

TOWN OF KENSINGTON  
BOARD OF SELECTMEN MEETING

Kensington Town Hall  
95 Amesbury Road  
Kensington, NH 03833

MONDAY

August 6, 2018

Meeting Minutes-Draft

6:30pm

**In Attendance: Norman DeBoisbriand, Robert Wadleigh, Linda Blood**

Norman made a motion to open public session at 6:30pm, Bob seconded, all in favor.

Norman asked if anyone was there for Citizen's Forum. There were no comments.

Donna Carter-request to speak to the board

- Donna stated that she received her letter and thought that it stated what she had said at the last meeting. She asked who talked to the town's attorney and did they have all the facts. Norman and Kathy talked to the attorney and they were presented with minutes of the meetings and told the process that the board goes through and they were told that the board was in compliance with the RSA. Donna did not believe that. Norman stated that the way that they do the non-public minutes is that they make a motion to come out of non-public and it is seconded by a board member, and then a vote and right after they make a motion to seal, with a second and a vote. Donna asked if they were given the minutes or just told the process, and Norman explained that they did both. Donna stated that is not the way that the minutes are. Norman explained that the minutes say "and". Donna stated that you have to come out of non-public and then seal them. Norman explained that the word "and" is used. Donna stated that there is a time that you come out of the non-public and that is all the same. Norman stated that this is the second legal opinion that the board has received that she did not agree with and that she would not accept the 10-year agreement was terminated for the trust, until the trust attorney said it terminated. Donna still does not agree with that finding. The 10-year agreement that ended was for financial commitment for \$8,000.00. Donna stated that it is posted on the town website, and why isn't the other one posted? It was explained that it was a separate agreement from the financial agreement. She was talking about the agreement for the park is good for 20-years. Norman stated that it is the second legal opinion that she does not agree with which is her prerogative. She has not seen the opinions and what was sent to them. If the minutes are not releasable, then she wants to know why she was terminated, and why she can't know the reasons. It was explained that it is sitting with the town's counsel. The board is following the advice of legal counsel, and they are following counsel's opinion due to the potential liability to the town. She stated that at the first meeting that she was told that she would have a letter, and the board agreed to that. She stated that she had the right to be in the non-public and was not given that chance. She was told the reasons were in the letter but she believes that she should have been asked to attend before the vote, she had the right to be in non-public and she was not asked. She was concerned about what legal was told, and how do you communicate with town counsel. Norman stated that they have given all the facts to town counsel. Norman stated that she is again accusing the board of doing something with no facts. There have been accusations of the board not going to town counsel, and now that they have gone to town counsel they are being chastised and questioned what did the board get from town counsel and what did they tell them. It is a matter that town counsel has all the facts, they are not hiding anything from town counsel. Exclamations from the crowd asked for facts. Why is town counsel not at the meetings? It was stated that the board never has any answers. Certainly, the facts will come out. Norman stated that this is a rehash of what the board has gone through before. As soon as town counsel

states that the town can release the information they will. The board has a potential law suit and is proceeding cautiously through this process. It is not that they don't want to release it, they have to go through the process. Who is town counsel these days? Norman answered that Charlie Bauer an attorney from Concord, NH has been advising the town in this matter. It was asked why they are not using Donahue, Tucker and Ciandella in Exeter. The town has also used Walter Mitchell in Laconia in regards to other matters that the town is dealing with. Is he a Right to Know attorney? The board is unsure of any attorney who specializes in the right to know. It was commented that there are municipal attorneys who would have experience in the right to know. Donna stated that she has almost no Facebook posts and what she has posted is factual. She has received no facts and that she has given the board plenty, including minutes to meetings, and basketball, that there is two parts to the trust. Norman stated that both legal opinions were in regards to the 10-year agreement, and there were no discussion about the 20-year agreement. There were discussions about the 10-year agreement verses the 20-year agreement. She stated that the board was upset that the Adult Softball and the tournament and that money was missing from the tournament or playoffs. She asked what she can expect. Norman said that as soon as town counsel will let them release them they will release them. Donna continued that the three board members are the ones that can vote to release the non-public minutes. If town counsel advises them to release them they will release them.

Lynne Bonitatibus- request to speak to the board

- She asked who is responsible for creating the minutes. Is Kathy always responsible for creating the minutes? Norman stated that she is. She asked if anyone reviews them before they are posted. She stated that is illegal to review them before they are posted.
- At the last meeting you are saying that you want transparency. Why are the minutes so vague? She quoted minutes. Norman answered that each town counsel is different, some say that you don't have to be specific at all in the minutes, you just have to be very general, other town counsel will tell you that you have to be a little more specific. There is a wide variation of how towns prepare their minutes. She is stating that the meeting minute are too summarized, and state "due to information discussed", and if you are trying to be transparent how is that transparent. Norman stated that the board did not go into non-public at the last meeting.
- She asked why the board went into non-public with Alan Lewis? The board went into non-public meeting to discuss a legal matter. She agreed and stated that he had stated earlier that it was a trustee issue. Norman stated that he might have misspoke, it was a legal matter.
- How is anyone supposed to get anything from the minutes if they are so vague. Norman stated that he is unsure of specifically what she is referring to, he did not have the minutes in front of him. She stated you don't know what they said so what are you trying to hide. Norman asked her not to put words in his mouth, stated that he did not know why he went into non-public. She asked why the board went into non-public and he told her why they did. He explained that non-public is not this mysterious thing that you go and talk about people, there are legal matters. Which you understand, this board is not doing anything different than any other board has done. She understands a summary but does not think that is a summary. Norman stated if the minutes are deficient they will address them.
- Lynne stated that she has sent the board numerous emails and complaints over the years on the right to know law and asked Linda if she was aware of any of her emails. Linda answered no and Bob stated that Kathy sent them all to the board. Bob was asked how many he thought that he had received. He responded maybe 3 or 4. She asked why the board is continuing to violate the right to know law. Norman flatly disagreed with Lynne and continued that the board does not violate the right to know law. The board has had a situation in the past that was many years ago, but they are very cautious about the Right to Know Law. He explained that they had a group here that wanted to have meetings on the heritage commission, and wanted to put together a Charrette and they got into a discussion about the right to know and how that group should have part of right to know and there were some people on that

committee that did not think that they should be under the right to know. The board is very cautious, and they take it seriously.

- She stated that the July 26, 2018 minutes were just posted today. Norman asked where, and Lynne stated on the website. He continued that they don't have to be on the website, as she is aware they have to be posted in two public places and those minutes were posted in two public places so the statement you just made is false. It is not a requirement to be posted on the website. They asked where they were posted and Kathy responded at the Town Hall and Country Brook.
- Dave Buxton stated that the town has had this issue before. If people do not have internet they are okay to come to the town hall and request paper copies for a fee and this has been discussed before.
- Lynne stated that she sent an email to Kathy, on how meeting minutes were not posted until weeks later, and her response was that they were posted on the website and also, here at the town hall and Country Brooke Café. So, if she is telling people that is where the places are, then they really should be there. The board will try to get the meeting minutes out on the website as soon as possible. The board understands the point that she is trying to get them onto the website as quick as possible.
- She mentioned an email sent in January to Kathy asking why the laws were not being followed, stating that any motion to enter into non-public must state on its face the specific exemption, and this was not responded to.
- At the last meeting was there was a motion to enter into non-public session, then later there was another motion to enter into non-public. She asked how that happened. Kathy explained that there was a question from a resident at the last meeting so the board never went into non-public, and as the minutes state there was a conversation in public after that. The board made the motion again because they did not want to make the motion incorrectly.
- Lynne continued and asked why the minutes were not posted, she has time to drive to Country Brooke, but not to put them on the website? Norman explained that there is a legal requirement to post them two places, and one does not have to be the website, but they would like to get them on there as soon as possible for the people that read them there.
- She emailed the board in 2017 and sent it to the [kensington@kensintontown.com](mailto:kensington@kensintontown.com) email address and asked who monitors that? Norman answered that Kathy monitors it. She asked about Peter and questioned if Peter did something that was improper then that should have been discussed in public, because he was a public official. She quoted the minutes about an appointment request being made for Peter and the board tabled it. The response was that the board would comment in the July meeting. The minutes that she is talking about were taken by Holly McCann due to Kathy not be present. She asked why her topic was not discussed. She commented that the minutes were not sealed and were not done correctly. She stated that being closed on Fridays or sick did not mean you can circumvent the law.
- July 24 the board made a motion to amend the minutes from June 22 to read that they motioned to close and seal the minutes, and that it was inadvertently left out of the minutes. She stated that sealing them after the fact does not mean that they can't be released.
- Norman stated that she sat at a meeting and discussed this before and is reiterating what was said at that meeting, and the board had addressed her questions. They are not going to reiterate what they already answered.
- She asked about Peter Merrill and why there would be a non-public concerning him as he is a public official. Norman explained that a member of the planning board is an appointed official, and he was not a selectman at the time. Norman continued that was explained at the last meeting and she is trying to get the board to answer the questions differently.
- Lynne continued to explain that there was a resignation from Mike Schwotzer, and wanted to know why. Norman explained that there was a procedural problem that he pointed out that one of the boards were not in compliance with the RSA's. There was nothing mysterious about that.

- She asked if the board has anyone other than Kathy doing the books in the town, and the board answered that Linda Buxton assists Kathy in the office with bookkeeping. She was concerned with someone that takes in money, deposits and reconciles funds, and thinks that the board should have someone else do the reconciliations.
- She continued that she noticed that the town clerk position has now been taken, and now the deputy clerk position is being posted, and who are the applications being forwarded to? Norman explained that the resumes are being forwarded to the Selectmen and the Town Clerk. She just wanted the town clerk to be aware that the Town Clerk appoints the deputy with the approval of the selectmen. Norman stated that is the key, it is the approval of the board of selectmen. The Board of Selectmen is the only ones that can hire employees, the town clerk or the tax collector can recommend. It was explained that they look at all the applications and they have even gone through the interview process for the deputy town clerk.

**DEPARTMENT HEADS:**

- Police Department – Chief Scott Sanders- Chief Sanders approached the board and stated that he wanted to offer kudos to Sergeant Cain and Officer Wlasak. Officer Wlasak was hired here last fall, and attended the academy for four months, he has just gotten back and finished his town training. The week of the 17<sup>th</sup> was his first shift that he worked alone, and it was on his shift that he encountered the impersonating DEA Officer. He very intuitively realized that what he was being told did not jive, and he sat and engaged in conversation for a long time, which helped the case. This was tremendous how he worked through the situation, and did very well by himself, he was very impressed by what Officer Wlasak and Sergeant Cain were able to do as a team.
- Fire Department – Chief Jon True
  - 198 calls so far this year
  - Working on testing all of the hydrants and cisterns  
Making reports on what needs to be repaired, which will be reported to the board.
  - Working on the pay scales and best practices and policies
  - Went to East Kingston for water, fire training- great learning experience.
  - Firefighter Scott McCarthy is now an EMT- he wanted to congratulate him.
  - Addition of Ben Cole to the department, he was a past member and he will be sworn in soon, happy to have him.
  - Defib is here and is staying in the building, there needs to be some conversations on where to install it.
  - Emergency Management - Chief Jon True
    - Recently he participated in a tour for fire fighters and elected officials of Seabrook Power Plant.
    - Working on the Presidential Declaration from March, right now is the gathering of paperwork process.
    - Submitted an application for the update of the Hazard Mitigation Plan, this is grant process where a company will come in and work with all the town officials, they will discuss the hazard mitigation issues and hopefully have some input from the public. There will be upcoming meetings.
- Road Manager – David Buxton
  - He asked for the bid from Matrixx for across the street parking lot. This is part of the Grant money and will be discussed next meeting.
  - The fire pond is complete next door, but still needs to be fenced. The invoice was submitted and \$2,000 will be held until the fence is installed.
  - Requested quote from Batchelder's for the loading dock at the salt shed, it's been 10 years since the Shed has been built and it is breaking down.
  - There is some erosion on the shoulders of the roads, they will be getting a quote replace some of it.
  - He has gotten calls from the Police department about some trees. He had Mike Gilmore take care of them and there should be an invoice coming in for that.

- Town Clerk – Kathy reported that Carol will be going to the Annual Conference in October.
- Recreation Committee- Linda reported
  - That they are working on the Festival which will be on August 17-19<sup>th</sup>, there will be a meeting on Wednesday to finalize the plans.
  - Friday night there is a “Doo-Wop” group scheduled called the Bel-Airs
  - Saturday – there will be some things for the kids to do along with karaoke, and fireworks at 10:00pm. They are not serving a meal this year, but all are welcome to bring a picnic lunch and chairs.
  - Sunday- Perry family will be doing the pancake breakfast
- Sawyer Kensington Trust- Norman reported that the town has received two agreements, one is an amendment of the first from Mr. Lewis’s attorney. Norman would like to see if the board is willing to put a citizen’s group together to work on these agreements, this would probably be a group of four or five residents. They would be looking at the agreement that the town sent to the Trust, the response from the trust and come up with a proposal to the Trust on what the town is looking for. He believes that this would be a good idea for residents to see what is in the agreement and how it is structured with the Trust. The board will be putting something out on the website for anyone interested in being part of this, there will also be a board member on the committee. There will be topics discussed involving what the Trust and the town have spent on the park. They will also discuss the future needs of the park. Norman made a motion to put together a citizen’s group to work on the agreement with the Sawyer Kensington Trust. Linda seconded, all in favor. This will go out on the website, and the board will accept applications of interest. The board just received the second agreement and there is a dramatic change with the trustees and how to appoint them. It appears that what the trust would like is to have at least one trust member be an elected official. Until it is structured it is difficult to place individuals on the trust. It was asked if the board was not going to appoint anyone to the trust until the agreement was made. The board is not going to place anyone on the trust, because the trust wants to change the way people are put on the trust, this is not the board. It was expressed that the Trust can’t do anything now. It was shouted from the back that the trust is being held “hostage”. Norman explained that they just received this new version a few days ago and if they place anyone on the trust now, and the group decides that this is a good plan, then they would be removing trustees again. The town will be funding the festival this year, there are no major repairs to be made at the park, Mr. Lewis thought that the park looked great. They are not holding the trust “hostage” the board is trying to accommodate what the trust wants and put a group together to let citizens know what is going on and for them to have input. It was asked what the board’s timeline was in forming the group and what if no one signs up. Norman explained that then the board would work on it. It will be posted and they will start as soon as they can, and hopefully have a meeting within two weeks. If the trust thought that there was a need to put someone on the trust immediately they would not have made those alterations. It was explained that until there are members on the trust they won’t contribute anything to running the park. Norman explained that the trust does not pay to maintain the park, the town pays \$45,000 a year to maintain the park. The trust will only come in and make major improvements. Donna explained that the trust was willing to pay the mowing costs this year. Norman disagreed and stated that Mr. Lewis did not agree with that either. There was shouting. The people in the back shouted that if the trust members are not here they should not be talking about the trust. Norman is misunderstanding where the attendees are upset because the board is looking to put a citizen’s committee together to work on the agreement, not just the board. This is the future of the park that people would be taking a look at. The board would like to see this park in the status that it is now, 10 years from now. It was asked what is wrong with the way it has been done for all the years. Why do they have to recreate things? That is a discussion for the trustees. The trust is crippled, and they are not talking about funding for the town, they are talking about functioning as a board, there are only two people on the trust and they are Lewis appointed people. Norman explained that this board is not the board that wanted an alteration in the agreement that was the trust, and the board is trying to accommodate what they want. Accusations were made about the board not appointing people, but it is a process that they need to go through. There was shouting and hard to hear. The board was accused of cleaning house to get “their own”. The board did not see it that way.

Norman reiterated that he has done nothing wrong. There was a lot of shouting, unfortunately. The board moved on to the next items.

**NEW BUSINESS:**

- Crosswalk Agreement for the Kensington Elementary School- The board reviewed the letter from the NH Department of Transportation and the agreement to maintain the crosswalk. Mr. Cole was given a copy as well for the school board.  
Bob made a motion to sign the paperwork for the crosswalk at the Elementary School, Linda seconded, all in favor. Mr. Cole thought it was good what the state suggested to ask until for funding to put in some lighting, and Mr. Cole will look into it. The board agreed.
  - Registry of Deeds has changed the way that the town can obtain the transfer deeds. The town is being asked to sign a contract with a second party to be able to print the deeds that the town needs to do the property card changes. Kathy will send copies to the board to review.
  - Email from KYAA wanting to do a fall cleanup at the park. They are looking to reserve fields A,B and C for October 20, 2018 from 8:30-3:00pm, and they would like a rain date of October 21, 2018. There was nothing scheduled at that time. The board is okay with it and Kathy will post on the calendar.
  - Request for basketball lights at the park. The renter wants to play a pick-up game there. The board reviewed the application for Stephen McDonough, and Kathy explained that he would like the key to be able to pick the baskets up. They can be raised after the summer camp leaves and lowered again in the morning before the campers arrive. Bob made a motion for the basketball team for the pick-up game on August 16, 2018, Linda seconded, all in favor. There was a charge of \$50.00 for the basketball lights.
  - Linda added that she would like Bill to be asked if he can do the cleaning up from the festival on Saturday night and Sunday. The board said it was okay.
  - A resident came in and asked about town owned land at 10 Hoosac Road. They were wondering if the town would do a mowing of the area, and they would be willing to help out with it as well. Bob will get ahold of David to see what a possible charge would be.
  - Rockingham Planning Commission renewal, they had no problems with amending the contract, but it has not come back yet.
- Bills and Mail- Kathy explained that there is a bill that \$2,000 will be held per David Buxton. The Greeworks bill is there as well and there were no extra charges for contaminated loads. The board reviewed the bills and signed off on them.

Norman informed the public that they would be going into nonpublic session at this time.

It was asked if the minutes would be discussed tonight. The board has not reviewed them all. Norman made a motion to table the minutes until the next meeting, Bob seconded, all in favor.

It was asked if there was citizen's forum tonight? It was asked at the beginning of the meeting.

- Non Public Session- RSA91A:3, II (a,b,c,d,e,i,l)

Norman made a motion to enter into non-public session for a legal matter at 7:39pm. Bob seconded, all in favor. Norman made a motion to close the non-public session at 8:17pm, Bob seconded, all in favor. Norman made a motion to seal permanently the non-public session, Bob seconded, all in favor.

Respectfully submitted,  
Kathleen T Felch