for continuing to discuss the issues and services.

Chair Morgan agreed it was a good idea and would keep the issue in the forefront and plans to attend the meeting. P. Sanderson was unsure if it was going to be a public meeting; it was being organized by Rep. Messmer. He didn't feel anything proprietary was going to be discussed and it should be a public meeting.

The Town Administrator noted it was tentatively scheduled for Monday, April 03, 2017, at 10:30 a.m. P. Sanderson added that Senator Innis has been involved and represents District 24. Everyone in Concord is aware of Greenland's concerns and cares; that's where there will be pressure for solutions.

J. McDevitt asked if Senator Innis' legislation regarding the responsible party would be tweaked. The Town Administrator and P. Sanderson responded that the Senate Bill has been revised, and has passed

the Senate and is on the House. That Bill states that if there has been an indication of a contaminant and DES determines it has the potential to harm people, they can order continued testing. In addition, they can order the responsible party to take corrective measures once it reaches the level where it can harm human health. P. Sanderson added that although it doesn't set new standards, it's a move in the right direction by giving DES more authority to require the responsible party to continue with testing and eventually take remedial measures.

The Town Administrator was contacted by Jillian Lane to put together some data for the Greenland Safe Water for Action committee. She was looking for subdivision and site plans for everything along Breakfast Hill Road as well as the depth of wells. The Town Administrator told her it would take some time and site plans for older homes may not be available. P. Sanderson added that the depth of wells may be available at the DES Water Well Board. Information may not be available on any well older than 1987 when DES became regulating.

## 2. Parker Driveway Access

The Planning Board requested that the Town Attorney review and comment on the Parker driveway access issue. After review, his decision was that driveway access was not an improvement to the road. The signed agreement remains in place and is not being compromised. The Planning Board reviewed the Town Attorney's comments at their meeting on Thursday, March 16, 2017. Based on the Town Attorney's review, the Planning Board agreed that Mr. Parker was entitled to access to his property through the Stearns Way right-of-way. They also stated that issuing a permit was not within their jurisdiction; that would be the Selectmen's purview.

The Town Administrator added that Mr. Parker was not looking for a building permit at this time. A waiver was available for Board signatures should they approve the agreement and release for access to the private way.

Steve Gerrato, Post Road, addressed the Board. The Town Administrator assured him that Mr. Parker was not looking for a building permit but rather access to his property. S. Gerrato agreed that Mr. Parker definitely had access rights. Opening the stone wall for driveway access would be a different issue. P. Sanderson stated it was a public way. The Gerrato's were concerned Mr. Parker wanted to build a house with access on that road. The Town Administrator responded that although he doesn't want a building permit now, he wants to access his land with a driveway into that lot from Stearns Way. Responding to a question from P. Sanderson, S. Gerrato stated that after reviewing the court data he realized the rock wall doesn't define the road because of the way it was built. The road was only 12' to 15' wide; S. Gerrato maintains that Mr. Parker doesn't have frontage on the road, it's on the Gerrato property. Mrs. Gerrato gave a history of the road. Mr. Gerrato agreed it was a Class VI road, and stated they plan to fight that it's a Class VI road and that rock walls don't define the road.

P. Sanderson clarified that the Gerrato's felt they had a reserved strip of land between the travelled way and the rock wall that would have to be crossed to access the rock wall. Mrs. Gerrato responded that it was part of their lot; they own and pay taxes on that lane. A discussion followed regarding the easement and why the Gerrato's felt they had a reserve strip between the edge of lane and the rock wall. P. Sanderson explained that roads are not just between the travel way; areas are needed on either side for snow, the ability to put signs, etc. He asked why there wouldn't be an easement over the top of the ground to the rock wall. S. Gerrato responded that it wasn't a Town road to start with; he felt it may be a title problem.

There was continued discussion regarding the easement and driveway access. The Town Administrator noted that the Waiver of Municipality Responsibility stated that the Town agreed to issue a permit for a single family residence. It would need to be signed by the Board of Selectmen before Mr. Parker could apply for a building permit.

P. Sanderson further explained that by going through the stone wall, Mr. Parker would not be destroying the boundary, but changing it; steps could be taken to preserve the boundary. The 40' of frontage on Post Road could not be used for any form of access to a State highway. Mr. Parker would have no effective access without using the Class VI road. S. Gerrato commented that he had written to DOT asking them to reverse their denial.

Richard Gordon, Post Road: Briefly discussed the history behind the Town vote on Stearns Way. There was also a discussion about discontinuing the way, which would require a Town vote. P. Sanderson recommended before S. Gerrato filed a lawsuit, he have the Town Attorney review the paperwork for his opinion on the reserve strip.

J. McDevitt stated that he was in agreement with P. Sanderson, and would ask for proof that the Gerrato's owned that strip of land. J. McDevitt added that any Board would need that before an opinion could be given.

There was also a discussion about the subdivision of Mr. Parker's lot. The Town Administrator stated again that Mr. Parker's intention was a single family home with the remainder of the land, not subdividing it, into current use. She explained that there could be 10 acres and 60,000 sq. ft. of the residence without being subdivided; the rest of the land would be in a conservation easement and remain one parcel.

Summarizing, P. Sanderson stated that there was a request from Mr. Parker, it must be dealt with by the Board. The Gerrato's have given the Board information indicating permission shouldn't be given. The Board had an obligation to review the information provided by the Gerrato's before a decision could be made. The Board needed to develop a record that they're considering the Gerrato's information before making a choice. S. Gerrato clarified that the information would be if he owns part of the land as the reserve strip. P. Sanderson stated that he had no doubts that they owned the land up to the rock wall. The question was: what were the actual metes and bounds of the Class VI road right-of-way. If it has never been determined, then the presumption would have to be against reserve strips in favor of the fact that the easement of the Class VI road extends over to the rock wall. J. McDevitt added that the Board would need the Gerrato's to provide proof that they owned the reserve strip.

P. Sanderson stated they needed to look for the "right of travel over the top of land". The road is not the physical travelled way. You have to go beyond the edges for drainage, signs, etc., and anything that goes with transportation purposes. It would not be just wagon wheel width. P. Sanderson added that the idea of a reserve strip is against what title law is about. Unless it's specifically written in a deed that it's a reserve strip, their right to land to the edge of the wall is subject to a Class VI road easement. P. Sanderson also believed that they owned the land underneath the road up to the rock wall, but it was subject to a Class VI road easement up to the surface.

R. Gordon voiced his concern about the road width and the fact that his garage would be in the road. He was seeking assurance that the Board would not make him take the garage down. The Town Administrator assured him that it was a stipulation on the final plan that where his garage was located is not part of the road and is on his property.

S. Gerrato stated that the parcel has never been discussed as a reserve strip. P. Sanderson commented that the Board had to view it not as a reserve strip but that the Class VI road goes from rock wall to rock wall. The Board had one man's request for one lot. They couldn't deal with what might happen in the future. If the Board approved the waiver during the meeting, Mr. Parker could submit building plans to the Building Inspector. If he complied with the Ordinance, a permit could be issued. If Mr. Parker decided to subdivide, he would have to go to the Planning Board.

S. Gerrato asked to postpone the pending court decision and stipulation clarification. He also requested the Board wait to see if DOT issued a response to the new evidence submitted; Mr. Parker would have to go back to his site plan review and 40' strip off Post Road to show DOT that the Parker one house lot is safer than Stearns Way. S. Gerrato clarified that they were trying to prove to DOT that was where the access belongs and not Stearns Way. P. Sanderson stated it would be an administrative hearing with DOT, and explained the process. He added that the Board of Selectmen could not control that; the Gerrato's would have to contact District 6 for an appeal with the Hearing Examiner and Commissioner of the Department of Transportation to review their decision on the driveway access.

There was a brief discussion about discontinuing Stearns Way as a public way. If they were to discontinue Stearns Way as a public road, the homeowners on that road would be entitled to damages for loss of access to a public way. This would be an issue for Town Meeting in another year. J. McDevitt stated that as a taxpayer he would not support discontinuing Stearns Way as a public road due to the implications to the Town it may cause.

P. Sanderson stated he was comfortable waiting until the next meeting to make a decision. However, if Mr. Parker approached the Board asking for a decision, the Board would have to make a choice. It was the consensus of the Board to continue the Parker driveway access to the meeting on Monday, April 03, 2017.

### 3. Other Old Business

A road bond reduction for the Van Etten Drive subdivision was submitted by Troy Thibodeau and Brian Beck. It has been approved by Altus Engineering.

MOTION: P. Sanderson moved to reduce the bond for the Van Etten Drive subdivision to \$103,796. Second – J. McDevitt; all in favor. MOTION CARRIED

## IV. NEW BUSINESS AND ADMINISTRATIVE

### 1. Review of Town Administrator's Bi-Weekly Report

The Town Administrator has been approached by friends and family of Edith Lovering to see if she is the current oldest resident. They are planning a birthday party for Mrs. Lovering on June 20, 2017. She is currently in a nursing home but will be at her birthday party. The family would appreciate the presentation of the Boston Post Cane to their mother as the oldest resident.

The Town has possession of the original Boston Post Cane; it's extremely valuable and is not given to residents. The oldest resident has possession of the replica until they pass and then it's given to the next oldest. The last replica was given to Palmyre Sirois, who has passed away. The Town Administrator has been unsuccessful in reaching her daughter to have the cane returned. A duplicate has been ordered and received.

Murray McNair is the next person to receive the Boston Post Cane. The consensus of the Board was to present Edith Lovering with the Boston Post Cane at her birthday party in June. The Town Administrator will also do a proclamation to be presented with the cane.

2. Confirmation of Voting Hours, Selectmen Availability: Tuesday, March 21, 2017

Chair Morgan noted that the voting hours had been moved to Tuesday, March 21, 2107 from Tuesday, March 14, 2017. The polls will be open 8 a.m. to 7 p.m. The Town Administrator told the Board that they set the hours for the polls and sign a warrant each election. A new warrant was not prepared.

MOTION: K. Forrest moved to set the hours of the polls from 8 a.m. to 7 p.m. on Tuesday, March 21, 2017. Second – J. Rolston; all in favor. MOTION CARRIED

3. Veteran's Credit

Martin Ferwerda, 30 Bayridge Road, qualifies to receive the Veteran's Credit. The Town Administrator has notified the Town of Ossipee that he has moved to Greenland.

MOTION: K. Forrest moved to approve the Veteran's Credit in the amount of \$500 for the property at 30 Bayridge Road, Martin Ferwerda. Second – J. Rolston; all in favor. MOTION CARRIED

4. Other New Business

J. Rolston noted that the Library Trustees were on the agenda to make a presentation to the Board of Selectmen. He recommended that the Library Trustees postpone their presentation until the new Board members were elected. They will be attending the meeting on Monday, April 03, 2017 to unveil the design for the proposed Library.

V. ACCOUNTS PAYABLE – THURSDAY, MARCH 23, 2017

1. Payroll Manifest 06

**MOTION:** K. Forrest moved to approve Payroll Manifest 06 in the amount of \$50,447.46. Second – J. Rolston; all in favor. MOTION CARRIED

2. General Fund Manifest 06

**MOTION:** J. McDevitt moved to approve General Fund Manifest 06 in the amount of \$245,372.75 (School - \$160,000). Second – J. Rolston; all in favor. MOTION CARRIED

The Town Administrator noted that snow storm bills through March 11, 2017 totaled \$51,000. The remaining balance in the snow removal budget is \$40,000 (does not include the storm on March 14). She advised the Board that the budget will go over; funds would have to be taken from the Snow Emergency Fund. The Budget Committee cut \$30,000 from the snow removal budget.

VI. ADJOURNMENT

MOTION: J. McDevitt moved to adjourn at 8:50 p.m. Second – J. Rolston; all in favor. MOTION CARRIED

NEXT MEETING
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Monday, April 03, 2017 – 7:00 p.m., Town Hall Conference Room

Respectfully Submitted – Charlotte Hussey, Secretary to the Boards

Approved: Monday, April 03, 2017