

**Kingston, New Hampshire  
Board of Selectmen  
Meeting of April 29, 2019  
FINAL MINUTES**

The meeting was called to order at 6:00 PM in the Meeting Room at the Town Hall.

**PRESENT:** Chairman Mark Heitz; Phillip Coombs, Donald Briggs, Jr., Kevin St. James, Selectmen.

**ABSENT:** Richard Wilson, Selectman

**US Environmental Protection Agency: 5-Year Review, Ottati & Goss Superfund Site:**

Jim Brown of the US EPA was present to give the 5-year update on this site. He said this is a fairly old site, this being the sixth 5-year review since construction (clean-up work) was completed. Also present were Michael Summerlin, NH Department of Environmental Services Project Manager (Superfund Sites Management), and Robin Mongeon, NH DES Hazardous Waste Remediation Bureau.

Mr. Brown said that the substances that they have been testing for over the years continue to decrease. However, he said that in 2018 PFAs were added to the list. These contaminants were found in the monitoring wells at the middle of the site, so this testing will be expanded. In reviewing recent data, he shared that in the downgradient area of the site, the highest concentration of PFAs found was 5600 parts per trillion, while in the upgradient area, the highest found was 7.87 ppt. The standard allowable level for drinking water is 70 ppt, although Ms. Mongeon said that standard may be changing.

Mr. Brown said that 13 private wells were included in testing to date, and nothing has been found in them. However, since the PFAs have been identified, samples will be collected from the wells, additional groundwater sites, and from the surface water on Country Pond, in the next round of testing. This is due to take place in mid-May. There was a question and answer period with several residents present. Results of the May testing will be shared with the Town as soon as they are available.

**SCHEDULED APPOINTMENTS:**

**Heritage Commission: Sign for Nichols Library**

Debra Powers and Ernest Landry were present to discuss Heritage matters. Walt Roy was also present to give an update on the sign that was recently discussed.

Mr. Roy said that due to the cost factor, granite posts for the sign had been ruled out. In addition, the granite-look bollard cover suggested at the last meeting had been researched but ruled out due to the fact that the panels would have to be too large. He said they have decided to stay with the original design of the sign, with posts made of pressure-treated lumber covered by PVC sleeves. The total cost will be \$1525, and the sign will be installed by the sign company. There was a discussion of the proposals received, this being the least expensive, and recommended by the Heritage Commission.

**Archaeological study at Recreation property**

Ms. Powers said that Dr. Goodby came out and did the Phase 1a study as agreed, but that it was not as extensive as she had believed it would be. She said he did research at the state level and came out to the site with a soil augur, looking at the first 6 inches of soil, undisturbed, where artifacts would be. Dr. Goodby concluded the area is a highly sensitive area, meaning expectation is very high for finding artifacts. He recommended going to a Phase 1b, to further study the area. The other option Mr. Goodby recommended was to leave the area alone entirely.

Ms. Powers said that following Dr. Goodby's visit, she requested the advice of the NH Division of Historical Resources, who concurred with the recommendation of Dr. Goodby to continue to Phase 1B shovel testing in the "areas in which ground disturbance is anticipated."

There was a discussion of how to proceed and how far the town should go with this process, and how much it will cost. Ms. Powers said that she feels that if nothing is found in the Phase 1B work, that would be the end of it. Selectman St. James said that he would like the Town to do due diligence on the matter, but that there are other things in Town that people want spend time and money on. The Chairman asked Ms. Powers what she felt a reasonable cost for the next phase would be, and she said she would consider \$5,000 the maximum amount to spend, given other things going on in Town.

Paul Butler, Recreation Director, was present and said that he was interested in the study and supported it, but was also glad to know the area would not be simply left unusable to preserve anything that might be underneath. He said he has lost use of the area for this year, but still hoped the field can be completed for 2020. Mr. Landry said that in his discussions with Road Agent Rich St. Hilaire, he was told that the archaeological study might delay the field work, but that it would not stop the area from being usable by 2020.

After further discussion it was agreed that the Heritage Commission would come back with information about when and where the Phase 1B work would take place, and how much it would cost.

### **Non-Public Session**

**MOTION:** by Selectman Briggs to enter non-public session under RSA 91-A:3, II (I), Consideration of legal advice.

**SECOND** by Chairman Heitz.

Selectman St. James questioned the reasoning for going into non-public session, and after conferring with the persons requesting non-public, the Board agreed to enter non-public session, but resume in public session if the subject matter does not warrant it.

**In favor: Heitz, Briggs, Coombs, St. James.**

The Board adjourned at 7:48 PM

**MOTION:** Upon motion of St. James, **SECOND** of Selectman Coombs it was voted by roll call vote to return to public session at 8:50 PM.

**In favor: Heitz, Briggs, Coombs, St. James.**

**MOTION:** by Selectman St. James to **not** seal the minutes of this non-public session.

**SECOND:** by Selectman Coombs

**In Favor:** Heitz, Briggs, Coombs, St. James.

### **Saddle-Up Saloon Compliance/Enforcement Request**

This discussion took place in non-public session but contrary to the initial statement of the business owners who requested non-public, nothing discussed rose to the level of meeting the requirements of RSA 91-A:

Selectman Briggs said that after the Board received a compliance enforcement request from the Planning Board regarding the Saddle-up Saloon, he contacted the owners of the restaurant and asked them to come in and discuss the matter.

Present this evening were Robert Waters, owner and attorney, and Robert Pagliarulo. Mr. Waters led discussion with the Board about the business' site plan and what it allows. The Enforcement request stated that there has been no re-application to the Planning Board, and included a copy of a letter dated January 10, 2019 that listed what is admissible according to the existing site plan. Most pertinent to the discussion at hand was the requirement that "all restaurant activities on-site are required to take place inside the building." At issue was a planned "bike night" event that was to include a pig roast and a "burnout pit", which the Selectmen pointed out would definitely be outdoor activities.

Mr. Waters asked if this could take place as a Special Event, a one-time fundraiser. He was told that as Fire and Police would need to sign off on this and possibly provide detail, it could not happen because they would not sign off on an event that was out of compliance with the site plan. Mr. Waters said he felt that the Saddle-Up Saloon was receiving unfair treatment.

Mr. Waters was advised that the event could not take place, and that any change to accepted use would have to be approved by the Planning Board.

### **Babscott Lane Right-of-Way dispute**

Jeanne McGregor of 18 Babscott Lane was present to discuss the issue of the Right-of-Way to Powwow Pond from Babscott Lane. She said that her warranty deed shows access to the water through this Right-of-Way but that it is currently being blocked by the new owner at 13 Dulcies Point Road. Ms. McGregor said that this neighbor has blocked access with a fence, logs, and brush.

Selectman Briggs said he has been in the area multiple times trying to address the issue. He said that the Right-of-Way in question is to the left, not the end of Babscott that goes straight to the water. This area, 20' wide and extending 180' from Babscott Lane was deeded to the Town along with Babscott Lane in 1962. He said that before the new fence went in, it was used a roadway by the neighbors to put boats in the water, etc.

Ms. McGregor said that the new neighbor originally apologized and said he would remove the fence, but then changed his mind and said he was never told there was a right-of-way on his property.

The Board reviewed deeds and photographs brought in by Ms. McGregor.

**MOTION:** by Selectman St. James, to have Town Engineer Dennis Quintal do a survey of the Town-owned right-of-way off Babscott Lane.

**SECOND:** by Selectman Briggs

There was a brief discussion of what is to be surveyed (only the area owned by the Town) and cost. It was agreed that this should be done as it has become an issue.

**All in favor.**

#### **Fire Station Building Committee: Purchase and Sale; Engineering and Survey**

Mark Furlong, Chairman of the Committee, said they are back to bring updated information regarding the survey of the property proposed for the new fire station, and also about the purchase and sale agreements being drafted for the land swap and purchase that will allow for enough room to build.

Speaking of the survey first, he said that Chuck Hart was spearheading this effort. Mr. Hart said that he had a total of 7 estimates that had some differences in scope, that three included the survey, 3 included site plan work, 3 included geotechnical work, and one included all of these aspects.

Mr. Hart said the proposals were reviewed by the Design and Specifications subcommittee, and that while the scope of work covers more than they want to do right away, it made sense to engage one firm and develop a survey plan from that. He said they are seeking approval for \$9,300 at this time, which is half of the total contract.

**MOTION:** by Selectman St. James, to approve contracting with Civil Construction Management, Inc., to lay out lot lines for the three properties included in the plans for the new fire station.

**SECOND:** by Selectman Coombs

In discussion, it was noted that copies were only shared of the lowest bidder, CCM's proposal, and requested that copies of all proposals be forwarded to them.

There was a discussion of whether only half the cost should be approved, or if the whole contract amount, with half the funds released now, the rest later.

Selectman St. James withdrew his motion.

**MOTION:** by Selectman St. James, to hire Civil Construction Management, Inc. to do site work and surveying on properties involved with the new fire station, for a total of \$18,600, and authorize the Chairman to sign the contract on behalf of the Town.

**SECOND:** by Selectman Coombs

**In favor: Heitz, Coombs, St. James. Abstain: Briggs. Motion passed.**

#### **PUBLIC COMMENT:**

None heard.

#### **OLD BUSINESS:**

### **New location for Kingston Days Carnival campers**

Selectman Briggs updated the Board on the search for an alternate area to allow carnival workers to camp in during Kingston Days. He said he and Electrical Inspector Tom Soterakopoulos had looked at the property owned by Lone Tree Council on the corner of Route 125, and said there is no water or electricity available there, so it is not suitable.

**MOTION:** by Selectman St. James, that due diligence having been done in seeking an alternate space, the campers be allowed to stay at Magnusson Field from July 23 through August 5, as requested.

**SECOND:** by Selectman Briggs.

**In Favor: Heitz, Briggs, St. James. Abstain: Coombs. Motion carried.**

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

**MOTION:** by Selectman St James to approve the public and non-public session meeting minutes of April 22, 2019, as written.

**SECOND:** by Selectman Coombs

**In favor: Heitz, Briggs, Coombs, St. James**

**PUBLIC COMMENT: None.**

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

- Appointment form: George Korn, Alternate, Heritage (approved)
- Veterans' Credit application (approved)
- Letter of interest to join FSBC (approved)
- Abutter notice: subdivision, 15 Exeter Road
- Abutter notice, Town of Hampstead 8 lot subdivision

### **Non-Public Session**

**MOTION:** Upon motion of Selectman St James, **SECOND** of Chairman Heitz, it was voted by roll call to adjourn to Non-Public session under the provisions of NH RSA 91-A:3, II (I): Consideration of legal advice and **RSA 91-A:3, II(a)** Personnel.

**In favor: Heitz, Coombs, St. James. Abstain: Briggs; Motion carried.**

The Board adjourned at 9:30 PM.

**MOTION:** Upon motion of Selectman Coombs, **SECOND** of Selectman Briggs it was voted by roll call to return to public session at 10:20 PM.

**In favor: Heitz, Briggs, St. James, Coombs**

**MOTION:** By Selectman Briggs to seal the minutes of the non-public session for an indefinite length of time, as releasing the minutes would affect adversely the reputation of any person other than a member of this board.

**SECOND:** By Selectman coombs

**In Favor: Heitz, Briggs, Coombs, St. James; Motion passed.**

**MOTION:** by Selectman St. James, to authorize the Chairman to sign a one-year contract for the Town's Planner, Glenn Greenwood (GKG Planning), in the amount of up to \$35,276.

**SECOND:** by Selectman Coombs  
**All in favor.**

**Adjournment:**

**MOTION:** by Selectman Briggs to adjourn at 10:20 PM.

**SECOND:** by Chairman Heitz  
**All in favor.**

Respectfully submitted,  
Susan Ayer  
Administrative Assistant