

**Kingston, New Hampshire  
Board of Selectmen  
Meeting of October 7, 2019  
FINAL MINUTES**

The meeting was called to order at 7:22 PM in the Meeting Room at the Town Hall.

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

**APPOINTMENTS:**

**Kingston Days Committee Appointees**

Two Kingston Days Committee appointees met briefly with the Board:

Joe Schmittlein of 5 Bobwhite Drive introduced himself as a resident since 1985. He said he had been involved in the 325<sup>th</sup> celebration, helping out with the website and Facebook page as well as where needed during the event.

**MOTION:** by Selectman Coombs, to approve the appointment of Joe Schmittlein to the Kingston Days Committee for one year.

**SECOND:** by Selectman Briggs

**All in favor.**

Charlotte Boutin said she has been on the Kingston Days Committee for 5 years as Treasurer; it was acknowledged by the Board that she has served at elections and on multiple town committees.

**MOTION:** by Selectman St. James, to approve the appointment of Charlotte Boutin to the Kingston Days Committee for one year.

**SECOND:** by Selectman Wilson

**All in favor.**

It was noted that while Kim Donahue was not present this evening, the Board had met her recently to approve her appointment to the Budget Committee.

**MOTION:** by Selectman St. James, to approve the appointment of Kim Donahue to the Kingston Days Committee for one year.

**SECOND:** by Selectman Briggs

**All in favor.**

Two more Kingston Days Committee appointees will come in at a future date to meet the Board.

**Stephen Pascoe, OSP Realty: 62 Mill Road, Map R22 Lot 26 - Apartment**

Chairman Heitz introduced the topic, which was brought to the Board's attention during Public Comment at the September 30 meeting. He said that since then, the Administrative Assistant has had the opportunity to talk to the Building Inspector and to look at information in the file.

Chairman Heitz advised Mr. Pascoe that he can see from the property card that it is listed as a 2-family, and that the assessor had picked up on the living space above the garage. He said that it is taxed as a 2-family, and added that 3-family properties are not

allowed in the Rural Residential zone. He said that this is a non-conforming use that the tax card does not legitimize.

Mr. Pascoe said that he did not put the apartment in over the garage; it was put in 20 years ago and he bought it with the third apartment in place. Mr. Pascoe said that the Town should know about the apartment, as he has put in a 3-bedroom septic system and pulled an electrical permit for 3 meters. He said he had talked to the Town's Assessor but the Assessor told him he would get back to him and didn't. He said that several Town inspectors knew about the apartment and nobody flagged it. He asked what the Town's policy is about illegal apartments, and what they do once they know about one.

Chairman Heitz said that the Health and Building Inspectors can't grant a variance to allow a third apartment in a district that only allows up to two; only the ZBA can provide a variance. Chairman Heitz read notes from the property file that Building Inspector had placed. Two notes were dated December of 2015 and mentioned permits needed, and a question about living space being increased. On the note, Mr. Steward wrote "need variance - expansion of 1<sup>st</sup> and 2<sup>nd</sup>, non-conforming" and "mailed card 12/4/15/12/9/15". On a second note, Mr. Steward wrote, "1. Called will pull permit for garage work. 2. Will start variance work for future expansion of non-conformity." Mr. Pascoe denied being told he needed a variance or receiving a card. Chairman Heitz asked if Mr. Pascoe had pulled a building permit for the garage doors, and he said he had not. Mr. Pascoe also questioned the notes, saying he had no plans to expand.

Selectman Wilson said that whether he agreed or disagreed, he would need to go to ZBA for a variance to keep the third apartment. Selectman St. James said that when the Town finds something, it tries to come to a reasonable solution for all parties involved. Selectman Coombs concurred, saying the Town does not triple fines, but it is reasonable to bring things into compliance. Mr. Pascoe said that the apartment was built, taxed and recognized, and now he is wasting time talking to the Selectmen about an issue they have no control over.

Chairman Heitz said Mr. Pascoe is here because he has a 2-family property that he wants to sell as a 3-family. After continued discussion about how the matter came up and the background of the 2-family house and the garage apartment, Chairman Heitz asked if there was a letter from the Town giving permission for a 3-family property. Mr. Pascoe said there was not, and Chairman Heitz advised him that he would need to go to the ZBA.

### **Gabrielle Ribortone, 150 Main Street: Water Quality**

Gabrielle and John Ribortone were present to talk about PFA contamination in their well water, in view of the fact they are selling the property.

Chairman Heitz said that the Board had just spoken to its water testing consultant and attorney about this issue. He gave an overview of the PFA contamination problem, which is nationwide. He said the Town had been doing water testing and exploration in conjunction with the State, and had run into higher levels of PFA contamination at many

properties that are not in proximity to the Fire Station. He said that the Board is working with counsel but has not yet made a determination on how to proceed now that the lowering of the drinking water standards that went into effect October 1 identified new wells to be tested at the Town's expense.

Ms. Ribertone said that what the Chairman is telling her is that the Town will not install the required system in order that they can sell their property. She said she had talked to Kate Emma Schlosser at the State DES, and had a copy of the October 4 letter that informed the Town they would need to provide bottled water immediately to homes with wells that had tested positive for PFAS compounds that are now over the new lowered acceptable level. She said she understood this is not just a local problem, but that in her case, she is directly across the road from the fire station and NH DES had identified the fire house as the source.

Selectman St. James said that the house right next door to the Town Hall was found to have a very high concentration of PFAS, but it had since been found out the compound does not match the fire-fighting foam. Ms. Ribertone said she had been told her well contains the same compound as at the fire house. She said they had been supplying their own water for two years and don't even give the well water to pets. She said this is limiting her buyers and is a serious concern. She said the Town should have communicated with the residents about the problem from the beginning.

Chairman Heitz said that the State initiated testing of the fire station water in the first place because of foam used years ago to put out fires, that had the chemical in it. He said however, it is also present in carpet cleaner, toothpaste, and many other common items. He said the assumption is being made that all Kingston's contamination is from the fire station and that is not necessarily so.

There was a lengthy discussion in which the Ribortones asked repeatedly for the Town to supply water and a filtration system in their home. The Selectmen repeatedly answered that before the Town accepts responsibility for this problem, which would be very costly to the taxpayers, they want more information and some proof that it is all due to the fire-fighting foam. The Ribortones said they understood the Town has been found responsible, at least near the fire station. They also said they have a new septic system. Selectman St. James said that he sympathizes but the sudden lowering of standards means that water deemed fine last week is now considered undrinkable. He said he does not know what the final acceptable limit will be in the future. Chairman Heitz said that there is a lot of new information and he doesn't have a handle on levels of contamination in the state. He said the DES is making an assumption that anywhere there is a fire station that will be the source.

Chairman Heitz said this is just the beginning, and the issue is huge. He asked the Ribortones to not go away with the misconception that it is only related to fire-fighting foam.

**PUBLIC COMMENT I:** Meg Thurnquist, 23 Cooper's Grove Road, said that Powwow Pond is contaminated and has made her dogs sick. She said she tested it herself. She said she has talked to many people at NH DES and thinks this is the state's fault, not the town's.

## **OLD BUSINESS**

### **Unmerge request: 5 Parsons Way (Map U12 Lot 48)**

**MOTION:** By Selectman Coombs, to change a former decision, and deny the request to unmerge Map U12 Lot 48 as requested by the owner, because all evidence points to merger by conduct rather than involuntary merger by the Town.

**SECOND:** By Selectman Wilson.

Selectman St. James pointed out as a point of order that in order to reverse a decision, the motion needs to be made by a member who last voted on the prevailing side.

**MOTION:** By Selectman Wilson, to deny the request to unmerge Map U12 Lot 48 as requested by the owner, because all evidence points to merger by conduct rather than involuntary merger by the Town.

**SECOND:** By Chairman Heitz.

In discussion, Chairman Heitz pointed out for the record that this matter had been discussed with Counsel. It was the opinion of Counsel that this merger was done voluntarily by the conduct of placing the well over or near the former lot lines. Chairman Heitz said that if the intention of the owner had been to retain the lots as separate, they would have kept the home, septic and well on one lot. Selectman Wilson added that he had made the motion to allow the unmerger originally based on a similar case that the applicant had brought up, which was later learned to be a different set of circumstances.

**All in favor**

### **HVAC Decision**

Selectman Wilson, having reviewed two bids received last week, said he recommended awarding the Police Station HVAC work to Mass Mechanical, at a cost of \$41,500. He said that the two bids were very close, but upon review he found that this company was supplying more equipment and services.

**MOTION:** by Selectman Wilson, to award the bid for Police Station HVAC work to Mass Mechanical, at the bid price of \$41,500.

**SECOND:** by Selectman St. James

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

## **NEW BUSINESS**

### **COMMITTEE LIAISON REPORTS**

**Conservation Commission:** Selectman Wilson said that he had been approached by Chuck Hannigan, who wanted to know if the Town would be interested in trading his 10 acres, which are very wet, for a buildable lot. It was agreed that there is not enough information to make a decision, and that Mr. Hannigan will need to submit a formal request.

Selectman St. James said that the Vintage Bazaar on the Plains over the weekend had gone very well, and that they did a great job parking cars. He said the organizer said it

was the largest turnout she had had in a while. He added that the town does need to come up with a pre-action, incident action plan depending on crowd sizes, for the future.

Selectman Briggs reported that he had met with a sound engineer about improving the acoustics in the meeting room. He said the preliminary estimate he got for sound baffles to be placed was \$60,000 to \$80,000.

**PUBLIC COMMENT II:** None heard.

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

- A letter thanking Bill Bixby for his service on the Fire Station Building Committee was signed.
- Information from Mike Fleck of the Long Pond Association about the status of the Long Pond Dam was read. This is information only; three options for the dam are the responsibility of the dam's owner, and Chairman Heitz said in the past this has all been between the owner and the state.

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

**MOTION:** by Selectman Coombs to approve the public and non-public meeting minutes of September 30, 2019, as written.

**SECOND:** by Selectman Briggs.

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

### **Non-Public Session**

Request by resident Meg Thurnquist to speak in non-public on a personnel issue, involving Town employees, was granted:

**MOTION:** Upon motion of Selectman St. James, **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 (b): Personnel (I) Legal advice.

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

The Board adjourned at 9:17 PM.

**MOTION:** Upon motion of Selectman Coombs, **SECOND** of Selectman St. James, it was voted by roll call to return to public session at 9:45 PM.

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

**MOTION:** by Selectman St. James to seal the non-public meeting minutes for an unspecified length of time, as the divulgence of the information would render a proposed action ineffective.

**SECOND:** by Selectman Briggs

**All in favor via roll call vote.**

### **Discussed in Non-Public Session:**

Legal matter deemed to be not in the purview of the Select Board.

Legal advice on real estate purchase.

### **Adjournment:**

**MOTION:** by Selectman Briggs to adjourn at 9:55  
**SECOND:** by Selectman Wilson.  
**All in favor.**

Respectfully submitted,  
Susan Ayer  
Administrative Assistant