

**Kingston, New Hampshire
Board of Selectmen
Meeting of July 1, 2019
FINAL MINUTES**

The meeting was called to order at 6:43 PM in the Meeting Room at the Town Hall.

PRESENT: Chairman Mark Heitz; Kevin St. James, Vice-Chair; Donald Briggs, Jr., Phillip Coombs, Richard Wilson, Selectmen.

Non-Public Session

MOTION: Upon motion of Selectman St. James, **SECOND** of Selectman Heitz, it was voted by roll call to adjourn to Non-Public session under the provisions of **NH RSA 91-A:3, II (d)**: Consideration of the acquisition, sale or lease of real or personal property
In Favor: Heitz, Briggs, Coombs, St. James, Wilson; Motion passed.

The Board adjourned at 6:44 PM.

MOTION: Upon motion of Selectman Heitz, **SECOND** of Selectman Wilson, it was voted by roll call to return to public session at 7:10 PM.

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

Topic(s) discussed: Purchase and sale agreement for fire station property.

MOTION: By Selectman Coombs, to seal the minutes of the non-public session for 90 days, as releasing the minutes would render a proposed action ineffective.

SECOND: By Selectman Wilson

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

SCHEDULED APPOINTMENTS:

7:00 PM: Testing results, Ottati & Goss Superfund site

Jim Brown and Kelsey Dumville of the Environmental Protection Agency and Michael Summerline and Robin Mongeon of the NH Department of Environmental Services were present to discuss results of testing done in May at the former Ottati & Goss site off Route 125 in Kingston. Mr. Brown noted that this is a continuation of a discussion held on April 29, after the groundwater monitoring wells were tested for PFAs for the first time. He said that additional PFA testing was done in May, including a number of private drinking water wells around the site as well as surface sampling of Country Pond.

1. Surface water sampling: Mr. Brown said that, as he had previously reported at a meeting of the Country Pond Association, testing at the pond did not find PFA levels anywhere near health based limits. He said that although nothing of concern was found, he will collect an additional round of water surface samples later this summer to see if the results are comparable.
2. Private drinking water well results: Mr. Brown said that there will be a discussion of the new PFA drinking water standards proposed by the state. With reference to that, he said he did not find any wells with levels higher than the current

standard of 70 parts per trillion; the highest was one of two wells at the Country Shores campground, at 44.2 ppt. All the other wells tested very low; he pointed out the low level and non-detect wells on a map. However, as the proposed new standards would put the one well at the campground above the acceptable count, he has called the campground and advised them not to use that well. The second well is at nearly non-detect level.

The Selectmen were invited to ask questions. Chairman Heitz asked if the EPA would also be adopting the new drinking water standards. Mr. Brown answered that if the lower levels are adopted by the state and there is a Superfund site in the beginning stages, the EPA would adopt the state levels. Meanwhile, the federal agency is making its own effort to develop maximum contaminant levels.

Selectman St. James asked if the Ottati & Goss site is still scheduled to be turned over to the state in July. Mr. Brown said that the long-term sampling will be completed in September, but that they will be working with the state on the PFA issues and may agree to additional studies on that, for which the EPA would still be involved in funding. He said that investigations may end with additional remediation being needed.

Mr. Brown said that there are still a few more wells to sample once they can get in touch with the property owners. Selectman Briggs asked if another well is found over the limit, who would be responsible for installing the treatment system, the state or the EPA? Mr. Brown answered that if it is clearly caused by the site, it would be the EPA, but whoever pays, the EPA would take some action.

Selectman St. James asked if a carbon system should be installed at the campground, wondering if they would have a problem with only one usable well. Mr. Summerline reported on a conversation he had with the campground owner and gave some detail about the wells. He said that they only use one at a time anyway, and that both were re-sampled today.

Selectman Coombs asked how it is determined that the contamination is from the site itself and not from an outside source, mentioning that the Town is already running into the problem of finding PFAs in a lot of homes, but not necessarily caused by one outside source. Mr. Brown said that the highest concentration of contaminants was found in the area of an old dry well, part of the Kingston Steel Drum business. Citing several test results in various points around the site, he said that bulk of the problem is where operations took place, and he is confident it is not a larger radius problem. He added that there will be a verification round of testing.

Chairman Heitz went back to the question of the campground wells and the differing results, saying that it seems to give reason to believe the one well's problem is not from the site. He said he is asking because of the problems in the center of town. He asked about the different types of wells and if any differences were found. Mr. Brown said that a study on Cape Cod included testing for such things as caffeine and artificial sweetener, and where these were detected it pointed to the wells being impacted by the septic systems. Chairman Heitz asked if any artesian wells were included in the

Kingston testing; Mr. Brown said that some were bedrock wells, and all were low or non-detect.

Mr. Brown said that there was nothing more to add to the discussion of the May sampling, and that aside from another round of testing, as mentioned, they are in the process of deciding the next steps.

Opened to public comment; none heard.

Health Officer Peter Broderick said that the Selectmen had charged him with putting together an informational program on PFAs, and said this would probably take place in September or October. He asked if there were specific concerns the Board would like discussed.

Chairman Heitz said that, based on past discussions and recent discovery of contamination in homes that are not in proximity to the fire station, he would like to know more about the possible source of the compounds. He said that this is of concern to the town, as the Fire Station was thought to be the source but that the chemicals keep popping up in other parts of town.

Road Agent Richard St. Hilaire said that one problem is that the state has determined the Town of Kingston to be self-paying for remediation going forward, and that in fact a different set of chemicals have been found next door to the Fire Station. He wondered how the contamination can be from the fire station when the chemicals are not even part of the makeup of the fire-fighting foam that has been blamed.

Mr. Summerline said that he will work with Mr. Broderick and get someone from an appropriate group to address the question.

Ms. Dumville said that these concerns are not unique to Kingston and are part of a larger conversation, as on Cape Cod. She said she will bring the concerns back to the EPA Drinking Water office.

After further discussion of what to include in the larger informational meeting, and the process for adopting the new testing level limits (if approved, these will take effect on October 1), Dave Allwine of Stantec was invited to give an update on his own testing of town wells relative to the proposed new drinking water standards.

PFOA contamination in Kingston well water; New drinking water standards for NH

Mr. Allwine said that he had recently completed the second of three rounds of testing on a cluster of homes that had been identified as at risk for PFA compounds in their well water. He said that the bottom line is that if the new standards are adopted, some of the wells which to date were not above the accepted levels, will now be above the new standards. Because these are drinking water wells, more filter systems will then need to be installed. Mr. Allwine estimated there to be another five or six wells that will need to have filters; Mr. St. Hilaire said that the state had said it would be ten, but the wells need to be re-tested too. The next round of testing is in August.

As to the recently completed round of testing, Mr. Allwine said that the results were basically similar to prior testing. The locations exceeding the standard were the fire station and a few properties down-gradient from there. However, he said the highest reading was at 161 Main Street, and the wells in between were not high.

Mr. Allwine said that there are different combinations of PFA chemicals in different products, and testing can determine if different wells have different sources of contamination. He said that 161 Main Street is possibly a different release. He said that this (testing for different compounds) will have to be done at some point, given the concern about the fire station being blamed for every hit. Selectman St. James asked if the fire-fighting foam was PFA or PFOA. Mr. Allwine responded that PFA describes all, and individual chemicals are the other acronyms, such as PFOA. He said that the fire-fighting foam has a lot of PFOA.

With regard to the Cape Cod study cited in the prior conversation, he said that PFAs have shown up in areas with no industry or other obvious reason for their presence, and in those cases it must be the septic system; he said these compounds are found in a lot of products such as Resolve carpet cleaner, and do not break down. He added that there are a lot of presentations available on the subject that people can watch on their own, online.

Discussion continued on readings found at specific sites. Mr. St. Hilaire said that when the new regulations come into effect, the town will get a letter expecting it to take care of the problem and there won't be much time to do it. He and Mr. Allwine both mentioned contacting KateEmma Schlosser of DES before the letter comes out. Chairman Heitz said that a discussion will need to take place, and that the state should have to prove the fire station is the source of contamination.

OLD BUSINESS:

School project fee waivers

This matter was taken out of order. Questions had come up about the building permit fee waivers for the school reconfiguration. The Building Inspector had questioned issuing a free permit to private property at the Cleary building. It was agreed that the work done in that building on the school's behalf was eligible for fee waiver. In addition, it had been asked if all permits, to include Electrical and Plumbing/Mechanical permits, were included in those to be issued without a fee.

MOTION: by Selectman St. James, to waive the fees for all permits involved in this school project

SECOND: by Selectman Briggs

Discussion included a comment by Chairman Heitz that the support between the school and the town is mutual and that the school has been very generous with IT support. Selectman St. James commented that he does hope the School Board will look at the commitment of the school to have band members play in the Memorial Day parade, in the same way sports team members are committed to play all games. Selectman Coombs commented there is a fee associated with sending inspectors out to these jobs, and the Town does incur a cost.

In Favor: Heitz, St. James, Briggs, Wilson; **Opposed:** Coombs

2019 Kingston Storm Water Management Program: Certification

Mr. St. Hilaire said that the town is starting the second year of the new Storm Water permit. A plan is needed to identify outfalls and site work at outfalls; tonight the signature of the Chairman is needed on the 2019 documents.

MOTION: by Selectman St. James, to authorize the Chairman to sign the Storm Water Management Program plan as signified.

SECOND: by Selectman Wilson

Mr. St. Hilaire said the cost of the program over the next five years will depend on the number of outfalls, but that he guesses it will be about \$10,000 to \$15,000 for the next 4 to 5 years. This is for testing, paperwork, mapping, etc. He said that as he had intended, as much of the work as possible is done by volunteers.

In favor: St. James, Briggs, Coombs, Wilson; Abstention: Heitz

Public comment #1:

Mary Cyr of Newton and member of the School Board said she found the discussion on the PFAs interesting, and said that there had been a documentary presented in Newton called The Devil You Know, which she recommended. She said that 99.8 percent of humans test positive for PFOA.

Ms. Cyr went on to commend all involved in the recent beerfest and bonfire, saying it was good to see so many people out for a common cause when there is so much polarization in the world.

Colleen Johnson and Robert Pagliarullo of Berkshire Dominion/Saddle Up Saloon said they were here to talk about outside seating at the restaurant. They said there was controversy with the Planning Board over whether they need to update their site plan to allow for serving liquor outdoors.

Mr. Pagliarullo said he had gotten permission for a temporary liquor license for a motorcycle event and there were no problems. He said he is here to get a final outside license due to the site plan, which he said reads that the owner can follow the previous use of the property. He said he requires a letter of approval from the Town before the State Liquor Authority will issue the license. He gave the Selectmen a copy of the liquor license issued to prior owner Rick Korn, which showed an outdoor seating limit of 68.

Selectman Coombs said that in his opinion, they need to go to the Planning Board, and that this is outside the jurisdiction of the Board of Selectmen. Mr. Pagliarullo said that it is already approved and that he has messed around long enough and it is costing a lot of money.

Selectman St. James said that the Board had originally been told they did not have outdoor permission, and he is hoping to get everyone on the same page. Selectman St. James added that all the motorcycles, burnout pit, etc., advertised for the last event were not like the prior use. He also said that the feather signs on the property are illegal in Kingston. (Mr. Pagliarullo said that other businesses such as the Shell station have feather signs.) Mr. St. James said that he sees no problem with the 68 seats, but if there are going to be burnout pits there is a problem.

There was a long discussion of various aspects of the issue. It was noted that the occupancy limit is 299 total. Chairman Heitz pointed out that if what the prior owner had permission for is different from what is planned now, this is a problem. He said that if Rick Korn had a large event once or twice a year, that doesn't give permission to now do one every week. Mr. St. Hilaire said that he feels they should have the same permission for 68 outdoor seats, but that it should go through the proper process with the Planning Board first. Selectman St. James suggested that the Planning Board should be invited to the next meeting to discuss this.

Peter Bakie of North Road and a member of the Planning Board said he is looking for transparency. He said that Saddle Up has seen the Planning Board numerous times. He said he never heard the 68 number, but saw the note on the site plan that a new owner can do what was previously approved. He said the owners are saying they would stay within that number, and if they are doing a special event that will exceed that number, they will come to the Planning Board. Mr. Bakie said that as a board member, he is seeing the breakdown of communication. He said he doesn't see how the site plan note says that only a certain number of events can be held, but they have agreed to come before the board for a Special Event permit.

Chairman Heitz said that Special Event applications (from the Selectmen) are usually for private property owners, not businesses. There was a discussion of the process. Tammy Bakie, Town Clerk, spoke in support of the liquor license for outdoor seating being approved now.

Chairman Heitz said that the underlying authority is the approved site plan. He said if the owners want to deviate from it at all, they will have to go back to the Planning Board. He said he is not sure that the premise that the Selectmen can give out a special permit any time without Planning Board review is true. He added that the reason for going to the Planning Board is to put limits on things like hours and parking.

MOTION: by Selectman Wilson to approve outside seating and liquor service for 68 and to send a letter to the Liquor Commission with this approval; anything in excess of that will be applied for on a special event permit application until the owners can see the Planning Board; owners will conform to current site plan.

SECOND: by Selectman Briggs

Selectman St. James said he was sympathetic and would like to approve, but the owners had every opportunity to get on the meeting agenda and did not. He said this board has not even followed its own policies and procedures in hearing this matter during Public Comment, and that he would have liked to have information in front of him before taking a vote.

Selectman Coombs said that he felt this is beyond the Select Board's authority. Chairman Heitz said that Selectman St. James made a legitimate point, that this should have been on the agenda so the Board could prepare. He asked why this request, and the last request for a special event liquor permit, were rushed in at the last minute.

Vote was called for all in favor of sending a letter to the Liquor Commission, granting same approvals as the prior operator had with the Liquor Commission that adhere to the note on the approved, recorded site plan for the business at 92 Route 125.

In Favor: Heitz, Wilson, Briggs; Opposed: St. James, Coombs; Motion passes.

Mary Cyr spoke once again to say that she attended the Municipal training sponsored by the town, as a school official, and found it to be a great refresher. She shared some points raised at this training, such as abstention vs. recusal.

NEW BUSINESS

Warrant for unlicensed dogs

MOTION: by Selectman St. James, to authorize the Town Clerk to charge owners of dogs that remain unregistered a \$25 fee, plus the cost of mailing the letters certified mail, per state statute.

SECOND: by Selectman Briggs

Ms. Bakie noted that through prior efforts, the number of unlicensed dogs is down to around 178. Selectman St. James said that the Clerk has done everything she could to notify people and get the dogs licensed or off the list before this step was taken.

All in favor.

Town Forests: Report and suggestions from UNH Cooperative Extension

The Selectmen have received a copy of the report prepared for the Conservation Commission by Rockingham County Forester Gregory Jordan. Mr. Jordan was invited by the Commission to walk the forests after some complaints were heard from the Selectmen that the forests were not being properly managed, according to Commission member Greg Senko who was present to discuss the report.

Mr. Senko said that all town forests were reviewed and management suggestions made, though each property was found to be healthy and very well-managed. Harvesting was not immediately recommended, but light maintenance suggested. Mr. Senko added that because the road through the Frye forest is a Class 6, loggers could not be brought in, but harvesting of the other forests may be possible in the future.

OLD BUSINESS

Deed waiver for 111 Route 125 (Map R10 Lot 2)

Selectman Briggs said he had worked with the Tax Collector and a person at TD bank to get the past taxes on this property paid in full; for this reason he recommends the Town not accept the deed.

There was a discussion of the process of getting the property back in the owner's name.

MOTION: by Selectman St. James, to not accept the deed to 111 Route 125, Map R10 Lot 2, as the back taxes have been paid.

SECOND: by Selectman Briggs

There was a discussion of ongoing problems on the property, which no longer has a valid site plan.

In Favor: St. James, Coombs, Briggs, Wilson; Opposed: Heitz

Heating Oil

Selectman St. James asked if heating oil prices have been researched. Selectman Briggs said that he and the Finance Director found prices and he locked in to the lowest one as he had been given permission to do.

Nichols Museum sign

With regard to the matter of the new sign for the Nichols Museum reading "Nichols Library", Selectman Briggs said he had spoken to a 911 address representative in Concord. He was informed that as long as the address is correct and labeled as a government building, the sign is of no significance.

Babscott Lane Culvert

Selectman St. James met with the owner on Babscott Lane where the culvert is collapsed. He said he readdressed with her that when the Road Agent is there cleaning out the swale, while he has the equipment there he could do the work if she pays for the pipe. The owner is supposed to get back to the Town with a decision on this.

Selectman St. James also reported that the right of way this property owner had thought is Town land in fact belongs to the new owner on Dulcie's Point Road.

CORRESPONDENCE, APPLICATIONS, PURCHASE ORDERS

- Two tax abatement applications were approved, following the recommendation of the Assessor.
- On a motion by Selectman St. James, seconded by Selectman Wilson, all were in favor of authorizing the Chairman to sign a memorandum of agreement between the Town of Kingston and Daniel Parks regarding the removal of earth materials for the construction of a pond on 7 Small Pox Road.
- Two requests for tax payment refunds were sent back for verification of amounts before signing.
- PA16 form, to receive annual reimbursement from the State for Conservation land at Rockrimmon Forest, was signed.
- Land Use Change Tax for Map R30 Lot 65 approved (St. James, Briggs, All in favor).
- Facilities Use application for School cross country event on the Plains in September was approved (St James, Wilson, 4 in favor, 1 opposed, passed).
- Permission granted for use of Town Hall meeting room for Contradance, once per month July - December 2019.
- Letter drafted in response to a Right-to-Know request concerning the Selectmen's decision to appeal a ZBA decision was approved for mailing.
- Letter drafted to Rmon Networks was reviewed and briefly discussed. Motion by Selectman Briggs, Second by Selectman Wilson, to discontinue using Rmon and dispute the last bill (all in favor).
- Two Veterans' Credits were approved.
- Letter drafted in response to Right-to-Know request regarding Safeway Transportation/Durham School Services was reviewed and approved for mailing.

- Andrea Kenter has reviewed the Phase 2 environmental testing results for 4 Main Street, at the request of the Board, and agreed with the report, that the data collected is benign.
- At the request of the Planning Board, the Selectmen voted to approve their re-appointment of Peter Coffin and Glenn Coppelman for 4 more years as Kingston's two Commissioners on the Rockingham Planning Commission (Coombs, Wilson, all).
- Letter received from TEATAD requesting a meeting with the Selectmen, Town Engineer and Road Agent, as well as building permit records, was reviewed. Administrative Assistant draft a reply.

PUBLIC COMMENT II: None heard

APPROVAL OF MEETING MINUTES:

MOTION: by Selectman St. James to approve the public and non-public session meeting minutes of June 17, 2019, as written.

SECOND: by Selectman Briggs

In favor: St. James, Coombs, Briggs, Wilson; Abstain: Heitz

Non-Public Session

MOTION: Upon motion of Selectman St. James, **SECOND** of Selectman Coombs, it was voted by roll call to adjourn to Non-Public session under the provisions of NH RSA 91-A:3, II (c): Matters which... would likely affect adversely the reputation of any person other than a member of this board

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

The Board adjourned at 11:10 PM.

MOTION: Upon motion of Selectman Coombs, **SECOND** of Selectman Wilson, it was voted by roll call to return to public session at 11:15 PM.

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

Discussed in Non-Public Session: Allegations brought up during the first NP session were revisited.

Decisions made: None

Adjournment:

MOTION: by Selectman St James to adjourn at 11:20 PM

SECOND: by Selectman Coombs

All in favor.

Respectfully submitted,
Susan Ayer
Administrative Assistant