

BOARD OF SELECTMEN MEETING

Kensington Town Hall

95 Amesbury Road

Kensington, NH 03833

MONDAY

May 22, 2017

6:30pm

Meeting Minutes-Draft

In Attendance: Norman DeBoisbriand, Robert Wadleigh, Linda Blood

Others in attendance: Multiple guests and residents

Norman made a motion to open the public hearing, Bob seconded, all in favor.

Norman explained that this hearing was to correct a procedural deficiency by not posting a public meeting as a public hearing for the money warrant articles. The board has been advised to legal counsel to have this public hearing to state that they would like to have a special town meeting. The warrant articles were discussed, but not in a public hearing. The board went to legal to seek advice and the Department of Revenue, and through a dialog with them a procedural deficiency was found. The board is having this public hearing to discuss the issue and to then seek authorization to hold the special town meeting. Norman opened the meeting to the public by asking if they had any questions or concerns. Mike Schwotzer asked what parts of the usual town meeting would be had, would it be the deliberative session as well as a voting session? Norman answered that they have been advised that it would be a meeting and voting within the same meeting. Mr. Schwotzer commented that the last meeting stated that the votes were certified at then and what happens if the vote changes at the new session, and is the town only dealing with the money warrant articles. Norman explained that the only issue is with the money warrant articles, as far as the budget, the public hearing was held, so the approved town budget is not in question. Norman made a motion to authorize a special town meeting under the authority of RSA 31:5-b and RSA 40:16, Bob seconded, all in favor.

Norman made a second motion that stated:

The board votes to adopt by a special town meeting the following warrant article:

To see if the Town will vote to ratify the results of the March 14th 2017 annual meeting (postponed to March 16th, 2017 due to weather) even though the public hearing requirements of not discussing or disclosing all purposes and amounts of appropriations were not met. Bob seconded, all in favor.

Norman made a motion to close the public hearing at 6:38pm, seconded by Bob, all in favor.

Norman made a motion to open the public meeting at 6:38pm, seconded by Bob, all in favor.

Norman asked if anyone there was anyone for Citizen's Forum, there being no one he continued with the agenda.

• Police Department –Chief Scott Sanders

Chief Sanders reported that the Tahoe would be in service tomorrow and the radio would be purchased through the encumbered funds from last year and installed. He informed the board that Rockingham Dispatch had applied for a grant to upgrade their radio frequency to increase the communication ability. Starting on June 30th they will be switching to the new system.

• Fire Department –Chief Charles LeBlanc- not in attendance. Steve Smith asked who would be replacing Charlie as chief. Norman explained that normally the board would receive a recommendation from the department to review, but Charlie would be the chief until the end of June 2017. He also asked if it was public knowledge to know why he resigned. It was stated that he retired.

• Emergency Management- Robert Gustafson- Bob asked if the board was ready to review the radiological response at this time. He then informed the board that effective July 31, 2017 he would be resigning from the Emergency Management Directors position. He has accepted a position with the state where he is in the emergency

management department and is unable to do both. He stated that should give the town time to find a replacement and for him to see the grant through that he had started.

- Tax Collector- Carlene Wiggin-Carlene informed the public that the tax bills did go out last week, and will be due Monday July 3, 2017.

- Recreation Department- Donna Carter approached the board with the contracts for the festival, which included the Fireworks and DJ contracts. She stated that the fire department would still like to do the cooking for the festival, so they will be working that out with the department. She asked about the banners and if there could be a place to hang them within the bunker. Donna asked about any more banner sales coming in, and Kathy stated that one more had come in and she emailed out the complete list to Donna earlier that day. It was explained that the DJ is the same one that they used for the father daughter dance and last year at the festival.

Norman made a motion to execute the contracts for the DJ and the fireworks, Bob seconded, all in favor.

Norman signed the contracts for the board.

- Conservation Commission – Bob reported that they would be meeting with the individual that was before the board a few weeks ago would be meeting with the board to make sure that the fertilization that they are using would be consistent. Southeast Land Trust will be attending the meeting as well to help the commission.

- Road Manager – David Buxton came in with Dennis Quintal at this time so he approached the board. David informed the board that he had met with Cheeza and he has issues with his chipper and has not completed his work yet. Chris Batchelder has completed most of the patching, but assured David by the end of next week it will all be completed. He also stated that the signs around town will be straightened out as well. Dave stated that he had solicited bids from three contractors and asked Kathy if any bids had come in for dead trees on Osgood Road. Kathy stated that one came in and she thought it was a bill, and opened it but didn't view it, from Royal Green. Mr. Smith commented that part of Moulton Ridge has been patched reasonably well and asked Dave to confirm that the rest of the town would be done by the end of next week. David explained that they ran out of patch, so there are some potholes still on Moulton Ridge Road. He has given Chris permission to purchase the needed patch. The issues on Osgood road have been patched as well. David explained to the board that Pike industries has taken control of 14 of the state bids at this time for asphalt. He asked the board if it was okay to go with the Lambert information at this time.

Dennis Quintal approached the board with a plan and showed them the updated plan. He stated that the plan approved by the planning board had a catch basin and piping with manholes. He was asked to redesign this with a swale or simplify the process. He looked at the drainage and showed a 3-5 swale that gets it to a point where drain manholes and catch basins will not be needed, and would take a new pipe. This would carry all of the drainage for the area. There would be a rip rap outlet, but there is sandy gravel material, and he would suggest putting in some north American green silt fence that grass will grow up through. If this is done in the dry time of year check dams might not be necessary. The owners of the property came to him and wish to bid on this project, because they have to build up the driveway on lot 6. If the board is okay with this he can get the prints done and to Dave to get some bids on the work. David thinks that this is a good solution. Norman stated that he believes that the planning board will want to take a look at the new plan. There has been some discussion with them already so they are aware of what the board wants to do. He wants to have everyone on the same page and see if the planning board has any comments on the new proposal for the drainage easement area. Bob asked if the sketch should go out to Lambert's engineer for him to review and Mr. Quintal explained that the easement is up to the town and he has talked to the engineer for Lambert and they are okay with pretty much anything. He will send them out a pdf of the plan. Mr. Quintal will make some full-size copies for the planning board to review.

David explained that the road side mowing should be scheduled soon, and due to no complaints from last year he would like to contact Sewall Enterprises and see if the board would approve for him to contact them and schedule something for the end of July. **Bob made a motion to have David contact Sewall Enterprises, Linda seconded, all in favor.**

Holly McCann stated that there was a person interested in joining the recreation committee and she was wondering if the board could do that now. The board looked over the nomination.

Linda made a motion to nominate Randy Bandoian for the recreation committee, Norman seconded, all in favor.

All members signed the appointment for Randy Bandoian for the recreation committee.

NEW BUSINESS:

• Julie LaBranche and Curtis Slayton- Seabrook Ground Water Reclassification Project

Julie approached the board to present the project to the board and handed out the 11 businesses that have been identified by them as potential contamination sources. Julie pointed out the boundaries to all in attendance. The goal for this project is to expand the inspection area, which could also include farming areas. Most of the identified areas are commercial businesses or businesses in the commercial district. Seabrook will take on all the expenses for the inspection, but not the cost of the Town of Kensington staff to do the inspections. It was explained that the current Aquifer Protection area within the town already has banned some activities from happening in this area. The inspection will be every three years, or when the property changes hands. The Town of Seabrook uses 98% Town water, but Kensington is solely ground water. Bob asked about farms that spread fertilizer, who has jurisdiction. Julie stated that department of agriculture would be the one to contact for an inspection and they should be functioning with the prescribed best management practices. In that type of situation, it would be the Department of Environmental Services working with the Department of Agriculture. Norman stated that within the three-year period inspection would be performed on all the business indicated on the list provided, and if there was a violation does Seabrook have the authority to shut a business down? Mr. Slayton stated that they would not, they have not had to shut a business down yet. They have found that if there is a containment issue, generally the issues are taken care of in house and they have not had to involve DES. Julie spoke with the staff at the DES and in the life span of this groundwater reclassification in the state there has only been one case taken to court. Most of the issues are remedial actions needed, not so much a violation, which would have to be cured within 30 days. There is currently a farming activity that takes in pig waste to and spreads it, if they were to walk onto the property doing that would their reaction be? Mr. Slayton explained that there was a situation in Salisbury, where DES contacted the State of Ma. and the process was stopped. That could be a potential issue within the town, and the list is not conclusive. How is the list compiled? Mr. Slayton explained that it is a windshield survey where they drive the roads and write down the businesses from the side of the road. This area of inspection will be expanded to underground storage tanks. Is Seabrook funded through the state on this program? Mr. Slayton explained that Seabrook has been doing this right along, but no it is not funded through the state. Seabrook will maintain the records on the sites within the town, but Seabrook can't enforce anything without Kensington being involved. Hampton Falls has agreed to be part of this project and they are meeting with South Hampton this week. Julie explained that the first week in June the Town of Seabrook will have to sign off on this, but the town does not have to submit a letter of support the minutes are sufficient. Mr. Elwell asked Julie to show how far this inspection area will go up Amesbury Road. This area is just past route 84 on Amesbury Road and almost to East Kington off of Route 107. Donna asked if one of these businesses are non-conforming is there a grant that would help them clean it up. Julie stated that there is not unless it is a large issue. Bob asked about a potential court case, who would pay the town's legal fees. Julie stated that it would go to the state before court. Could this program expand to include residential areas as well? Mr. Slayton explained that he would say no, due to the man hours it would take. Julie explained that the statute does not allow for the reclassification to include residential areas. Glenn Greenwood commented that he hopes that they are looking at this as to what this can do for Kensington, this is not just for Seabrook. This will be beneficial to the town, and this is another tool that a business owner can see as a way for them know that what they are doing is right. He expressed that farmer's intent is not to damage the ground water, but the better educated that you are the less contamination would happen. This is a way for the town to help our business owners to know what some of their responsibilities are. Norman asked if there were any other questions out there. He asked what the boards wishes were. Norman asked if the town wanted to opt out of the program, do they have the option to take this inhouse. Mr. Slayton asked who does these types of inspections in your town now. It is the building inspector now, he continued that they have no jurisdiction to come into Kensington and do inspections. Julie stated that if there is a major contamination the state would step in anyways, and they are getting the inspections implemented so that they can get the potential problems before they become spills. Norman is concerned with binding a future board to this process, he understands what Mr. Greenwood brought up. Initially this could be a good process, but would not want to bind a future board in something that is not working for the Town. Julie explained that you would be participating in a state program with a state statute. Julie will ask if that is possible, the town might have to request to be declassified. Norman explained that state statutes change and it sounds good now, but things might change in the future. He would like to know if there is a process where they could withdraw from the program if they wanted. Julie explained that if the state statues were to change they town would be notified. The application will move forward after the Board of Selectmen in Seabrook sign off on it. If the board does not opt into the reclassification program they will not be able to be part of the inspection program. Norman asked if Kensington was key to the application

process. Mr. Slayton stated that there are over 35 contamination sources identified. Julie broke down the sites to be 35 in Seabrook, 11 in Kensington, 3 in Hampton Falls, and 5 in South Hampton.

Bob made a motion to join with Seabrook, Linda seconded, Julie interjected that the motion would need to be more inclusive. Bob amended the motion to state that the Town of Kensington supports the groundwater reclassification application and agree to coordinate and /or participate in the potential contamination source property inventory and inspection program conducted every three years. Seabrook will take on any costs, except for personnel. Linda seconded, Norman abstained.

Norman explained that it is a good program, but wants to make sure it is not binding to a future board.

Mr. Elwell asked if the building inspector is required to do these inspection, how will he be compensated?

Julie explained that it does not have to be the building inspector within the town. He further asked if the Board of Selectmen would designate that person. Julie will get an answer to his question as soon as possible.

Steve Smith from Moulton Ridge Road commented that he is having a hard time hearing what is being said. He would like to suggest a microphone system for the town hall, or people to be instructed to speak loudly and clearly. This is a public meeting and everyone should be able to hear.

Norman informed the public that the board is looking into a system to address that issue. There is a current grant program that the board is participating in for a sound system.

- Lynne Monroe- PlanNH

Lynne thanked the board of having them back. She informed the public that they had discussed filing an application with PlanNH, which is a volunteer organization and they would help Kensington do a Charrette. The board was unsure if there was enough community support and were concerned about the town paying the application fee.

They have met with as many boards as possible and presented letters of support from the Conservation Commission, Planning Board, Library Trustees, NH Preservation Alliance, as well as about 12 emails of support.

She explained that there were people in attendance that would speak in support of this. There is some misunderstandings that the town will be given the building that the town will have to maintain it. There has not been one thought that the town should take on this building, and it would be a private organization that would be responsible for that. The Charrette would talk about this, but it is just one piece of it. This process would bring the volunteers to Kensington for 3 days to get to know the town. Mr. Greenwood explained that he has had 10 years' experience with type of program, and it is a glorified chat session, and great opportunity to see what we have as assets here in town. He has seen them result in doing nothing at all. He would encourage the town to participate in this. Lynne asked if the town is obligated to implement any of the suggestions. He continued that the town does not have to implement anything now. They are volunteers and their interest is in looking into new projects, and Littleton is the next project town for them. Lynne explained that there is a lot of work to be done, but not by the town. It was asked what inspired this. She continued that she wants to do the best thing for the town and is all about the community togetherness. There was a group of people that started talking and in discussing things with the heirs of the Prescott house they wanted to see how they could help. They had PlanNH here a year ago to look at the town, but didn't have time to get the application in. Linda explained that a community meeting might be a good idea to get community support together. She is concerned that people don't attend the meetings of the board and various other meetings in town, so they won't know what is being proposed. That section of town is small and there would not be much room to add anything to the area, what are the planning to do to change it? Lynne stated that they don't know. Steve Smith explained that there are several historical buildings in town that are not used, but thinks that this is a no brainer, and from the email that was circulated, there is a loss of places for people to gather. They need to create a place for community gathering. He believes that they should apply to PlanNH, for the Charrette, get a group together, he is not sure where he will stand when the Charrette is completed, but thinks that the Board should sign the application. Norman explained that the process, and all the hard work, is flawed. The application is an application that is done by the town, and is a public document, once it is a public document it is subject to 91A the Right to know Law. Any of the discussion and the process the public has a right to know, if the board submitted the application in the current form it could be challenged by any citizen. The board was not involved in the process, and it is his understanding that if PlanNH knew that they would pull the application, because it is in violation of state statutes. He understands the hard work that has gone into this, but the Board of Selectmen were not involved in the process.

Lynne stated that Peter Merrill was the Selectmen rep on the committee. Norman continued that Peter Merrill had not notified the board that he was part of this group, or let them know what was going on. He is concerned with the state statutes not being followed. Any board member cannot be part of a group, and act on behalf of the board. The group would have had to been approved by the board. When there was discussion of the new town hall across the street they formed a board that held public meetings and the public was invited, minutes

were taken and public notices were made. As a board member, he cannot sign that application because he feels they would be in violation of RSA 91A. It was asked if they went to legal on this. Norman stated that they could go to counsel, but they have not yet. He believes that the process could be fixed and they could move forward with the application, with community input, and it would make a stronger application process. He is unsure of what the other board members feel about this. Mr. Whittemore asked if the board would like them to get a bunch of names together? Norman stated that the board could get this going relatively quickly. There needs to be public input for this process. The area is located on a state road so anything done on the side of the road would have to be approved by the state. The only thing holding him back from signing the application is the RSA 91A issue. Lynne asked if they will be taking this over? No, the board would not take it over they would appoint individuals to be on the committee/board. Norman stated that there is a segment in the application that talks about the Prescott house and being used by the town, and there is another consideration that whoever does the renovation of the Prescott house is moving it from residential to municipal/commercial, so all codes would apply when the renovation starts. Lynne explained that these issues would come up at the Charrette where there are individuals there that are professionals that will help to answer those questions. It could also be part of the public discussion. The historical society artifacts were also talked about to move to that building as well, and he cautioned them on this. Mr. Whittemore stated that it would be the things that belong to the town already. Lynne stated that those concerns are good. Mr. Whittemore asked if the board could appoint a committee tonight. Norman is not sure if they are ready for this tonight, but the other board members might not have been aware of the 91A issue, and they were not aware. It was asked if they need to go through a public hearing process, and that is not the case, just public meetings. The community just needs to know and be aware. Glenn Greenwood is puzzled by the RSA 91A issue, Peter Merrill came to the meetings for a number of months? Lynne commented that it was not in an official capacity. Mr. Greenwood stated that Peter Merrill not informing the board is troubling, it is required by the PlanNH that the town show their support. He is aware of the problems in Kingston, where the town applied for the application on the behalf of the school. Typically, the application process is just for the Board of Selectmen to endorse it, he does not understand how endorsing the project if you have having a discussion at a public meeting infringes. Norman explained that there has been no public discussion on this and there was a board member that acted as a selectman without authority, he is not saying that happened, but there was two planning board members that were involved as well, Bob and Peter, and believes it could be a tainted process.

Mr. Greenwood stated that two planning board members can attend a meeting, and Norman asked if they could make decisions. Mr. Greenwood stated that there were no decisions made. Lynne sent an email out stating that there was support from the planning board, conservation commission and the police department, and no one can give their support unless it was at a public meeting. There was disagreement, Norman clarified that the email went out before the planning board met. This is not a bad process. It was explained that nothing bad was stated, just that one board member cannot act alone. Norman explained that he has a fiduciary responsibility to the board and the town to follow the rules and regulations of the state of New Hampshire. If the board members would like to go to counsel, he is willing to do that. There was further discussion on the 91A. Mr. Elwell stated that this process came to light a few weeks ago and should be signed, he does not believe that is how it should be done. Lynne apologized and stated that her understanding was that the application was the kick off to the public discussion. Mr. Elwell stated that the application is signed by the Board of Selectmen Chair, and the first time that this was made know to the board was two weeks ago. Lynne apologized for the late submission to the board. Holly McCann stated that it looks like they did a lot of work and knowing the timing, and there is mention of the Prescott House being the cornerstone of the idea. In simplifying the idea, it seemed to confuse more people, and maybe have a couple of meetings with the public to further clarify what project they are trying to do. To define a village area in the town was also confusing. The recreation department is also looking to expand the programs that they have to include the elderly and young adults. She is hoping that they could further build this and have the meetings be open to the public so that the intent is better known, she believes that they would get the support that way. Chief Sanders commented that if they had someone from each department within the town it would make the application a lot stronger. This way every aspect of the community will have input. Norman stated that the board will consider a work session to get this going, and Bob asked Lynne to get names together for the board of who they have been working with so far. Lynne stated that it will not happen this year, and they were trying to get the process in for this fall, and to help with the process of the house. Will the board do the application themselves? Norman stated no, the group has done a lot of hard work on this, they just want the community involved with the process. Mr. Cohen asked if it would be a public hearing with minutes, and Norman stated not a public hearing, but public meetings. The board is not looking to take the group over, it will be the group coming back to the selectmen. They will then go through the process to see who they might be able to add to this. The board will be in contact with them. Bob

stated that it could be in the community news, the board liked that idea, and will dedicate a page on the website for this project. Norman thanked Lynne.

- Dog License Program-

Chief Sanders asked to have this tabled until he can research and experience the software himself, he is unsure it will be integrated with the current system that they have. He will reach out to Dawn and find out more about the program, and inform the board at the next meeting.

- Appointment request from Planning Board

Norman expressed that he believed that this was for Peter Merrill and asked the board for a motion.

Linda motioned to table this for now. Norman seconded, all in favor.

Bob Solomon asked how long this will be tabled, and what would change. Norman explained that they would like to have a discussing with the Planning Board Chairman in nonpublic.

- Appointments ZBA and Rockingham Planning Commission

Norman made a motion to approve both appointments one for Janet Bunnell to the Zoning Board of Adjustment and Joan Whitney as the Rockingham Planning Commission Representative. Bob seconded, all in favor.

- Current Use Releases

One is for Wild Pasture Road and the other is for the Subdivision off of Moulton Ridge Road. Kathy informed the board that the Lambert Subdivision will all be coming out within the next 18 months because the lot coming out now is Lot 3 which resides in the middle of the subdivision. These will be recorded at the registry.

The board signed the current use release forms for both properties.

OLD BUSINESS:

- Request to identify "Brownfields"- still working on.

- Cross Walk Agreement with State- Norman asked if the board is prepared to sign off on that, Kathy explained that counsel has not reviewed this one yet. The board moved for Kathy to send out the State and Town agreement for legal to review and comment on.

Kathy informed the board that the trash bid had been posted and that the bids need to be returned by Friday June 2, 2017 to be opened at that June 5th meeting.

Comstar- Kathy stated that Comstar needs a new authorized user. Kathy contacted Charlie and he has not responded, the board asked Kathy to contact him and request for him to fill out the paperwork needed.

Kathy stated that there was a request for bulletin board downstairs in the entry way. Norman asked the board if it was okay for him to check with Art to see if he is interested in doing one like is in the upstairs hallway. They agreed.

Holly asked about a sign, but it has not been discussed within the board yet, so she will bring it up next meeting.

Bob Solomon stated that it is very important to have the selectmen's representative on the planning board due to being able to have a quorum for a project coming up that one member has to recuse from.

- Bills - bills were reviewed and signed off on.

- Approval of Board Minutes **May, 2017**- the board will review them at the next meeting.

- Non Public Session- RSA91A:3, II (a,b,c)

Norman motioned to go into nonpublic session at 8:46pm, Bob seconded all in favor.

Norman motioned to leave nonpublic and seal the minutes permanently at 9:47pm, Bob seconded, all in favor.

• Next Meeting Date –June 5, 2017 at 6:30pm.

• Norman made a motion to adjourn at 9:48pm, Bob seconded, all in favor.

Respectfully submitted,
Kathleen T Felch