



BOARD OF SELECTMEN
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MINUTES OF THE BOARD OF SELECTMEN

Monday, July 27, 2015 – 6:45 p.m. – Town Hall Conference Room

Members Present: Vaughan Morgan, Kevin Forrest, John McDevitt, John Penacho, Jim Rolston

Members Absent:

Staff: Karen Anderson – Town Administrator

I. NON-PUBLIC – RSA 91-A:3, II(c) [6:45 p.m.]

1. Personnel

MOTION: K. Forrest moved to enter into non-public session at 6:46 p.m. Second – J. Penacho; all in favor. **MOTION CARRIED**

MOTION: K. Forrest moved to leave non-public session and enter into public session at 7:20 p.m. Second – J. Penacho; all in favor. **MOTION CARRIED**

Chair Morgan opened the Board of Selectmen meeting at 7:20 p.m. A roll call was taken by the Chair; he announced a quorum was present and the meeting was being recorded.

II. PUBLIC HEARING [7:20 p.m.]

1. Acceptance of Donations: Police Department

The Police Department received three donations of \$500 each. Two donations are designated for National Night Out (Holloway Automotive Group and Target National Night Out); the other is designated for Heroes and Helpers (Target). Funds from the Heroes and Helpers program are used when police officers take children Christmas shopping at Target.

Chair Morgan opened the meeting to public comments. There being none, he closed the public hearing and returned to the Board.

MOTION: K. Forrest moved to accept three \$500 donations, two from Target and one from Holloway Automotive, to the Police Department. Second – J. Rolston; all in favor. **MOTION CARRIED**

III. ADMINISTRATIVE AND OTHER ITEMS

1. Target Holiday Hours

The Town Administrator explained this was the annual request from Target to extend their holiday hours for Black Friday (letter on file). They would be open past 10:00 p.m. on Thursday, November 26, 2015 and remain open until normal opening hours (8:00 a.m.) on Friday, November 27, 2015. A police detail will be on site during the Black Friday event.

MOTION: *J. Penacho moved to approve Target's request to extend their hours of operation. Second – J. Rolston; all in favor. MOTION CARRIED*

2. Recreation Committee Appointment

Ken Avery has been a member of the Rec Committee for the past three years. He is requesting to be reappointed for an additional three year term.

MOTION: *J. McDevitt moved to reappoint Ken Avery to the Rec Committee for an additional three years, term to expire March 2018. Second – J. Rolston; all in favor. MOTION CARRIED*

3. Veteran's Credit

The resident at 348 Portsmouth Avenue recently moved to Town and qualifies for the Veteran's Credit.

MOTION: *J. Penacho moved to approve the Veteran's Credit for the resident at 348 Portsmouth Avenue. Second – J. Rolston; all in favor. MOTION CARRIED*

4. Rolston Park Update

The Town Administrator updated the Board on Rolston Park. The Greenland Women's Club will be doing planting at the park. At a previous meeting, the Board had requested a sketch of the plans. The majority of the work will be done on the far side of the river, closest to the Atrio property, to help shore up the banking and beautify the foundation of the existing house. There will be a bulb garden near the Rolston Park sign.

MOTION: *J. Rolston moved to allow the Greenland Women's Club to do planting at Rolston Park. Second – J. Penacho; all in favor. MOTION CARRIED*

There is a committee that will maintain and water the plantings.

5. 1088 Portsmouth Avenue

Dan Hoefle, attorney for James Coombs, addressed the Board stating that J. Coombs is a new client and came to them after receiving the second letter from the Town. Attorney Hoefle has met with the Town Attorney to discuss the issue. He told the Board that J. Coombs regrets that he did not comply with the Town's time frame, and, asking the Board's indulgence for extra time, requested an extension until October 01, 2015 to come into compliance. The Town Attorney has drafted an agreement for an extension.

Chair Morgan responded that the Board has “indulged” this situation, had the door slammed in their face, and now there is a request for more time. He continued that the Board had not discussed the agreement. J. Penacho stated that J. Coombs was given sufficient time. The Board would have worked with him had he come in for discussion. He continued that he was reluctant to grant an extension, adding that J. Coombs had been into the Town Hall on many occasions and had ample opportunity to meet with the Selectmen. J. Penacho also stated that the Board did not like to penalize residents.

Attorney Hoefle apologized to the Board, stating J. Coombs should have contacted his office when he received the initial letter. He continued that they were requesting a three month extension and forgiveness, and stated it would be resolved by October 01, 2015.

J. McDevitt was in agreement regarding the lack of communication on J. Coombs’ part with the Town. He would agree with an extension to October 01, 2015, only if some type of mechanism was put in place to ensure the condition of the property was returned to its natural state. Specific criteria needed to be established to meet that standard. He stated that the Building Inspector needed to be involved as well as the Town Engineer. J. McDevitt continued that there should be a meeting as soon as possible with J. Coombs, the Building Inspector and the Town Engineer. An inspection would be done prior to October 01, 2015, to ensure that all requirements were met. If not met, the current use would be due. The cost of the Town Engineer would be the responsibility of J. Coombs. J. McDevitt reiterated that it must be very clear, and in writing, what needs to be done; further, it should be understood that if the time frame is not met by October 01, 2015, there will be no more extensions. Attorney Hoefle suggested that the Board may want to add further definition of the requirements to the draft agreement done by the Town Attorney.

Responding to a question from K. Forrest, the Town Administrator stated that this was the first time land has been taken out of current use without going through the right process. He was concerned about setting a future precedent, especially if the Town went to lengths to try to assess the property. The Town Administrator stated that once the Town becomes aware of a current use situation, they have 18 months to assess the site.

J. Rolston stated that J. Coombs realized that there was problem, and was making a good faith effort to correct the situation. He had no problem with J. McDevitt’s checks and balances to make sure the site was in compliance.

The Town Administrator will send the amendments to the Memorandum of Agreement to the Town Attorney for inclusion. A copy will also be sent to J. McDevitt prior to signatures.

K. Forrest asked J. Coombs how he allowed the situation to get to this point. Attorney Hoefle responded that it was a bad winter and now it was his busy season, and things were ignored. He added that he told J. Coombs that it was difficult to ask for forgiveness when two letters were ignored.

J. Penacho suggested that any other violations should be addressed when the Town Engineer and Building Inspector were on site. He reiterated that the Building Inspector must be allowed on the property to inspect for any other possible violations.

K. Forrest added that any attorney fees incurred by the Town as a result of granting the extension will become the responsibility of J. Coombs.

MOTION: J. McDevitt moved to authorize an extension to October 01, 2015, to James L. Coombs, 1088 Portsmouth Avenue, to bring the property into current use compliance with the stipulation that the Town

Attorney redraft a Memorandum of Agreement outlining the conditions to be met by the deadline date. One of those conditions is that the Town Engineer is to meet with the property owner and clarify the conditions that must be met by October 01, 2015. Further, the Town Engineer and Building Inspector/Code Enforcement Officer shall meet with the property owner prior to October 01, 2015, to ensure all conditions have been met. All costs for the Town Engineer as well as any ancillary costs for the Town Attorney will be borne by James L. Coombs. Second – J. Rolston; four in favor, one abstain (J. Penacho). MOTION CARRIED

6. BTLA Decision - EIP

The decision was not as positive as expected; the feeling was that the Town had a very strong case. When Nike sold the property to EIP, but remained tenants, they guaranteed a higher rent to EIP should they move out; EIP was given a rent guarantee by Nike. BTLA focused on the fact that it was a big reduction on transfer costs. The Town didn't put much weight on that because Nike, or a subsidiary of Nike, had been the tenants and remained the tenants. The rent-back guarantee was never invoked. The taxpayer valued the property at \$12 million; the Town had it assessed at \$18 million. It was reduced to \$16.7 million during the revaluation. BTLA came back stating \$14.6 million and \$15.3 million.

There was further discussion regarding the rent-back guarantee. J. Penacho suggested that the Town consider involving an attorney in future BTLA cases. Payment will be made from overlay, with the balance coming from the Undesignated Fund Balance. The consensus of the Board was not to appeal the decision.

7. Planning Board Matter

J. McDevitt stated that this was in reference to the letter from Troy Thibodeau that was received by the Board at the beginning of June. There was an initial letter from the Town Attorney; a second letter has been received. The letter from the Town Attorney is privileged and confidential; however, J. McDevitt wanted to make public the Town Attorney's conclusions. The legality of, and reason for, the site walk on his property was questioned by T. Thibodeau after a complaint by an abutter. The Town Attorney met with J. McDevitt, the Planner and Chairman of the Planning Board.

After researching, the Town Attorney found the reason for the site walk, due to a complaint from an abutter that water may be impounding on her land, was legitimate. The timeliness of notice for the site walk: the Town Attorney found the notice for the site walk was appropriately given to the owner of the property. The property owner, Town Engineer and Town Planner discussed the fact that the water impounding the abutters land was not due to the development. A portion of that land is going to be reclaimed by nature; the abutter may, in the future, have water back-up on her property. In reference to T. Thibodeau's "ill-conceived" accusation of misuse of authority and an ethics violation, the Town Attorney found no evidence to support that. He concluded that for him the issue is resolved.

Chip Hussey: Commented that of all the complaints from Debbie Beck, this was the most legitimate. He suggested the Selectmen turn this over to the Building Inspector for follow-up with DES. He agreed that D. Beck and her neighbor were impounding water on their property, due to a change in stormwater runoff from Willowbrook Avenue. It was the decision by DES that caused the problem and they need to correct the situation.

8. Liaison Reports

- Library Trustees: They are meeting next week with two architects to look at the Library expansion. He suggested to them there is land available at the Town complex that should be considered. Chair Morgan stated that the Library needs to receive three bids before a decision can be made. J. Rolston has reminded the Library Trustees, and they were aware of the bid process.
- Recreation Committee: They will be meeting next week. K. Forrest will remind committee members that there are specific items that need to be addressed. Improvements in cash handling have been made internally.
- Transfer Station: J. Penacho suggested fans (or a mister) and heat be added in the compactor area. The asphalt has made a difference in the temperature. Chair Morgan will research. The Town Administrator will talk to the employees on Wednesday.
- Planning Board: J. McDevitt stated that the CIP was discussed at the last Planning Board meeting and they had the full support of the Selectmen. All department heads will be involved.
- Fire and Police: Chair Morgan told the Board that Chief Cresta stated the weekly shifts at the Fire Department are working great. The Police Department upstairs is progressing slowly while they wait for the lift, which is expected within the month.

9. Other Business

- Trail Update: Responding to a question from J. Rolston regarding complaints from property owners on Coastal Way, the Town Administrator told the Board that C. Hussey is working with the two owners. The trails were being cut towards Coastal Way, using GPS points, when they realized they were on private property.
- Assistant for Property Maintenance Supervisor: The Town Administrator told the Board that over the last several years a volunteer has repaid welfare assistance by working with the Property Maintenance Supervisor 10 to 12 hours a week during the summer. This year, there is no one available. The Property Maintenance Supervisor has stated that he could use help with weed whacking at the Cemetery; the Town Administrator requested permission from the Board to find someone. She has a call into the County which has reinstituted a community diversion program. They are not prisoners, but individuals who have to do community service. If that doesn't happen, she would like to have someone for 10-12 hours a week during August and September. The Board would like to review this with the Property Maintenance Supervisor.
- Caswell Drive and Dearborn Road Update: Equipment has been moved to Dearborn Road to start that section. A meeting with residents has not been scheduled; engineers are going door-to-door. It was requested that people in the vicinity be notified when the road will be closed so they can avoid the work area. The work on Caswell Drive went very well, with no complaints.
- 911 Changes: Chair Morgan reminded Board members that the next phase of 911 will be held at the August 10th meeting.
- National Night Out: Chair Morgan reminded the Board that National Night Out will be held on Tuesday, August 04, from 5:00 p.m. to 8:00 p.m., at the Town Offices.

10. Approval of Minutes: Monday, July 13, 2015

MOTION: J. Penacho moved to approve the minutes of Monday, July 13, 2015, with corrections. Second – K. Forrest; four in favor, one abstain (Chair Morgan). **MOTION CARRIED**

IV. ACCOUNTS PAYABLE – THURSDAY, JULY 30, 2015

1. Payroll Manifest 15

MOTION: J. Rolston moved to approve Payroll Manifest 15 in the amount of \$48,419.38. Second – K. Forrest; all in favor. MOTION CARRIED

2. General Fund Manifest 15

MOTION: K. Forrest moved to approve General Fund Manifest 15 in the amount of \$599,716.92 (School - \$520,000). Second – J. Penacho; all in favor. MOTION CARRIED

3. Medical Deductible Expendable Trust Manifest 15

MOTION: K. Forrest moved to approve Medical Deductible Expendable Trust Manifest 15 in the amount of \$4,777.71. Second – J. Rolston; all in favor. MOTION CARRIED

4. Police Special Revenue Fund Manifest 08

MOTION: J. Rolston moved to approve Police Special Revenue Fund Manifest 08 in the amount of \$13,026.50. Second – J. Penacho; all in favor. MOTION CARRIED

V. ADJOURNMENT

MOTION: J. Penacho moved to adjourn at 8:25 a.m. Second – K. Forrest; all in favor. MOTION CARRIED

NEXT MEETING

Monday, August 10, 2015 – Town Hall Conference Room, 7:00 p.m.

Respectfully Submitted – Charlotte Hussey, Secretary to the Boards

Approved: Monday, August 24, 2015