

BOARD OF SELECTMEN

December 16, 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: Sheridan Brown, Gene Hayes, Whit Smith, Leigh Callaway, Don Hill, John Lunn, Robert Spano, Kurt Laurie, Emily Cleaveland, Keith Cutting, Judi Shank, Wayne Smith, Marla Binzel, Bill White, Christine White, Mike Lawlor, Todd Fleury, Erik Rollins, Chief Timothy Julian, Ken Jacques

The meeting started with the pledge of allegiance.

Schedules Appointments:

Leigh Callaway has \$694 in donations that he is asking the Board to accept. Tamara moved to accept the donations, seconded by George and unanimously approved. Dick made a motion to grant the 250th committee the authority to make any deposits of contributions between now and the end of the year and the board will consider to accept those donations at the next meeting on January 13, 2020, seconded by George and unanimously approved. Dick proposed that the board establish the date of January 27th as the date for the public hearing to accept the gift from the 250th committee, seconded by Tamara and unanimously approved. Don asked for a time for the meeting. It was agreed by the Board to set the meeting for 5:30pm for the public hearing. Don Hill extended his thanks for the two years of incredible support that has been given to the 250th committee. Dick added that it wouldn't have happened with out the hard work that the committee and volunteers put in. It's been a great ride for the past two years. Don shared that this energy needs to persist somehow.

Ken Jacques introduced himself, here on behalf of the water precinct board of commissioners. As a follow up to the conversation regarding the request to access through the roads and head up past twin lake villa. There was an informal suggestion made from Dick asking if the precinct would be willing to give the key to the first gate. Ken discussed this with the other commissioners, and they are not willing to give that key up, as they see no benefit to opening that small section which goes nowhere. Beyond that, there are no vehicles allowed anyway as it is state forest. Ken feels there would need to be more conversation about why it would be a benefit to anybody to open that gate. As of right now the interested parties that need access to it have access to it and can get through the gate. Ken just wanted to get back to the board on this matter and have it in the minutes that this is the feeling of the commissioners. Dick appreciates Ken's feedback and added that this does put the board in a bind because of RSA 231 requires the town adhere to the gates and bars which allows people to at least access that section of the road. Ken understands that but added that sometimes common sense needs to take place over and above black and white. Dick also stated that common sense and the willing to give and take takes both sides. Ken provided a suggestion that came up which was whether the town would

entertain giving up that last section of the class VI road and abandoning that road. Then the gate wouldn't be an issue because it would then be on private property. Ken shared that this is not being taken lightly and understand the situation the select board is in. It's unfortunate that in 2019 we are dealing with something that has been in place since 1925. Nobody has been harmed by the way this has operated in the past. Ken feels that if the gate was to be unlocked and left open to the second gate the precinct would find an alternative way up there, and there is one, and would stop maintaining that section of road. So, that is the position of the water precinct board and if the select board needs to take further action to force things, we will deal with that when it happens. Dick said that Ken's position was noted and will be taken under advisement and will get back to you.

Dick started this next topic of interest with how things would proceed. Gene Hayes was recognized as the spokesmen for the residents of Hogg Hill Road. Gene will be given five minutes to make his points. If any other residents who has a point to make that differs or adds to what Gene says they will be given two minutes to make their point. At that time the discussion will be turned over to attorney Brown with hopes that his remarks will be kept brief also. Gene started by saying the Hogg Hill residents are mostly interested in what the process is here, has a cease and desist been issued in the situation or where are we with the process of dealing with the situation that was ruled against by the ZBA. Dick stated that the town has been advised by the town attorney that we are not in a position to make any statement until we confer with her. Gene asked what the process is here, is there something we can look at to determine the process since the decision was made? What needs to happen next? Dick stated the board will have to defer those comments until the board has a chance to consult with the attorney. The board is not going to comment one way or the other right now. Gene asked at what point will the board meet with the attorney and will it be at an open meeting. Dick stated that will not be at an open meeting as they will be discussing attorney client privilege at that meeting. At this time Gene deferred to any other resident that may have another question, but added that the decision that was made as a group was to find out about the cease and desist, what are the necessary steps to bring this to a close and how do they help in that department. The neighborhood wants to get involved and solve the situation; it's not gotten better it's only gotten worse. Dick again stated that he can't answer that question right now. Emily Cleaveland of Hogg Hill Rd shared from the zoning ordinances the ZBA makes decisions on home occupation versus home business practices, when that decision has been made, according to article 10 of the zoning ordinance the board of selectman is then given the power and authority to enforce the provisions of this ordinance and control issuance of permits required under the regulations set forth. The ZBA denied a home business application from Select Shepard's and now it is up to the Selectman to enforce that permit. The residents want to know why that hasn't been enforced or not even a cease and desist been issued. Dick thanked Emily and stated that her question has been noted. Wayne Smith of Hogg Hill Road, an abutter, wanted to fill in what the state thinks of the situation. When they breed a dog, it must be registered through their vet, he must register it with the state. When they get up to twenty-five puppies being registered the state gets involved, so Wayne's assumption is these people fully intend to breed more than twenty-five dogs and once they hit twenty-five and get the state license he is moving. Robert Sparrow of Stoney Brook Rd has the same grievance as they majority of the audience. Robert feels the board is being very solemn about not making any statements. His question is when will the board make a statement, when will the public know about this and what is their next recourse? And to hear someone say "it's noted" that's not

a good answer for the public. Dick stated that is the only answer you are going to get this evening until the board has the chance to confer with the attorney. Judy Shank of Hogg Hill Road asked has the board at least set a date for the meeting with the attorney. Dick answered yes and that the meeting is tonight after the Selectmen's meeting. Attorney Brown's clients have operated their home business since 2005, which pre-dates the 2006 zoning ordinances and predates the current zoning ordinance. He feels that when the board suggested the Kazena's to go before the ZBA they didn't view that as something they needed to do for approval, they viewed it as a way to resolve some of these issues. Attorney Brown feels that the comments from people tonight are illustrative of how other people viewed the process; not to resolve issues, but to put them out of business. He added that the state licensing requirements is not a requirement that is purely puppies. This requirement is for any dog transfer. The Kazena's have been breeders for many years. They help transfer a lot of dogs that never go to their property. This all requires them to get a certificate. Attorney Brown stated that until there is enforcement action and some sort of complete adjudication and it's resolved, he and his clients continue to interpret they have a lawful business there. Attorney Brown would hope people in town would refrain from saying otherwise until there is that sort of adjudication as that is seen as defamatory and hurts their business reputation. Attorney Brown thanked the board for the opportunity to speak. Gene Hayes made a statement that town's zoning ordinance dates further back than 2006 in this regard. Dick again stated this is one of the issues that will be discussed with the town attorney and will not be debated in this meeting. When there is a decision made and information can be released people will be notified. Until then it is attorney client privilege.

Zoning Permits:

Whit read through his report. Adding that he will be meeting with Nick Cote at 5pm this evening to make sure he is all set for Thursday's planning board meeting.

REPORT from ZONING COORDINATOR. -- Board of Selectmen - Monday, December 16, 2019.

Here is a summary of permit applications and Zoning Coordinator activity.

Well, this is it – the last report of the year 2019. I'll be working on the summary of activity for the year during the next few weeks.

Recently, things have been rather quiet.

Application for Permit – Acted Upon, APPROVED

None.

Open Application - In Hand, But NOT Acted Upon.

1. Kara Zaleskas, 164 Four Corners Road; No change in status on this matter.

Other Matters.

A. Review legal counsel brief regarding the “second application doctrine” as applied in New Hampshire land use and zoning matters. Reviewed history regarding Kazenas (Select Shepherds) business on Hogg Hill Road.

B. Prep for and attend Zoning Board of Adjustment meeting. Farrenkopf granted Special Exception (non-conforming lot in Eastman sub-division) to place shed 12’ from property line (relief from side setback). Advised the Applicant on process regarding application for Zoning Permit now that ZBA has granted special exception regarding the location.

C. Inquiry regarding replacement of various antennas on Deer Hill cellular service tower (AT&T). Reviewed drawings and contacted agent. Advised agent for AT&T that since additional equipment would also be installed, the prudent course would be to file a Zoning Permit application.

D. Follow up regarding parking lot expansion at Durgin & Crowell.

E. Received several inquiries regarding possible dog kennel on Messer Hill Road. My understanding is the prospective purchaser of the property has decided to NOT pursue this plan. Also received inquiries regarding dog breeding activity on Hogg Hill Road.

F. Follow up with Nick Cote regarding the completion of materials requested by the Planning Board in connection with site plan for wood processing business.

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Dick had one question for Whit regarding Durgin and Crowell. He got the impression there was discussion about another cell tower on their property, is that the case? Whit is not aware of that. Whit thinks they will need to amend their site plan as they are talking about a parking lot expansion but is not aware of all the details. Dick said he just misunderstood.

Keith Cutting had three items to present to the board. Part one is his petition to place an article in the warrant to establish an agricultural commission. Dick stated that the town will verify all the signatures on the petition against the registered voters in town. Part two is a submission of the two potential emergency management director positions for the board’s consideration. Part three is to follow up on Class VI roads and range ways and another document by the municipal association for the board to review which pertains to the roadbeds that lay over the range ways.

Minutes:

Dick stated there are two sets of minutes to consider, those from November the 25th and December the 10th. Tamara moved to accept the minutes of November 25th and December 10th as written, seconded by George and unanimously approved.

John Lunn of NCTV proposed an offer to the board and town to place a camera in the meeting room. NCTV now has an online channel, along with their TV channel. John stated that there are a lot of benefits to this. NCTV would supply cameras and tripods. The town would just have to

upload the recording to NCTV, and they would make it public. This would cover any meetings the town had. He feels this would be a great benefit for those that can't attend meetings and also a way for towns to stay in touch with what other towns are dealing with. Dick asked how many towns participate in this service. John stated this is a new service and is currently only provide this service to Claremont and Newport.

Mascoma Valley Snow Travelers:

Erik Rollins started off by asking if the board had seen the latest letter from John Trachy. George asked if this all stemmed back to the issue of the landowner wanting more liability insurance. Erik said the state will not allow MVST to obtain additional insurance and that is what Deer Hill Trust wants. Tamara asked what the state thinks about what the landowner is looking for. Todd shared that the state's insurance is more than adequate, it is about \$1 million dollars per incident, and any landowner that allows the use of their property, this policy covers them, and they have zero liability if anyone gets hurt on their property. Dick asked if there is any material difference in what they are asking for this year as opposed to last year. Erik and Todd both state there is no difference. Erik added that the problem Mr. Trachy seems to have is with the insurance and the groomer. Erik stated that John Trachy says that in easement they are not allowed to do trail maintenance of School House Rd. Erik feels the group should look through what was said eleven years ago to see if he is right or wrong. Dick asked if there is an easement somewhere. Erik said yes there is but doesn't remember the wording. George asked if he was a part of that. Janet added that he did sign the easement and it is recorded at the registry. Erik stated that Scott Seekamp has no problem and has given permission for the groomer to travel on his half of the former road. Erik needs to know how wide the road is, as he only needs ten feet. Chief Julian asked which side he means, is it east or west from center line. Erik said if you go from Deer Hill to Star Lake Seekamp owns the right side of the road and Star Lake owns the left side. The width of the road depends on how many rods there are and they aren't sure if it's one or two, Erik would assume it's two. Scott Seekamp has no problem with it, he would just like a new permission slip from the State of New Hampshire and he would sign it. Todd, of Star Lake, said he doesn't want them on his plowed road, but it is in the easement so they can ride on that road. Erik thinks he has gotten Todd to agree to make a bypass for them, and he is fine with that as he doesn't think they need to be riding down the road with Todd's tractors on it. Erik feels that John Trachy's letter is being less than reasonable. Todd said that the trust keeps sending a memo of understanding to the MVST that essentially binds them to getting additional insurance. Todd and the other officers in the club refuse to sign it as it places all the liability on them rather than the state's insurance plan. Todd responded to Mr. Trachy stating that additional insurance is unnecessary, he is covered. That is when he fired back with the do not trespass letter, and that is where we are now. Todd asked if this is in violation of the original easement of this landowner. Chief Julian said that would be something for the snowmobile club to find out. Todd thought it was an agreement with the town, not the club. Dick asked who submitted the do not trespass letter. Todd and Erik said it was John Trachy on behalf of the Hayes Trust, which has never been done before. Todd's problem is the top of the letter in bold letters to stay off the property. Chief Julian says the letter states the group just can't do trail maintenance; it is not a no trespass letter; it is a no grooming or trail maintenance letter. George asked how many feet are involved. Erik stated that Seekamp owns 1155 feet of the road, so Hayes Trust probably owns something similar. Dick said they need to review the easement, which is the first step. George referred to something Janet said years ago,

the great thing about snowmobiling is that it allows people access that can't snowshoe or cross-country ski, it's a way to go out and enjoy New Hampshire.

Old Business:

Dick has revised the holiday schedule; the police and highway departments are subject to the above list of town holidays which now includes Martin Luther King Day and Columbus Day. Except that for those departments, Martin Luther King Day, Columbus Day and the day after Thanksgiving are floating holidays, two of which can be used in a year. Tim says it makes sense. Dick made a motion to adopt this new holiday schedule, seconded by Tamara and unanimously approved.

The board read through the current budget report. Dick asked Chief Julian about funds he has asked to be encumbered. Tim asked that if there is any money left over, he needs three portable radios and one cruiser radio, which would be just over \$7,000. Chief Julian also stated that the highway department will need six vehicle radios, which are 50 watts, which will total \$5,800. They would like to purchase from the 2019 budget if there is money left over. Dick moves to encumber \$13,000 for the purchase of the police and highway department radios, seconded by Tamara and unanimously approved. Dick talked about the next item to consider encumbering funds for, which is the 3-head mini split for the air conditioning for town office building and have been quoted a price of \$8,450 for a 42,000 BTU pump system with three heads of varying cooling capacities. Tamara moves to encumber \$8,450 for the mini split, seconded by George and unanimously approved. Dick stated this will be part of the total order, \$4,200 for the library, which the library trustees will be paying for. Dick will contact AP electrical that both those quotes have been authorized. There is also the revaluation which is \$42,000. The information was not available at the meeting, but Janet does have it. The last item Dick had was if they would like to encumber paying off the loan. After discussing the comments made by the budget committee the other night the board decided to just let it ride. Dick then stated we are at about \$70,00 to encumber. Tamara moves to encumber \$6,000 for legal fees to Sansoucy and \$42,000 to Avitar for the reval, seconded by George and unanimously approved.

Dick shared the court date for the Stone hearing has been postponed to the week of the 13th of January. Matt Decker has not provided a draft letter for the Brunelle bob house. It is the decision of the board to wait until Spring to see what happens with the bob house. Dick will contact Matt about waiting until Spring to send a letter.

The department heads will be invited to review their budget requests at the next selectmen's meeting. Dick also feels we should invite the representatives to the school committee and the MBC at some point in the future during the budget process to check in. The budget heads are coming on January 13th, we can invite the school committee reps and the MBC to the meeting on January 27th just to get a feel for what's going on.

Dick has not heard from Shawn about any response to his letter to the Kennebec Mill lawyer. He has talked to a few folks, and it seems while the noise has not abated every day, on average it seems to be better. Dick doesn't anticipate a response from the Kennebec lawyer until after the first of the year.

At the budget committee meeting last Tuesday they expressed their concern about not having heard from Jeff Evans. Dick asked George if he has followed up on that at all; asked if he could call Jeff or Lou to see where we stand with this. George doesn't feel it does any good to call, they'll be ready when they are ready. George will call and leave another message. Dick and Tamara stated it has been a long time since they heard from him.

New Business:

None

Board and Department Updates:

Tamara shared that the fire department had a short meeting on Tuesday, with nothing to report. George is curious, he has been told there will be no Old Home Day for five years. He has inquired about what is going to happen to the rec committee. He spoke to several people at the Christmas party and as of now there is no recreation committee. Tamara and Janet stated there hasn't been a recreation committee for a long time, it's never been official. George has asked several people if they would be interested in restarting a recreation committee. Dick said the problem is there is a small group of people that do all of the work and they are getting burned out, which is why they have discussed not having Old Home Day for five years. This hasn't been finalized. Dick shared that the library had its annual get together to thank the volunteers and it was very well attended, by about fifteen people. It went very well.

Correspondence:

Received a letter from Hayden Keene. Dick stated it certainly deserves some discussion and a response but would like to table it in light of all the other things going on, and would also like to invite Hayden to attend that may correspond to one of her school breaks.

Keith expressed thanks on behalf of himself, his family and others for everyone that participated in the Wreath's Across America program on Saturday. He thanked Tamara for heading this up as it is very important to recognize our veteran's, current and past. Dick asked about contributing for next year. Tamara shared that you can go on the website now and contribute to 2020's program anytime now until the end of November.

Signatures:

None

Miscellaneous Business:

Janet thanked the board; it's been a great year!

Tamara moved that the meeting recess until 7pm, seconded by George and unanimously approved.

Meeting recessed at 5:40pm

Jill Hastings

Deputy Administrative Assistant