

**Kingston, New Hampshire
Board of Selectmen
Meeting of February 12, 2024
FINAL MINUTES**

The meeting was called to order at 6:30 PM by the Chairman.

PRESENT: Chair Chris Bashaw; Glenn Coppelman, Laurie Szwed, Ellie Alessio, Select Board Members

ABSENT: Vice Chair Chuck Hart

APPOINTMENTS: None

PUBLIC COMMENT 1: None heard

COMMITTEE LIAISON REPORTS

Selectwoman Alessio said she had attended the Seabrook Station evacuation drill. She said the simulated problems and logistics were very well done and the federal and state representatives present commended Fire Chief Pellerin for his handling of the drill. Selectwoman Alessio also commented that the Wage Study group will be regrouping and getting back to work this week.

Chairman Bashaw said that the Planning Board has had numerous hearings. One notable hearing was on a cell tower sited on the Hampstead side of town, and residents from both towns were present. He said there will be a site walk and a “balloon test” to demonstrate visual impacts; this will be open to the public.

Selectwoman Szwed said that the Kingston Days Committee will meet this Thursday, February 15, at 6 pm. She said this meeting will determine if the event will be able to take place this year; steering committee members are still needed.

Selectwoman Szwed also said that the Fairgrounds study group met for a walk through on Sunday and will meet on February 28th to start work on a presentation for the Select Board. She also said that the recycling collection point will be open on Saturday from 9-12, and that they are beginning discussions of holding a bulky goods day or doing clothing drives.

Selectman Coppelman said that it’s important for all to attend Candidates Night, on February 21st at 6:30 pm.

OLD BUSINESS

Website upgrade: options, pricing

The Administrative Assistant said that after gathering information and attending two zoom presentations, the consensus of those involved in the research is that the best option is to stay with Civic Plus and upgrade to a platform such as the Town of Exeter has. The cost of the upgrade plus the first year of hosting, maintenance and support is \$6,170. Going forward, the annual cost will be \$5,428,50.

There was a discussion of the need for a better website that will be more accessible to all and also compatible with other software being implemented; the town is moving toward online permitting, for example. There was also a discussion of paying for the first

year with American Recovery Plan Act funds; it was agreed this is an acceptable use of those funds and that then there needs to be a reminder to add this expense to the budget going forward. There was a discussion of the ARPA funds; the cost of the larger items to be paid with these funds (Town Hall HVAC and front steps) should be known soon.

Selectwoman Szwed reminded all there had recently been a policy signed on handling of new contracts, which has a signature page that includes the Finance Director. She said this is to ensure that all contractual expenses make it into the annual budget.

MOTION: by Selectman Coppelman, to approve the contract with Civic Plus for 2024 for the amount of \$6,170 and have the Chairman sign; the form accompanying the Contract policy must also be circulated for applicable signatures prior to final approval.

SECOND: by Selectwoman Alessio

All in favor

POET System bid package - update:

Selectman Coppelman said that he and Administrative Assistant Susan Ayer participated in a long Teams meeting with representatives from NH DES and Verdantas, the Town's consultant that is working on the specifications and work plan for the new Request for Proposals for the point of entry treatment systems to be installed with grant funding. He said the RFP needs a little more tweaking but is close to ready; it can be posted once NH DES approves it.

Welfare Guidelines Policy:

The Board was in receipt of a document outlining maximum financial assistance, to be attached to the Welfare Guidelines.

MOTION: by Selectwoman Alessio, to approve policy 1901-F1

SECOND: by Selectwoman Szwed

All in favor

Official Town Facebook page:

The Chairman read from a memo prepared by Adam Faulconer, who maintains the current Facebook site, "Office of the Select Board" and had conferred with Selectwoman Szwed on the topic of wider use of the site. Mr. Faulconer was present for the discussion.

It was determined that the site would be kept but renamed "Town of Kingston NH" in order to keep the followers it currently has. Backup administrators to Mr. Faulconer will be Susan Ayer and Caitlin Milhomme. Comments will not be allowed but readers may share to their personal page and comment there.

The terms of use for the Facebook page will be posted on the Town's website.

Mr. Faulconer noted that meetings will be posted for Select Board, Planning Board, ZBA, and Budget Committee; in discussion it was agreed that Historic District Commission and Heritage Commission should be included. Readers will be directed to the Town website for agendas and meeting minutes.

5 Exeter Road

Selectman Coppelman asked for a motion to reconsider the vote the Board took on February 5, regarding their position on 5 Exeter Road, which is a small lot previously

“unbuildable” that the board voted to make “buildable”. He said that he is not asking to rescind the vote, but only to add something to it.

(Selectman Coppelman made a motion which was seconded by Selectwoman Alessio, which was then rescinded after a discussion of whether a member can move to reconsider a vote they had abstained from.)

MOTION: by Chairman Bashaw, to reconsider the decision of the Board on February 5 regarding the unbuildable status of 5 Exeter Road.

SECOND: by Selectwoman Alessio

All in favor

Chairman Bashaw said that if the Board is going to make any decisions or changes to the decision, the applicant needs to be notified so that they can be part of the discussion.

Selectman Coppelman said he is basically reiterating the concerns that caused him to abstain from the vote. He said he did not believe it should remain unbuildable, but wanted to make sure that the Town and the abutting properties were protected when it gets developed. He said a lot of stuff has to happen on a very small lot, including dealing with a high water table that is going to mean raising the septic system and the buildings. He said this could cause complications, including where the stormwater will run off to with everything raised, and being such a small lot, how does this get mitigated so that it does not impact the abutting property. He said he would like to ask, as he did at the last meeting, that the Town Engineer be given the opportunity to review the lot before any permits are approved.

Chairman Bashaw said that he does not disagree with the reconsideration, although he felt comfortable with the previous decision as the Town now has a responsible and capable Building Inspector, and because any mitigation efforts, that could be costly, will be the responsibility of the owner. He said that given the research done by Building Inspector Pedro Avila since the vote was taken, he feels Mr. Avila is more than capable of any oversight that is needed. He said Mr. Avila had shown him state laws and building code that authorized him to implement certain measures to make sure the work is done correctly.

Mr. Avila was asked his opinion, and he said that he does not want to be in conflict with any motions of the Board. He said that some of the legislative decisions Chairman Bashaw refers to give him the authority to request scientific data to back up the intent of how the owner plans to build. He said oversight of these areas definitely needs specialized overview or inspections, by someone with a background that he does not have, so he agrees with Selectman Coppelman that the review of the Town Engineer, or someone with an engineering background, would be appropriate. Mr. Avila said that he would prefer not to render an opinion on the design aspect of the building environment as that could be a liability to the Town.

Chairman Bashaw said that in his reading of the state laws, Mr. Avila has the authority to ask for scientific review as needed, without the permission of the Board. He said he is more comfortable with that than being involved as a Board member in a decision that can be considered designing for the applicant. He asked that the Administrative Assistant reach out to the applicant to inform them that we have done some review of

state law, and the Board's intention is that if it requires engineering review, we are required to authorize that. He said they should be informed that if they don't agree with this they are invited to come back and discuss further. He said he wants to be sure there is no misunderstanding before they invest any further time and money.

NEW BUSINESS

Request for conversion from Seasonal to Year-Round residence at 10 9th Street:

Email correspondence from realtor Kathy Woekel to and from the Board Administrative Assistant was read, in which it was explained that this property is currently for sale by the owner, Dorothy Turcotte, and the buyers would like to convert it to a year-round home. Ms. Woekel said the request is for the Town to change the zoning (it was later clarified that the Board cannot change zoning, only designation) on the property, and stating that NHDES has approved the septic plans for year-round use. Septic plans were provided. Ms. Woekel also stated that the bylaws have changed, recorded well releases are no longer required, and the encroachment waiver process has been removed, which she said is what held this property up from being considered year-round previously. She said the State has approved the home as a 2-bedroom home, and that State guidelines with this approval give the new buyers 4 years to replace the septic.

The potential buyer of the property, Brady Barron, was present to discuss his plans. He said that he has four years to replace the septic but has been told by the State that this doesn't require construction, just changes to the 3-bedroom home. He said the current septic was replaced in 2017 due to a failure.

Building and Code Enforcement Officer Pedro Avila was present and said he had spoken with Mr. Barron today as well as reviewed the request. He said that they have approval for construction from the state, but do not have approval for operation of what they have. He said that the property has been used illegally year-round under the 2017 septic which is rated for 3 bedrooms, seasonal. He said this can have a big impact on the health of the abutting neighbors. He said proper procedures need to be followed so the Town can make a decision based on facts. He said he will need a plan for the home and its intended use to put in the property file. Factual data will be needed for the future, because right now the septic points to seasonal use.

Mr. Avila also pointed out that there is no information on transition to year-round use, and buyers need to be aware that they inherit all that comes with the property, including illegal use.

Selectman Coppelman said that the state approved design is only for the septic system and the fact that it will support a two-bedroom home; he said that he supposes since it was submitted as a year-round conversion you could infer that it will be used year-round de facto. However, he said, the ultimate decision for conversion to year-round use would lie with the Town. Mr. Avila added that the state gave their approval based on a design, not an inspection, so they are safeguarding themselves, not the owner. Mr. Avila noted that in Section 6 on the approval for construction, the State outlines everything they need to see, and it implies a new system is being built, which he said is not what Mr. Barron is saying. He said that Mr. Barron is trying to go forward and do this correctly.

Chairman Bashaw said that the Board doesn't want to punish someone coming in to do the right thing because it's been done inappropriately in the past. However, he said the Board does need to make sure things are done correctly to safeguard the neighborhood as well as the Town and the potential new owner. He said the last thing a new owner needs is to be tied up with legal issues.

Asked if he understood his path forward, Mr. Barron said to be clear even though there is no construction to be done, and it's approved for year-round use, he needs an approval for occupancy. Mr. Avila said he needs approval for operation for the intended use, which will be based on the rules and regulations from the state to render the operational approval along with the Town's health officer. He said this is part of Mr. Barron obtaining the certificate of occupancy from him.

Mr. Barron said that as it is approved for construction and based on the way the plan is drawn, if the way the septic is currently installed is exactly how it is drawn on the approved plan, is there any situation in which you would not need the operational approval, are they synonymous in any case. Mr. Avila said that no, the operational approval is when the septic that is installed is ready to be used for the intended purpose. He said in this case, they gave approval for construction without knowing the purpose, only based on the design. He said that as they discussed, they do not yet have the information to base the operational approval on. Selectman Coppelman said that either the system on the design needs to be built, or it has to be shown that a system like that or similar to it is in the ground and functioning.

Selectwoman Szwed asked what, aside from approval of the septic system, needs to occur to allow this house to go from seasonal to year-round use. There was a lengthy discussion on the illegal use, and that it was not known when it started being used year-round. Mr. Avila said that much is unknown and he doesn't want to make it overly difficult, but that at the very least there needs to be a layout plan of the existing property and how it is going to be changed to comply with the current use and septic. There was a discussion of how many houses like this exist, as the small cottages gradually became full time residences.

Selectwoman Szwed asked about the mention in the email about bylaws being changed, recorded well releases no longer being required, and the encroachment waiver process being removed. Mr. Avila gave as an example of a well release the one next to 5 Exeter Road, where because of the inability to achieve a proper well protection radius (75' for the State and 100' for the Town), a release is done so that the neighbor is not inhibited from building.

Mr. Avila said he did not know where Ms. Woekel was coming from with reference to bylaws being changed and the well releases no longer being required; she will need to show the RSA that applies to this. Select Board members Szwed and Coppelman both said they would question this, as there is a lot of information in the letter stating that everything is great but the buyer needs to be aware of all the facts before entering into a deal.

Mr. Barron said that he made sure the engineer included this on the plan and directed the Board to the plan under NHDES New Well Note:

“Effective August 29, 2023 the following changes were made to the way wells are regulated:

1. Recorded Well Releases are no longer required.
2. The encroachment waiver process has been removed.
3. The well driller is responsible for completing the required forms to be submitted to the Water Well Board and siting the well appropriately.
4. If on-site well location is less than the required setback, then a waiver is required.”

Given this information, Chairman Bashaw said he would like to do something that would enable the purchasers to pursue getting the correct information from NH DES, with the Town allowing conditional use, but withholding permanent use until the appropriate information on the septic is provided from NH DES.

MOTION: by Chairman Bashaw, to grant conditional approval of year-round use for 10 9th Street, based on plans being submitted to show intended use to the building inspector, to be placed in the property file, as well as getting the proper operational certificates necessary for year-round use for the current septic system from NH DES; these items are to be submitted to the Town within 90 days, with the option of coming back to the Board for an extension if progress with NHDES can be documented.

SECOND: by Selectwoman Alessio

Discussion:

Selectman Coppelman said he could not support this motion as it still allows a 3-bedroom house with a 2-bedroom septic system. Chairman Bashaw said that the owners would need to provide a floor plan. Mr. Avila said that he would expect a plan with a 2-bedroom layout, labeled, within the existing dimensions. If misused, the owner would be subject to all laws and enforcement action would be taken.

MOTION REVISED: by Chairman Bashaw, to grant conditional approval of year-round use for 10 9th Street, based on plans being submitted to show intended use as a 2-bedroom residence to the building inspector, to be placed in the property file, as well as getting the proper operational certificate necessary for year-round use as a 2-bedroom residence for the current septic system from NH DES; these items are to be submitted to the Town within 90 days, with the option of coming back to the Board for an extension if progress with NHDES can be documented.

SECOND: by Selectwoman Alessio

All in favor

Question from Planning Board re: removal of Article P-111 in Town Ordinances

The Board has been notified that the Planning Board had voted to remove this article, which is a listing of dates when revisions occurred. The reasoning was that it is not kept up, it doesn't indicate what was revised, and that all the revisions appear on individual articles anyway.

Selectman Coppelman made the point that this page is typical to have, so that someone can open the ordinance book and see if they have the latest updated copy.

Chair Bashaw will bring this point to the Planning Board for their consideration.

Request from Fire Auxiliary to hold their Brewfest on June 29, 2024

There was a brief discussion in which it was affirmed that all required paperwork will be submitted for this event, and the Board was comfortable with saving the date.

BOARD BUSINESS

- After some discussion, it was decided to include a demonstration of Building Permit software during the Department Heads meeting of February 26, at 9:30 am.

PUBLIC COMMENT #2: None heard.

CORRESPONDENCE, APPLICATIONS, PURCHASE ORDERS:

- Solar Exemption application (1) was approved
- The annual junkyard renewal form was received from John's Truck and Auto. The Board reviewed the paperwork and approved (Motion: Coppelman, Second: Alessio, All) signing of the license renewal.
- Facility Use request received for use of the Recreation Center building for a family memorial gathering was approved.
- Notice of Herbicide treatment has been received from Unutil, for spraying vegetation in their rights-of-way. There was a discussion of this, and that concerns about spraying over parts of the Aquifer Protection Zone were addressed last year by showing the usage will be within limits stated in the ordinance. The volume will be less this year.
- The Intent to Cut form for the Unutil solar project was signed.

APPROVAL OF MEETING MINUTES:

MOTION: By Selectman Coppelman, to approve the public and non-public meeting minutes of February 5, 2024, as well as Budget Hearing minutes from January 6, 2024 and January 13, 2024.

SECOND: by Selectwoman Alessio

All in favor

Motion: PASSED

MOTION: by Selectwoman Alessio, to adjourn public session and enter non-public session at 8:03 PM, per RSA 91-A:3, II, (a) Personnel, and (c) matters which, if discussed in public, may affect adversely the reputation of a person other than this board.

SECOND: by Selectman Coppelman

All in favor via roll call vote

The Board returned to public session at 8:25 PM and voted to seal the non-public session minutes:

Motion made by Selectman Coppelman, seconded by Selectwoman Szwed, because it is determined that divulgence of this information likely would...

X Affect adversely the reputation of any person other than a member of this board.

Render a proposed action ineffective

Pertains to preparation or carrying out of actions regarding terrorism

Roll Call Vote to Seal Minutes:

Chris Bashaw	Y	Charles Hart	Absent
Laureen Szwed	Y	Glenn Coppelman	Y
Electra Alessio	Y		

Motion: PASSED

Meeting Adjourned at 8:25 PM

Respectfully submitted:

Susan H. Ayer, Administrative Assistant to the Select Board