

**Kingston, New Hampshire  
Board of Selectmen  
Meeting of July 10, 2023  
FINAL MINUTES**

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

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

**APPOINTMENTS**

**Kyle McManus, Interim Building Inspector Re: Permits for 49 Danville Road**

Chairman Bashaw recused himself from this matter as it involves his property, and stepped down from the Board's table for this discussion. Selectwoman Alessio prefaced the discussion by saying that about a year ago, it was decided to hold an "amnesty" month to encourage residents to apply for building permits, which was advertised in a tax bill insert. She said it was not well thought out, but the intention was to get property files cleaned up.

Mr. McManus said that from the Building Department standpoint, there is no means by which to inspect much of the work done on 49 Danville Road in order to approve or deny. He said also that when a permit is filed, the date is the date of code compliance, and codes change every few years. He said the inspectors do not have the ability to see through walls or to go back in time to know which code is applicable on which projects. Mr. McManus said that the inspectors need the Select Board to be very specific in telling them what they should do, as he said he cannot do what they are asking.

Selectwoman Alessio said that there was only one individual with a conflict, and that all other applications under the amnesty period were settled. In this case, the homeowner was told by a Town official that his file was "all set" and he found out later that nothing had been done. Mr. McManus said that the other overdue permits were not as complex, and that if this was a deck built without a permit it would not be a big problem to inspect and approve it.

Selectman Coppelman said that he understands the issues of not being able to inspect what can't be seen, and of changing codes. However, he said somehow this homeowner needs something in his property file to show what was done and verify that it exists.

Selectman Hart said that some of the work, such as the mini-splits, could be treated as a final inspection, to verify if they were installed properly or not. Mr. McManus questioned which code they need to comply with, as the electrical code changed in 2022. He said the energy code comes into play as well, and the home needs to be taken as a whole. Selectman Coppelman said he assumes the work was done over a span of years, and Mr. McManus said that the effort to research multiple codes is a lot to ask of a part-time building department.

Selectwoman Szwed questioned how this was implemented at the time. Selectwoman Alessio said that they were trying to remedy deficits in permitting, and the other applications were not this complex.

Chris Bashaw, 49 Danville Road, asked to speak to this as the owner of the property in question. He said this all took place before he was on the Select Board. He said in 2022

he received the flyer in his tax bill and was interested in participating in this Town sponsored amnesty program. He said as a homeowner he had not seen the need for permits over the years, but then he thought about what would happen if there was a house fire, and whether his insurance company would cover these items. He said that the problem was that the people in charge at the time did not handle his applications properly. He said he sat down with the Chairman of the Select Board at the time, and the Building Inspector at the time, and gave them a file folder of applications and photographs, and asked what the process was. He said he was told they would get back to him with what was required. A few weeks later while he was in the Town Hall on other business, the former Board Chair handed him back the file and told him he was all set. Then during the winter, he looked at his property file and realized that none of the permits were there, that nothing at all was done with the paperwork he had submitted. He said the Board Chair had told others that the file was all set as well. He said this is a liability for the Town but as a homeowner, he is trying to protect his home. He questioned whether his insurance company would cover something without a signed -off permit. He said the Town is in a spot right now because individuals in their official capacity had represented to him as a homeowner participating in a Town program that he was good to go. He said if there was an event in which his house was destroyed and the insurance company would not pay because of the lack of permits, he would be asking the Town who is going to replace his house. He said this would only be a problem if something catastrophic happened, but that as soon as he realized the permits had not been processed, he came in to find out how best to get things documented and resolved as best it can be done.

Selectwoman Alessio suggested that this matter should be reviewed by Town Counsel.

Selectman Hart asked Mr. McManus if there is any reasonable way to resolve this. Mr. McManus said that as a contractor of 30 years and a building inspector of 30 minutes, he did not know. But he said it would be inappropriate for the town building services to act without specific direction from the Town Board.

Selectman Hart and Selectwoman Alessio both expressed that there should be an attempt to somehow resolve the problems and clear up the file for the benefit of both the Town and the property owner. Selectman Coppelman said he has no problem referring this to counsel, but he also would like to know if there is a way the inspectors can at least verify and put in a disclaimer that they can't verify the work that they can't see. He said he is not suggesting that anyone put their credentials on the line, but the homeowner needs closure.

Mr. Bashaw said that he will recuse himself from any legal correspondence, so the Board should authorize Selectman Hart to talk with legal counsel.

**MOTION:** by Selectwoman Alessio, to authorize Selectman Hart to speak with Town Counsel on this matter.

**SECOND:** by Selectman Coppelman

**All in favor**

#### **PUBLIC COMMENT 1:**

Lesley Hume, 21 New Boston Road, commented that she had never seen the amnesty program as the Town agreeing to inspect properties. She said the property owner, in exchange for disclosure, received assurance that they would not be fined if the Town found out that they had done something improper. She said she did not think the Town

could be liable if someone acted without permits and there was a Town consequence for that. She said it is good to have updated information in the property files.

## **LIAISON REPORTS**

Selectman Hart said that the Conservation Commission is meeting on Thursday. He said the DPW has employees out with injuries and they are looking for part time help to assist with mowing, etc.

Selectman Bashaw said that some of the more popular Planning Board cases have been continued.

Selectman Coppelman said that the Recreation Commission has set up a number of activities, and that summer camp is going well. He said the HDC is still working on a joint meeting with the Planning Board to discuss adjustments to the HDC ordinance section.

## **OLD BUSINESS**

### **Facilities Use Permit for Friends of the Museum Heritage Day event**

Ruth Albert, 1 Lamprey Rd., Chair of the Museum Committee, and Leslie Hume, 21 New Boston Rd., President of the Friends of the Museum, were present to speak about this event.

Chairman Bashaw said that the permit application has been signed as approved, but that he understands they are there to ask for a waiver to the fees for services to be provided by the Police and Fire Departments. Ms. Hume said this is true, and that they would also like to have the application fee waived. Ms. Hume explained that their group raises money that all goes to the Kingston Museum, a Town organization. She said she doesn't see the benefit of charging a fundraising organization these types of fees when the money raised comes right back to a Town organization. She said the museum is sanctioned by the taxpayers and they are trying to raise money from the community and surrounding areas so they don't have to ask for additional taxpayer money.

Ms. Albert said that these fees will put them way in the hole. She said advertising has gone out, everything is set and they can't go back, as people will show up. She said for these reasons, they will hold it even though it will be a losing event; Ms. Hume said they usually clear about \$800 to \$1200 and the Police and Fire details will cost \$1500.

Selectman Bashaw said that his concern as an individual is that the money raised is not going to the Town general fund, but to a charitable organization, and payment for Fire and Police personnel, if not budgeted, would be coming out of each department's accounts, which is taxpayer money. He said that large events with possible life safety needs should be planned ahead and money put in the budget.

Ms. Hume said this is a great point, however, they are behind the 8 ball for 2023. Asked why they did not charge more for booths, Ms. Hume said that with all the anger over the Kingston Day's date change, she did not want to make further changes. She said they did take out the beer and wine garden that had been planned and made it a one-day event.

Ms. Hume said that the Museum has been holding this event since 1970 and they do not want to lose the Founders weekend.

Chair Bashaw made the point that Fire and Police personnel can't donate their time even if they want to, per labor laws. Ms. Hume suggested the payment can come from the detail bucket. Chair Bashaw said he thought that was for equipment.

Fire Chief Graham Pellerin said that he had spoken with Ms. Hume on Friday. He said his requirements don't start until he signs the paperwork, which he did in June. He said that last August at Kingston Days there were 7 heat emergencies, and that is taxing on a department with one in-house ambulance. As for the recent Fire Association Brewfest, he said that organization has raised \$15,000-\$20,000 toward the new fire station, and so is inclusive supporting. He added that they do have two detail officers and this year they only made \$1200.

Mr. Pellerin said that if the fees are waived for this event, then a precedent is being set and it would have to be waived for all non-profit events in the future. Ms. Hume said that if it is not waived for them, there will then need to be a discussion of why not and what the policy should be.

Ms. Hume went through her conversations with the Fire Department to make a point that she was not told about the fees until very recently, and if she had known about it she may have changed her plans.

Police Chief Joel Johnson commented on the suggestion that the officers be paid out of the detail account. He said he is against this because a year ago that account was at negative \$14,000, and they have been working through the year to build it back up. He said that is an emergency account to purchase items needed by the Police Department. As an example, he recently had to buy new firearms for his department, 15 firearms at \$1,000 each. He also said he needs two new cruisers, and there is almost enough in the account to buy one. He said for this reason he is not going to allow anyone to use his detail account to benefit their non-profit. He said he can't take it out of his overtime account either. He said he did waive the \$20 cruiser fee, and also had agreed that if the State Park was used for parking, Dan Doyle was certified for traffic control and could donate his time, which meant only one officer would be needed.

Ms. Hume asked how he handled Kingston Days. Chief Johnson said that that is different, it's a town event that he budgets for. He said that comes out of his Detail account, the officers do not work for free. He said he is squeezing by with one officer and will have his patrol officers in the area frequently that day in case there are any problems.

Selectman Hart said that a policy is going to be needed in future for events on the Plains. However, in this case, he wondered if it would be possible for the Town itself to pay the officer details, which would be around \$1500, due to the fact the committee had a problem they did not anticipate. Selectwoman Alessio said this could open up a can of worms if others want the same. Chairman Bashaw said that there is no extra money in the budget, and the Board is telling all departments to hold on to any excess funds.

Selectwoman Szwed said that the Museum is planning another event in October on the same scale and would also have to be waived if this one is.

After continued discussion, the vote was called.

**MOTION:** by Selectman Bashaw, to approve the application for facilities use for the August 5, 2023 Museum fundraising event on the Plains, but not to waive the fees for required life safety protection requirements.

**SECOND:** by Selectwoman Alessio

Ms. Hume asked if the application fee would be waived. Selectwoman Alessio said she would donate the money to cover that fee.

**All in favor**

### **Letter to Unitil regarding Herbicide Usage**

Chairman Bashaw said the Board has a letter to send to Unitil Corp. which reverses an earlier decision to deny permission to use herbicides in the Aquifer Protection Zone. He gave the background for the benefit of the public, that Unitil had been denied permission and subsequently applied to the ZBA to appeal the administrative decision. Information was provided to the ZBA affirming that Unitil would not be applying chemicals in excess of the 25 gallon limit set in the Town's Aquifer Protection Zone ordinance, so this Board no longer has the mechanism by which to deny permission. Chairman Bashaw said that documentation and case law had also been provided indicating that there are certain prohibitions on communities creating ordinances to prevent utilities from applying herbicides in rights of way. However, Chairman Bashaw said it is good that Unitil is agreeing to meet the requirements of the local ordinance. He read the letter for the benefit of the public.

**MOTION:** by Selectman Coppelman, to authorize the Chair to sign the letter to Unitil.

**SECOND:** by Selectman Hart

There was a request from the audience to be allowed to comment. The Board agreed to allow comments at this time but limited to 3 minutes.

Dana Akers, 16 Reinfuss Lane said he had attended the ZBA hearings, and Unitil had admitted to using 100 gallons of liquid the last time they sprayed the area. He said that Peter Broderick, ZBA member, had suggested that that included the water used to mix the chemicals, and that all that should be measured is the concentrate. Mr. Akers said the ordinance clearly states that what is to be measured is the total amount of the mixture, and that he hopes that they are not still planning to spray 100 gallons and count is as less. He said if Unitil is indeed proposing to spray less than 25 gallons he agrees that the Board's hands are tied. Chairman Bashaw said again that there was other legal information received indicating that local ordinances can't be created to prevent utilities from spraying chemicals in the rights of way. Mr. Akers said he had learned from Chairman Coffin of the ZBA, outside of a meeting, that Unitil's attorney had mentioned this as well but had said it would not apply in this case because the Kingston ordinance predates the state law.

Selectman Coppelman said that the Town has advice from the New Hampshire Municipal Association indicating that what Chairman Bashaw had stated is true. Mr. Akers said it seems that the ZBA and Select Board are getting conflicting advice, and said he just wants to be sure everyone is on the same page.

Lorraine Masioli, owner of 26 Old Coach Road, said she had also attended both ZBA meetings, and concurred with Mr. Akers that the gallons measured should be the mixture and not the concentrate. She said her concern is when do we stop the chemical process, regardless of what advice has been given. She said NHMA may have the state's interest in mind, and wondered when this will go to the federal level, such as happened with the Superfund site in town. She said at some point this has to stop, and asked the Board to reconsider signing the letter, and also asked that the Board reconsider stopping spraying of chemicals in town.

Chairman Bashaw said that this vote is not an endorsement of chemical spraying, but rather based on legal advice due to current state law and case law. Selectman

Coppelmen said he would prefer that mechanical means were used for clearing the vegetation, however, the town's ordinances do not specify that.  
**All in favor** of signing the letter.

### **Wage/Salary Committee**

Chairman Bashaw said that the Board had solicited letters of interest in serving on this committee from residents, and two had been received. He said he will be setting up an initial meeting as soon as possible; the beginning of the work will be a lot of data gathering, and he asked that all members come with whatever information they may already have.

### **NEW BUSINESS**

#### **Police Prosecutor bids**

Two bids for this position had been received and were opened by the board:

1. Heather Iworsky      \$37,000 first year; 2% COLA each subsequent year
2. Ventura Law          \$45,000 per year

**MOTION:** by Selectwoman Alessio, to give the bids to the Police Chief to review and return with a recommendation.

**SECOND:** by Selectman Hart

**All in favor**

#### **Public Works Software bids**

Two bids had been received, and were opened by the board:

1. IWorq Systems      \$11,500 year one      \$9,000 years two and three
2. People GIS          \$19,000 per year

**MOTION:** by Selectwoman Alessio, to give the bids to the DPW Director to review and return with a recommendation.

**SECOND:** by Selectman Hart

Director Coombs asked, as a point of order, whether he could decide now, as he had already gathered information on these two companies before the bids went out. It was decided the process should proceed as usual, and the bids should be formally reviewed before a recommendation is made.

**All in favor**

#### **Sanborn project demolition grant**

Grant funding up to \$500,000 has been awarded to the Sanborn Seminary project. This grant was applied for through InvestNH by the Town on behalf of the landowner.

**MOTION:** by Selectwoman Alessio, to accept InvestNH Demolition Grant Award #DEMO22-118 of up to \$500,000 and authorize the Chairman to sign all documents.

**SECOND:** by Selectman Hart

**All in favor**

### **BOARD BUSINESS**

Selectman Coppelman said that the PFAS remediation grant documents have been signed and sent back to the state. He said the next step is to be placed on the Governor and Council meeting schedule for approval. He said this will be at one of two meetings

in August, and that once it is known at which meeting it will be heard, the town should advocate for it.

#### **PUBLIC COMMENT 2:**

Lorraine Masiolo, 15 North Road, said that she is especially concerned about the herbicide spraying as her father (prior owner of 26 Coach Road, an abutter to the Superfund site) died of bladder cancer, and with the last point of business about PFAS it is clear there is a lot going on. She said as the town has the largest aquifer in the state, the citizens of the town have a huge opportunity to change how the town approaches chemical use.

Ms. Masiolo also commented on events on the Plains, saying she wondered how the Town could not be budgeting for more regular events on the Plains. She said it seemed unfair that longstanding entities did not get the support that Kingston Days has had. She wondered why any official of the Town would have to sign for approval, and it sounds like the answer is going to be no every time due to the fact that there is no plan in their budget. She asked if there is no extra money in the town budget to support town entities, and no emphasis on this. She asked how anything gets done if this much foresight and this many phone calls are required. She suggested that as the budgeting process begins, one event per month could be planned for.

DPW Director Phil Coombs said that the vehicle that had been in use by the Code and Building Officer, that was approved to be used by the Recreation Department, was going to need more mechanical attention than what can be done in-house. Chairman Bashaw said that the approval for use had been offered assuming all it required was a battery to get on the road, and the Town does not have extra money for unnecessary vehicles.

Selectman Coppelman suggested that an estimate of the work needed should be obtained, in case there is a simple fix. Mr. Coombs was asked to follow up on this.

Mr. Coombs then said that he has done a more invasive investigation into the structure of the Grace Daly barn, and he has compiled a report, which he has shared with the Board representative of the Heritage and Museum committees and also copied Ernie Landry of Heritage, who has been his main contact throughout. He said he needs guidance on how to proceed. He said the intent had always been that his department would do as much of the work as possible but not all, so as his department is low on people due to some injuries, that is a consideration. He said he has only done rough estimates. Chairman Bashaw said he has looked at the barn and it looks like whatever needs to be done will not be cheap. Selectman Coppelman said that he appreciated the preliminary report and the pictures that were included. Chairman Bashaw asked that the report be sent to the entire board to give them time to look at it before any full discussion.

Mr. Coombs confirmed that a \$20,000 grant has been obtained for this work, but it's possible the cost will be quite a bit more. There may be a warrant article put forward. Selectman Coppelman said that the contents of the barn are being housed at a private barn across the street, and if this project is ongoing until a warrant article passes, another storage location may need to be found.

Stacy Dion, Chair of the Kingston Days Committee, said she was here for the earlier discussion and would like to make it clear that they are paying for the police details for that event.

#### **CORRESPONDENCE, APPLICATIONS, PURCHASE ORDERS:**

- **Facilities Use application: Contra Dance events in the Town Hall meeting room:** Selectman Coppelman said that the Contradance group is just getting started again, and that they held the dances at Town Hall for 10 years prior to being interrupted by Covid. He said he had discussed the application with the DPW Director and Fire Chief, and they see no need for a custodian for clean up or for fire detail. He said this application is for September 23, but in future would like to go back to the 4<sup>th</sup> Saturday of each month, 10 months of the year. On a motion by Selectwoman Alessio, seconded by Selectman Hart, all were in favor of this use of the Town Hall conditioned upon approval of all departments.
- **DRA Form PA-28:** The Board signed the annual form stating that the Town will not be using Form PA-28, which is for self-inventory of property.
- **DRA- Reimbursement for Forest Land:** This form provided annually by the state allows for reimbursement for conserved land based on assessed value. On a motion by Selectman Coppelman, seconded by Selectwoman Szwed, all were in favor of authorizing the Chair to sign this form.
- An unpaid leave request was approved for the Audio-Visual technician; it was noted that Mr. Faulconer will need to provide for backup for meeting recordings during his absence.

#### **APPROVAL OF MEETING MINUTES:**

**MOTION:** By Selectwoman Alessio, to approve the public and non-public meeting minutes of June 26, 2023 with one amendment (correct the date).

**SECOND:** by Selectwoman Szwed

**In favor: Alessio, Bashaw, Coppelman, Szwed; Abstain: Hart; Passes**

**MOTION:** by Selectman Coppelman, to adjourn public session and enter non-public session at 8:50 PM, under RSA 91-A:3, II (a), Personnel, and (c), "matters which would likely affect adversely the reputation of any person other than a member of this board".

**SECOND:** by Selectwoman Alessio

**All in favor via roll call vote**

**MOTION:** by Selectwoman Alessio, to adjourn non-public session and return to public session at 9:12 PM

**SECOND:** by Selectwoman Szwed

#### **All in favor**

**Motion made to seal minutes of non-public sessions.**

Motion made by Selectwoman Alessio, seconded by Selectman Hart, 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	Y
Kevin St. James	Y	Glenn Coppelman	Y

**Motion: PASSED**

**Meeting Adjourned at 9:12 PM**

Respectfully submitted:

Susan H. Ayer, Administrative Assistant to the Select Board