

BOARD OF SELECTMEN

June 10, 2019

MEMORIAL BUILDING

4:00 P.M.

The following are to be considered draft minutes only until approved by the Board at their next meeting.

Selectmen present: Dick Hendl, Chairman; Tamara Butcher and George McCusker

Others: Leigh Calloway, Ryan Peterson, Whit Smith, Wayne Smith and Roxie Smith

The meeting started with the pledge of allegiance.

Before starting Dick stated that he would like to rectify an oversight that he was responsible for at the last meeting. He extended many thanks for the effort made towards the Memorial Day services. Dick would now like to extend his thanks to the Garden Club for making the cemetery, as well as the whole town, look extra special for that day. The Garden Club is also responsible for the installation of the message boards in front of the recreation field. They are splitting the cost of the new signs with the town. Dick shared his apologies for leaving them out. Leigh was also going to mention this and seconds this.

Scheduled Appointments:

Leigh started off by stating he had no business for the 250th. Leigh has a request for the board to accept a donation. A few weeks ago, Leigh was winding one of the clocks in the meeting house and the whole bezel glass fell off in his hand. He asked around to see if there was any sentimental value to this clock and has received no response. He requested the town accept a donation of a clock to replace the damaged clock at the meetinghouse. The value of the clock is about \$1100. Tamara asked if there was a history to the clock, there is not. Trudy would like to take the clock that is there to the historical society so that it is not just discarded. Motion made by Tamara to accept the clock, seconded by George and unanimously approved. Leigh will provide Janet or Jill the information on the clock so that a donation acceptance letter can be drafted. Not having the bill of sale at that moment we will get it to Leigh as soon as possible.

Ryan would like to appoint Josh Worthen as Deputy Health Officer to test the beach and town office water. The DES recommends the lake water be tested twice a month. Josh would also like to get on the list and start have the fire department's water tested. Ryan agrees. Tamara stated the Fire Department water has been tested in the past and nothing has ever been found, but testing would be a good idea. George asked if Josh would be interested in learning Ryan's position. On behalf of Josh, Ryan stated that Josh has no interest in performing any duties other than water testing. Dick asked if other lakes should be tested. Ryan said only public sources of water need to be tested. Dick asked if maybe we should be concerned with failure of septic systems around the lake. Ryan said he guess that could be a concern, but he is unaware of anything on a state level that makes that required. Dick made a motion to appoint Josh Worthen as the new Deputy Health Officer, seconded by George and unanimously approved.

Wayne has heard of a Sunapee citizen looking to move to town and run a pet sitting business out of her home. Wayne and his wife Roxie currently run a pet-sitting business and are at the meeting to find out what the ruling would be as far as what she would need to do that. Whit said that Susan Newirt did appear before the planning board for a consultation and they did not give her clear direction. They told her about the record of some issues on Hogg Hill and she might want to see how the neighbors of the property she was looking at would feel about it. Whit feels someone who has a clientele of twenty to thirty customers and on an itinerant basis they leave one or two pets to be cared for in your home; being let outside to do their business and get exercise, being treated like your own, that is a home occupation. On the flip side, if you have outdoor kennels, fenced in runs, advertising dogs for sale as part of a breeding program, have commercial activity in the form of formal training that is, at minimum, a home business. It could be more. Once there are out buildings, basically more of an outdoor presence, it becomes commercial. In the case of a home business a site plan review is required. Going back to the question at hand, Whit feels that based on what Susan Newirt described as what she wants to do, and what we know Wayne and Roxie do, is a home occupation.

Whit reported that June would mark the first of several joint meetings of the Planning Board and the Zoning Board of Adjustment (ZBA). The NH statutes are clear that joint meetings are permissible. In response to a question regarding whether “shared members” can participate in both meetings, Whit explained that he and Susan Chiarella had looked into this question. They were concerned about attendance and perhaps a requirement of recusal, thus reducing the number of land use board members hearing a matter to ensure fairness to all applicants.

Whit explained there might have been some misunderstanding or misinterpretation regarding a “requirement” that a shared member recuse him or herself from one of the land use boards during a joint meeting.

This is different from a conflict (perceived or actual) where it is appropriate for a member to recuse. The New Hampshire Municipal Association provided Chairman Chiarella with an opinion regarding recusal from a joint meeting, but the opinion focused on the matter of a conflict, not the fact that a shared member might participate in a joint meeting. The NHMA view is that where there is a conflict (personal or pecuniary) the shared member would recuse; with a clarifying statement: “... that would be true whether the meeting was a joint meeting or not.”

So – if a member sitting on both boards had a conflict, recusal (not excusing themselves, or abstention, which have different implications) would be a requirement. It is the conflict that is the basis for the recusal, and not the fact that the member sits on both boards.

Although a joint meeting, the meetings of the Planning Board and the ZBA do not occur simultaneously, but sequentially. That is necessary because the applicant has the right to be present and witness both proceedings.

The NHMA attorney concluded, “I don’t believe there would be anything inherent in the meetings being scheduled jointly that would prohibit the member from participating in both (except, of course, if both were having hearings at the same time and, therefore, it would not be

possible for the member to be at both, but I assume that it's more likely that they'll be sequential)."

Whit summed up - specifically, to our procedure in point – Bryan O'Day sits on both boards. If he does NOT have a conflict, he can sit on both boards during sequential proceedings. If he does have a conflict, he cannot participate on either board, whether it is during a joint meeting or individual meetings.

Wayne also asked about the noise complaints on 4-A, which, if correct, is a residential area as Springfield has no commercial property that has a special exception. For the people complaining about the noise, what gives them the legal footing to be there and after getting that answer why do we sit there and give commercial approval to the people across the street (Hogg Hill) if then we had a legal leg to stand on for the noise complaints. There have been noise complaints for years. He's been there for eleven years, but there has been no enforcement. George then stated that those people were never approved. That is Wayne's only issue. He is still trying to work towards a way of controlling the noise across the street from him. Tamara stated that the town has no noise ordinance. You would need to go to the Planning Board, the Selectmen can do nothing. They are running a commercial activity illegally over there on Hogg Hill. They never did a site plan. George added that those residents did go before Zoning, and for about a sixth month period they kept things quiet over there. Whit added that there is in fact a noise ordinance contained in our zoning ordinance and read the ordinance out loud. Tamara stated that we need to go before the planning board and request to improve the noise ordinance.

Ryan added that when he is at Chuck Fay's residence, on 4-A, he can hear noise from the mill, where he never could before. There have been no trees cut between the mill and Chuck Fay's home. Ryan next shared a text message he received from Olivia Powers requesting he share it with the selectboard. Tamara stated the issue that she has, which is Olivia has done a lot of research, she is not educated in the mill or the machines they have there but she is constantly coming to the board saying that she has found something that will fix the problem; they need to put these in because this will fix the problem. The mill has come to the board saying that these things won't work. However, Olivia is convinced otherwise. Dick then shared the mill has assigned Mark Gilbert to approach this problem. There has been much communication between Dick and Mark. Mark has agreed to attend one of the selectboard meetings, either the next one or one in July. Mark has looked in to all the ideas that were presented at the meeting that he and George Evart attended. None of the suggestions made were applicable to the operation they are running on 4-A. If you keep feeding him suggestions that are not appropriate, he is wasting his time and using time that may be productive in identifying a real solution. Dick admits he does not know the solution. The board is trying and doing all they can do. Tamara added that the town has looked at creating different zones and 4-A was one of them. If it were to ever happen the residents there would not like that. George's Mills road has been looked at and that's just in the last twelve years. Residents on Georges Mills Road would not like that either. Ryan added two personal comments. First, living on Town Farm Road he would much rather hear an interstate. Second, spending time on George's Mills Rd, the commercial end of Springfield, it is much quieter there. Tamara said you can't compare the two because they aren't operating the same type of stuff.

Zoning Permits:

REPORT from ZONING COORDINATOR. -- Board of Selectmen - Monday, June 10, 2019.
Here is a summary of permit applications and Zoning Coordinator activity.

Application for Permit – Acted Upon, APPROVED

1. Bill Hester, 185 Town Farm Road: application to build a three-car garage. Zoning Coordinator has visited the property. No setback issues. Proposed structure to be less than 35' tall. Unfortunately, the buildable area on the lot is surrounded by Designated Wetlands. Accordingly, Mr. Hester applied for a Variance and Zoning Board of Adjustment granted the requested relief from the restriction of building the proposed structure within the wetlands buffer with a Variance. Zoning Permit Approved pursuant to delegation of authority.
2. Tim Fraser, 117 Cemetery Road; application to build a 12' x 16' deck (12" above ground) behind existing residential structure. No setback issues, no wetlands issues. Zoning Coordinator visited the site and spoke with the applicant. Note: Mr. Fraser has plans to start a brewery at the location. He has already been before the Planning Board for a consultation. Pending preparation of materials, Mr. Fraser will appear at the July joint meeting of the Planning Board and Zoning Board of Adjustment. Zoning Permit for the deck Approved pursuant to delegation of authority.

Applications Received, But NOT Acted Upon.

3. William Ellis, 3900 Main Street; application to build/install a 60 sq.ft. run for his chickens. After checking, the Zoning Ordinance is silent as to whether a "chicken run" is a structure or not. Note, however, the Ordinance permits fencing ("privacy, decorative or otherwise") without a permit; but since this chicken run will have a roof, the resulting exercise facility may require a Zoning Permit as it is not just a fenced in area. No fowl play here. Accordingly, this project is being treated as a structure and a zoning permit is required. Mr. Ellis has complied with the ordinance. There are no wetlands issues; no setback issues and the chicken run will be less than 35' tall. Zoning Coordinator will visit the property to confirm that there is no home business or commercial activity, thus ensuring the Purdue Farms family owned and operated business can breathe easy. We'll keep you advised.

Other Matters.

- A. As previously reported, St.Cyr application for variance to allow garage addition w/ bedroom was granted by ZBA. Waiting for receipt of Zoning Permit application. Follow-up with agent regarding width of drive at entry to garage. Still waiting.
- B. Attended Spring Land Use Planning Conference/Training in Concord.
- C. Out to Sanborn Hill Rd to meet with applicant regarding his agency with the Trust holding certain land on which the applicant is conducting a Home Business and other Commercial Activity

D. Various follow-up activity with applicants who have received relief in the form of a variance to remind that a Zoning Permit is required to initiate commencement of project(s). (Morris, Gerard)

E. Attended ZBA meeting on June 4.

<< June 9, 2019 >>

Whit has been in touch with the chairman of the zoning board and believes that she is now on board for these joint meetings being the best way to address the upcoming hearings. Whit had previously felt we could do three appointments a month; now he feels that is too much. One to two meetings a month would be more doable. Dick mentioned sending out more letters to invite people to come in front of either the board of selectmen or the planning board. He asked Whit if that should be delayed a little bit. Whit doesn't feel we need to delay the letters. Whit feels we should send those letters out; we just need to be careful how we schedule them. Janet and Whit have talked about the best way to go about doing this. Starting with the big ones and the obvious ones is intentionally on their part because those are the ones that get the visibility. Up to this point Whit's experience has been one of cooperation in every case. Whit feels starting with people who are involved with the town first, giving them the opportunity to set the example is a great way to do it. Whit has a list of residents that should receive a letter. There are three people scheduled for June, Whit feels that is too many. However, one of those three might not proceed. There is one person scheduled for July and half a dozen others that could easily occupy us through October. Whit feels that would be a good time to stand back and review how this process is working and possibly how we can make it more efficient. Whit also brought up making sure that everyone knows our fees are going up July 1st. Tamara asked if "C" on Other Matters is current or a new matter. Whit stated it's a new matter but current under Corey Swenson. Claudia has said that as long as Corey has that skidder out there, she doesn't want him acting as an agent for the trust. Whit informed her that if he's not going to be acting as an agent than this can't be heard in June. Whit told Corey to work this out with his sister in law and let him know where he stands. Corey then informed Whit that he has received some legal counsel on the matter.

Minutes:

Tamara moved to accept May 28th minutes as written, seconded by George and unanimously approved.

Old Business:

Status updates: Tamara shared that as far as we know right now on the 18th the septic tank will be pumped. Whether the demo company can be there simultaneously we don't know. The demo could be moved to the 19th. Dick asked about the location of the septic tank. Tamara spoke with Pete around noon time and he was supposed to stop in the office after lunch today to look at what we have for a septic picture as far as where the tank is. It doesn't look as though Pete stopped in. Hopefully that will be done tomorrow or Wednesday.

Dick contacted Yankee Power Wash he is willing to do the Meetinghouse for \$675 and the Town Offices and Library for \$775. His prices are a little higher than Mr. Steam, but we do not have to

provide a lift. Tamara moves to hire Yankee Power Wash, seconded by George and unanimously approved. Dick said he will provide a certificate of insurance. Dick spoke with Pete about installing the A/C units in the office. Pete will come over with Mike to see what they can do with them. They might require a little modification, but they'll give it another look. Dick has been asked by the library trustees to get estimates on granite and precast concrete steps. During the conversation with the potential contractor, a third option to face the existing steps with granite is also a possible alternative for which an estimate will be received. Mr. Im, of Drummond Woodsum, has sent a reminder of our outstanding notice. It seems there has been some miscommunication. The work done was way over the top. Tamara suggested to pay half. Whit suggest putting it on Sean Tanguay. Dick said that we have already taken that route and it got us nowhere. Dick has suggested to just let it ride, but he is open to suggestions. Dick moves to table the issue for now. Tamara agrees.

New Business:

The new fee schedule was presented at the last meeting. Janet has asked that it been brought to everyone's attention a second time. Tamara moved to accept the restructured fee schedule, seconded by George and unanimously approved. The new fee schedule begins July 1st.

Board & Department Updates:

George reported the conservation commission met and spoke a lot about the 250th. Pete is going to try to help them out as best he can. They basically just need to have Pete drop a couple of trees and agree to a location to pile brush. Not sure where that location will be yet. Tamara asked if they will be doing this on weekday, to which George said yes. It is not a big job. George received a comment about zoning and had two cases that were inside the wetlands buffer. The comment was made that a few years ago the lady planning to rebuild the deck was said to be inside the buffer. Whit and Tamara both stated that it is not inside the buffer and there are no wetlands up there. The comment was that a few years ago the old zoning board would never have let this happen. Whit added that the idea of the zoning board is not to enforce the ordinance it is to find reasonable exceptions and to allow an adjustment when merited. They all agree zoning has been doing a great job. Whit stated that the zoning board of adjustment needs alternates. George added that the planning board could use alternates as well. Jim Bednar has asked to be excused from the responsibility of alternate of the zoning board. The zoning board chair approached Whit and Janet about a member of the zoning board who has not had regular attendance. Chairman Chiarella contacted this member and he made it clear that he would like to continue as a member of the zoning board and will have much better attendance going forward. Tamara suggested putting a need for alternates on the website.

Correspondence:

A donation of bark mulch has been offered by MSI Energy. Dick felt hesitant to accept this donation not knowing who the company was. Jill could not think of who the company was but has seen their name come across her desk before. Tamara also could not recollect the name. Dick stated if we are going to accept this donation, we need to send an acknowledgment letter. Dick moved to table this matter until the next meeting.

Signatures:

The Board reviewed and signed two timber cut sheets, a vacation time request, bill of sale from Leigh Calloway and an application for resident to rent a town building.

Miscellaneous Business:

George has a comment, first is a statement, has Mr. Pratt lost his mind. It is worse than it has ever been. He is now back to dropping off entire loads of dirt when he was told he couldn't do that. Second thing is the illegal bob house. Tamara reported that she would be writing a letter stating that they have a shed now within the setback of the lake with a zoning permit included for them to return to us. Tamara would like to find out exactly what a bob house is as described in our ordinance that would be helpful. Whit did a quick search through the town's ordinance and found nothing defining a bob house.

Dick will be writing to Senator Ward and ask for her help regarding Mr. Pratt.

Whit asked about the status of the trifold brochure. It is on Dick's list of things to do.

Ryan had one more question for Whit and the board. Who does he express his concerns to, what board does he voice his opinions to regarding business issues? Ryan has a concern with the town permitting properties not people. Ryan would like to preserve the rural residential town. He would prefer the business not be transferable through sale. Ryan was advised to start with the planning board. George said that the planning board needs to start workshops in the fall to address these issues. Upper Valley Planning will probably get involved as an advisor. Ryan feels this is something that should be figured out before hauling in all the businesses in town. Dick stated that there is an ordinance on the books that the board is bound by their oaths to enforce. Unless the ordinance is repealed or replaced, he sees no alternative to start asking folks who are not in compliance to come in. So far this has been successful. Ryan feels that permitting properties, in the long term, opens the door for unintended consequences. Whit agrees and feels the planning board should be confronting this matter. Dick's concern is if we permit the people aren't they going to be reluctant to make any investment in a business if they can't sell it as that business. Ryan stated then they should reconsider where they are putting that business. Tamara and Dick agree if the business is their livelihood, and their home, that is no different then you wanting to live here in this peace and quiet. Whit believes Ryan's point is our zoning ordinance, the way it is written, does not contemplate businesses being operated in the town of Springfield. They are all non-conforming. Whit states these businesses come in and are given an exception, which means an exception is made to our ordinance which does not contemplate businesses. The problem with that is it potentially ends up in conflict with whatever master plan was put together for this town; and that is the responsibility of the planning board.

Tamara made a motion to adjourn the meeting, seconded by George and unanimously approved.

Meeting adjourned at 5:36pm

Jill Hastings

Deputy Administrative Assistant

DRAFT