

**Kingston, New Hampshire
Board of Selectmen
Meeting of May 6, 2019
FINAL MINUTES**

The meeting was called to order at 6:20 PM in the Meeting Room at the Town Hall.

PRESENT: Chairman Mark Heitz; Donald Briggs, Jr., Kevin St. James, Richard Wilson, Selectmen. (Selectman Phillip Coombs arrived at 6:55 PM)

Non-Public Session

MOTION: Upon motion of Selectman Wilson, **SECOND** of Selectman Briggs, 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, if discussed in public, might affect adversely the reputation of any person other than a member of this Board.

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

The Board adjourned at 6:25 PM.

MOTION: Upon motion of Selectman St. James, **SECOND** of Selectman Briggs, it was voted by roll call to return to public session at 6:34 PM.

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

(Two Welfare requests were discussed.)

MOTION: Upon motion of Selectman Wilson, **SECOND** of Selectman Briggs, it was voted by roll call to adjourn to Non-Public session under the provisions of NH RSA 91-A:3, II (I): Legal matters

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

The Board adjourned at 6:35 PM.

MOTION: Upon motion of Selectman Briggs, **SECOND** of Selectman Wilson, it was voted by roll call to return to public session at 7:08 PM.

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

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, Wilson; Motion passed.

(Legal issues surrounding the Solar Hills subdivision were discussed with legal counsel.)

MOTION: by Chairman Heitz, to issue a Cease and Desist order to the owner of the partially constructed house at 8 Lefevre Drive.

SECOND: by Selectman Briggs

All in favor.

SCHEDULED APPOINTMENTS:

Todd Stewart - Solar Power Financial

Mr. Stewart introduced himself as managing partner of Solar Power Financial and gave some background on the company. He said he is here to talk about use of the Town's closed landfill as a site for solar power, noting that policy changes at the State level make this a good time to consider it. There was a brief discussion of NH House Bill 365, which has passed the state House and Senate, and is awaiting approval from the Governor. This bill would raise the net metering limit from 1 megawatt to 5 megawatts, making larger-scale solar projects feasible. Mr. Reynolds said it has a better chance this year as the element of shifting cost to other rate payers has been taken out of the bill.

Mr. Reynolds said that three reasons this solar project would be beneficial to the Town are that this would make use of underutilized property, that there would be income from the lease of the property, and that there would be savings on electric bills for any customers within the same Unitil territory that sign on.

Selectman St. James asked about the role of Solar Power Financial, and Mr. Reynolds explained that they are not the solar company but the developer that negotiates with the investors, and gets a fee from the investor. Selectman St. James asked if a cooperative buying agreement for electric service would affect the benefit of the solar project, and was told it would not.

Chairman Heitz asked for a simplified explanation of each role in the process. Mr. Reynolds said that his company identifies areas with suitable tracts of land and secures them with an investor. Solar Power Financial tries to maximize the lease rates for the benefit of the Town, acting as a transaction broker. The actual construction would be done by a contractor hired by the investor. The host system is built and power delivered to the grid. To get the benefit of the retail rate, members have to be signed up to subscribe, with the agreement to give them some of the benefit. The investor retains ownership for an indefinite amount of time, but must hold the property for a minimum of 7 years to get a tax benefit. Mr. Reynolds said that the length of the ownership is set up at the beginning so the Town will know what to expect in 7 years.

Mr. Reynolds explained that Unitil has to buy the power, and the Public Utilities Commission sets the default rate, with a rider set every 6 months into the future. He also said that New Hampshire is a tough state to do business in, that the margins are very slim, but that Senate Bill 124 would add some to the amount that can be received, in the form of renewable energy credits, if that passes.

Mr. Reynolds addressed the matter of why the utility companies have been opposed to solar power. He said that one reason the governor vetoed the bill last year was out of concern for the utilities, who have to be prepared for peak power needs. The way the old bill was written the utilities could not count the power generated by solar plants, although the contribution was there. With the new bill, the solar power can be counted the same as other power. If solar provides peak delivery power, and they do not have to

build new substations and lines, they are saving money. He also said that battery systems for power storage are being developed which would even out the swings in power production.

On a related note, there was a brief discussion of the fear that any costs incurred by the utility would be passed on to the customers, negating the benefit. It was noted that the Public Utility Commission watches out for the rate payer, so utilities can't always do this.

Selectman Coombs asked who will be responsible for maintaining the land at the landfill, and Mr. Reynolds said that the investor is responsible for mowing and keeping the land to the standard all parties agree to. He said the membrane enclosing the landfill would not be penetrated and the vent stacks would be maintained.

Questioned about the life expectancy of the solar array, Mr. Reynolds said that it would be warrantied for 25 years, with a life of approximately 40 years. He said that they would look for a 30-year lease.

Selectman St. James asked about the proposed solar array at the Town library, and if this would conflict with the net metering at the landfill. It was explained that the library project only benefits the library, so while they could not participate in both programs, it would only affect the library itself.

The Selectmen thanked Mr. Reynolds for the information and will take it under consideration.

Charlie Zilch, SEC Engineering: Bresnahan project bond

Road Agent Richard St. Hilaire, Town Engineer Dennis Quintal, and property owner/developer Joe Bresnahan were present for this discussion. Copies of the plans for the project, a 15-unit self-storage facility at 7 Marshall Road, were made available. Mr. Zilch informed the Board that trees have been cut, the pre-construction meeting has taken place, and the bond for the first two phases of the project has been reviewed by Mr. St. Hilaire and Mr. Quintal. Mr. Zilch said that the full bond amount was set at roughly \$690,000, and that Mr. Bresnahan is prepared to pay 10% to secure the site and get moving forward.

Mr. Quintal explained that typical bonding the Town sees involves homes and a road built to Town specifications, but that for site plans it is different, as it does not involve residential dwellings. He said that in this case, from the point of view of the Town, bonding should be in place but the question is to what degree. The bonding should be for the groundwork, including storm water management, travel ways and parking. He went on to discuss the project and what expenses the Town might incur if by some scenario the work was abandoned. He said the site would need to be stabilized, and gave some estimates of such items as grading, seeding, and erosion control. He said he thought a reasonable minimum would be between \$60,000 and \$70,000, but that there was room between that and the total that the Town might consider. He added that the major work would be done at the beginning, so when thinking of what could happen,

asking the applicant to come up with the full \$700,000 would be overkill, but that there are minimums the Town needs to consider.

Mr. St. Hilaire said that so there is no confusion, the fact that the Town has accepted this plan makes it responsible if the applicant goes away for any reason. He said part of the requirements are storm water management, a federal requirement. He said he does not disagree with Mr. Quintal that the full amount would be unreasonable, it is a blank piece of land being developed and does not include a Town road, but money needs to be available for the Town to fulfill its obligations should the unforeseen happen.

Chairman Heitz asked where the idea of 10% came from; Mr. Zilch said it is an industry standard. He added that the first things to be done will be erosion control and drainage, which will be done very quickly, and he felt 10% would be more than enough

Selectman Coombs said that given the nature and phasing of the project, he thinks 10% is reasonable. Selectman Briggs asked Mr. St. Hilaire and Mr. Quintal if they also thought this would be sufficient, and both agreed.

MOTION: by Selectman Briggs, to accept 10% of the full amount of construction cost estimate as a bond for this project.

SECOND: by Selectman St. James.

Discussion: Chairman Heitz said it seemed Mr. Quintal thought of this as a minimum figure, and that neither Mr. Quintal nor Mr. St. Hilaire were suggesting 10%. He said that costs can go up or the Town could end up in litigation and delays that increase the costs. He said he is not suggesting the full amount, but wonders if 10% is sufficient. It was clarified that this estimate is for Phase 1 and 2. Mr. Quintal pointed out that the spreadsheet includes a column showing a 25% inflation amount that the Board might consider if they want more than 10%.

Planning Board Chairman Glenn Coppelman asked to comment. He said that the idea is to protect the Town's interest, and that if things really went to pot and half the buildings were up, for instance, would the Town want to complete building and own a storage facility, or bring the property back to a stable state without structures on it? He said the Selectmen might want to consider the cost of doing more than just spreading dirt, and does not think that is built into the numbers given.

Planning Board Administrator Ellen Faulconer also said she would caution the Board that 10% is strictly a minimum and she is not sure the minimum is what protects the Town.

Selectman St. James said that he feels that a commercial project is different from residential and is comfortable with 10%.

The Chairman asked if the motion was for a specific amount. Selectman Briggs said he had made the motion for 10%, based on comments from the Road Agent and Town Engineer. The exact numbers were given and it was ascertained that Mr. Bresnahan came prepared with a check for \$67,316.65.

Selectman Briggs amended his motion:

MOTION: by Selectman Briggs to accept the amount of \$67,318.65 for the bond for the Bresnahan self-storage project on Marshall Road.

SECOND: by Selectman St. James

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

Heritage Commission: Archaeological Study at Recreation area

Debra Powers was present to discuss the Phase 1B archaeological study. She said that as asked, she had gotten proposals. Dr. Robert Goodby from Monadnock Archaeological Consulting had given her two separate proposals, one just involving the area where the basketball court is planned, and one covering the playing field, basketball court and parking area. The cost of the first was \$1,446; the more extensive study would cost \$4,486.

Ms. Powers said that she and Ernie Landry have spoken to Dr. Goodby, who feels this is a wonderful opportunity on land that is not disturbed or privately owned. She said the prices given are maximums, and also that there are other options if the Board balks at the cost, but that her committee strongly recommends going forward.

MOTION: by Selectman St. James, based on past conversations and in the interest of doing due diligence, to contract with Monadnock Archaeological Consulting for an amount up to \$4,486.

SECOND: by Selectman Wilson

Discussion and public comment:

Ellen Faulconer said she would encourage the board to support this study, saying this is just as important to the community and the children as the recreation areas, and also that it doesn't mean that the site can't be used for that purpose by the Recreation Commission after the study is done.

Selectman Briggs asked how long the study will take. Ms. Powers said that it will be done in 21 days including the written report. Discussion took place on what would happen if artifacts are found; Ms. Powers said it will depend on what is found, but the premise right now is that the story could be told from what is found and then the land could be used.

Virginia Morse of the Historic District Commission said that a study was done at the site proposed for a Hannaford supermarket in past years, and nothing was found. However, she said that this site seems very important, being closer to the lake and that it is more likely there will be significant findings. She said it would be wonderful to be able to put up a scenario for students. She said Kingston has a lot of interesting artifacts, and showed the Board a spear point she has that is dated from 2000 BC to 100 AD that students are fascinated with.

Don Howell said that between the two proposals, he believed it would be better to go with the longer one. He said it is better to be more thorough instead of having to come back for another request, costing more time and money. He said he has looked at the

company's website, and said they are very thorough, and that he hoped if anything is found it will be preserved, and that the sooner they get started, the better.

Ms. Powers said a photographer will be present for the entire process.

Selectman St. James amended his motion to include authorizing the Chair to sign the proposal and to include the wording "not to exceed \$4,486".

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

Fire Station Building Committee: Land Acquisition

Mark Furlong and Chuck Hart of the Fire Station Building Committee were present and requested a non-public discussion of this topic.

Non-Public Session

MOTION: Upon motion of Selectman Briggs, **SECOND** of Selectman Wilson, it was voted by roll call to adjourn to Non-Public session under the provisions of NH RSA 91-A:3, II (c): Acquisition of property.

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

The Board adjourned at 8:30 PM.

MOTION: Upon motion of Chairman Heitz, **SECOND** of Selectman Coombs, it was voted by roll call to return to public session at 9:07 PM.

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

OLD BUSINESS:

Electricity Supply Proposal - Neighborhood Energy

Selectman St. James said that this company sent information that he would like to take a look at and compare to what the Rockingham Planning Commission comes back with for an aggregate agreement. This matter was tabled for the time being.

NEW BUSINESS:

Plumbing Inspector Applications

Two eligible applications have been received; it was agreed to invite the two applicants to the next meeting for interviews.

Health Inspector Job Description:

A draft of an amended job description for the Health Officer was reviewed. Additions mainly to the need for the Health Officer to be the point of contact for water testing were discussed and some minor changes suggested. The document will be revised and brought back for a second review.

325th Parade Participation

Selectmen Participation in the 325th celebration parade was briefly discussed.

ZBA Rehearing Request:

The recent decision of the Zoning Board of Adjustment with regard to apartments at the Diamond Oaks Golf Club was discussed. A request for rehearing has been submitted to the ZBA; a letter of explanation for the request was signed for addition to the application.

Lexus Nexus legal publication updates:

There was a discussion of whether it was necessary to spend the money on these printed updates when they can be accessed online for free. No decision was made; it was noted that the Selectmen do not have a computer to use at the Town Hall.

APPROVAL OF MEETING MINUTES:

MOTION: by Selectman Coombs to approve the public and non-public session meeting minutes of April 29, 2019, as written.

SECOND: by Selectman St. James.

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

PUBLIC COMMENT:

None.

ADMINISTRATIVE: APPLICATIONS, PURCHASE ORDERS, CORRESPONDENCE:

- An appointment form for Tom Roughan to the Fire Station Building Committee was received; Mr. Roughan will be asked to come in and talk to the Selectmen.
- Extension of time for upcoming event: Fit Body Transformations was approved to extend the time of an event they are holding on June 1st until 2:00 PM.
- Workmans' Compensation rates from Primex: The Board will request that the Finance Officer look for competitive bids.
- An email has been received about cutting of trees at a parcel along Route 125. All were in favor of having Selectman Briggs investigate.
- Budget figures through May 3 were reviewed.

MOTION: By Selectman Briggs, to seal the minutes of the non-public session for an indefinite length of time, as releasing the minutes would render a proposed action ineffective.

SECOND: By Selectman St. James

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

Adjournment:

MOTION: by Chairman St James to adjourn at 9:45 PM

SECOND: by Selectman Heitz.

All in favor.

Respectfully submitted,
Susan Ayer
Administrative Assistant