

**Kingston, New Hampshire
Board of Selectmen
Meeting of October 19, 2020
Final MINUTES**

The meeting was called to order at 7:00 PM in the Meeting Room at the Town Hall.

PRESENT: Phillip Coombs, Chair; Donald Briggs, Vice Chair; Kevin St. James, Electra Alessio, Richard Wilson, Select Board Members.

APPOINTMENTS:

Ernest Landry, Heritage Commission: Capital Improvement Plan

Mr. Landry said that the Heritage Commission is proposing to add a project to the Capital Improvement Plan, and he is bringing this to the Board for concurrence. The project proposed is to repair and restore the Grace Daley barn, at an estimated cost of \$25,000. Mr. Landry said that they do not have the results of an assessment of the building, but through conversations with Rich St. Hilaire and others, he feels this is a good "place holder".

MOTION: by Selectman St. James, to add the Grace Daley barn restoration to the Capital Improvement Plan for 2022, for an estimated \$25,000.

SECOND: by Selectman Wilson

All in favor via roll call vote.

Town Clerk Tammy Bakie, Moderator Ellen Faulconer: Election

Ms. Faulconer said that election ballots will be pre-processed beginning on Friday, October 30. She said that in order to streamline the process, she can appoint an assistant Moderator. She said that she has one Town employee in mind that is eligible. In addition, she said that she would like to be allowed to utilize this person on Election Day as well. There was no objection from the Board.

Ms. Faulconer also asked the Board to consider closing Town Hall on Election Day, as in the past there has been a problem with people trying to drop off ballots when the Town Clerk's office is closed. All were in agreement that the Town Hall will be closed on November 2 for the election, with staff not involved in the election working as usual.

Ms. Bakie informed the Board that 837 absentee ballots have been requested and mailed out, and 554 have been returned to the Clerk's office. She then said that she is requesting the Chairman's signature on a \$5,000 grant she has been awarded for expenses related to the election that are increased due to COVID-19. She said this is in addition to a recent grant that was based on absentee ballots.

Various uses of the grant were discussed, such as laptop computers for use by the Supervisors of the Checklist, and one for use by the Clerk at the election. A "hot spot" to be able to get online at the polling place was also suggested, and the ability to pay extra people/hours for processing ballots. Smaller items such as bins for the absentee ballots were also mentioned.

Selectman Coombs asked about increasing the hours of the new part time employee for this purpose, but Ms. Bakie said she is limited due to another job. However, other workers such as ballot clerks may be utilized for extra work. She said that for one example, the ballots need to be tested 50 times on each machine.

MOTION: by Selectwoman Alessio, to authorize the Chair to sign the grant paperwork, and to authorize the Clerk to spend the money received at her discretion, with review of the Board.

SECOND: by Selectman Wilson

All in favor via roll call vote.

Ms. Bakie then spoke to the Board about an erroneous mailing, sent out by an unknown party, to residents of Kingston and other towns. She said it contained an absentee ballot request form and a self- addressed, stamped envelope with her name on it. She said it did not come from her and caused a lot of confusion and extra work for the Clerk's office, answering questions and responding to situations such as people sending in the ballot request who had already voted. The matter has been reported to the Attorney General and the Secretary of State.

Jericho Drive Residents: Property Buffer with Torrromeo Industries

James Bouraphael, 22 Jericho Drive, and Matthew Taglieri, 24 Jericho Drive, spoke to the Board about their experience with the activity at the Torrromeo gravel pit, which is located behind their property. Mr. Bouraphael said he has lived on the property since 1993, and in the past there would be a huge blast once per year that they would check with the Police and Fire Departments about, but they did not have a problem. He said this year, in June, he heard machinery in the woods and realized a lot of large trees were being cleared from the buffer area. At that time he contacted the Selectmen's office and Selectman Wilson came down to look. He said he had measured the distance of the clearing to his property line at 190 feet, and by the time Selectman Wilson came, the distance was down to 95 feet. Mr. Bouraphael said that at that time, the company was asked to stop cutting as he was within the 200' buffer zone, and to submit a plan for restoration of the vegetation in the buffer. He said that they have been waiting for this to happen, but instead the company is building a road and getting ready to do more blasting, not to plant trees. He said there is no written plan as was requested.

Mr. Bouraphael said that when the company does blasting now, because the trees are gone, the noise is much worse and his whole house shakes. He said that rather than calling once per year, they will be calling every time there is a blast.

Selectman Wilson confirmed that Mr. Torrromeo had come to a meeting and agreed to stop cutting in the buffer and to submit a remediation plan, but that after he has not been heard from. He also said that the buffer is supposed to be 500 feet, not 200, as it is an industrial property. Mr. Bouraphael said that if Torrromeo continues, his property value will be down to nothing.

Chairman Coombs said that the Town is concerned about the situation but without a Code Enforcement Officer, it has few resources to deal with problems that come up. He

said the Board took Mr. Torromeo at his word that he would submit a remediation plan; there will be follow-up.

Selectman Briggs reported on a site walk he took 2 weeks ago, during which Mr. Torromeo said he is hiring an engineer.

Mr. Bouraphael said that Torromeo is breaking the laws of the Town and there should be repercussions. Mr. Taglieri shared a video of a door shaking during a blast. Selectman Briggs said that with authorization, he will notify the state Fire Marshall. Selectman Wilson said that all commercial action within the 500-foot buffer needs to stop. Selectman Briggs will ask Town Engineer Dennis Quintal to accompany him to the quarry; he said a Cease and Desist letter should go out tomorrow.

Several other neighbors were present and reported that there have been 12 blasts this year alone, and also that there has not been sufficient notice. One resident said that rather than 24- hour notice as required, for the most recent blast she was called at 12:53 for a 1:00 blast.

There was a discussion of placing a sound barrier in the buffer. The question was raised about the permit to cut timber that the Town signed; it was noted that the last timber intent was put on hold by the Board.

PUBLIC COMMENT I:

Road Agent Richard St. Hilaire spoke to the Board about the procedures for plowing private roads, saying there are three different processes to follow. Chairman Coombs said this matter came up at an inspectors' meeting as a potential problem, as someone could say a road is now Class 5. He had asked for Mr. St. Hilaire to do some research. Mr. St. Hilaire also mentioned that he has learned that as soon as a plan for a new road is approved, it is considered a "paper road" until such time and it is completed and deeded to the Town. He said he plans to suggest to the Planning Board that there should be a time frame in which the road must be completed. He cited a road in an unfinished subdivision which has caused some issues as residents own to the middle of a paper road, and this leaves a gray area. Mr. St. Hilaire left information from the NH Municipal Association for the Board to read.

Mr. St. Hilaire then said he has been made aware of a grant that will pay for up to half the cost of a plow truck. He said there is no money in the capital reserve fund to buy a truck, so this would depend on voter approval. He said if the Board is okay with it, he plans to go ahead and apply for the grant. All were in agreement that it is worth pursuing.

Carl Geisler of 10 North Road, representing Torromeo Industries, came in to talk to the Board about the discussion that took place earlier with Jericho Drive residents. First, he said that the Town had signed off on the Timber intent, and showed the signed paperwork from May (the Board has received a second one that is currently on hold). He said he knows they cut within the 200- foot buffer, and acknowledged that the noise will be more without the trees. He said they will take suggestions on how to remediate the

matter, such as with a berm. Mr. Geisler also said that they have talked to SEC Engineering in Plaistow about a restoration plan.

Selectman Wilson said the big question is why blasting is being done now within the 500- foot buffer. Mr. Geisler said it is not. He said that Maine Blasting and Drilling is using Google maps and has a program to see the distance to the property line. He said the reason the residents are now seeing and hearing machinery is the lack of trees.

Selectman Briggs asked if the company is still cutting rock on the near wall (Mr. Geisler answered yes), because that is the problem as it is within 500 feet of the residential properties. He pointed out that the buffer is to the property line, not the house. He said that the first thing to do, as it is in violation, is to stop work on that side. He said the fear of the neighbors is that the work will keep coming closer and closer to the lot lines. Selectman Wilson said that the clearing work is also within the buffer area; Mr. Geisler said that the trees came down to allow them to get around to the back of a pond to clean it.

Selectman Briggs recommended that Torromeo allow the Town to come in and take pictures, and not operate within the buffer. He said if the Town goes ahead with a Cease and Desist, it will stop work in all areas of the property, not just the part in violation. He said if there could be an agreement to allow the Town to come in, and to monitor weekly to see that no work is being done in the buffer, he would be happy to not send a Cease and Desist. Mr. Geisler said he thought it would be wise to come out and verify the measurements.

Selectman St. James said that Selectman Briggs is speaking as one individual, and said the residents had said that after the Board was told the work would stop and a plan to replant the area would be submitted, the company is instead building a road within 200 feet of the property lines. He said that in his opinion, an agreement needs to be reached with the neighbors.

Selectwoman Alessio said that it's been two months and a plan is needed. Selectman St. James brought up the problem of the residents not being sufficiently notified of the blasting, and said he thinks all work should stop until the problems are rectified. Mr. Geisler said that a blast supervisor was on Jericho Road from 9:15 until right before the blast at 1:00, with the neighbors. He said they have been doing what they can do to notify them.

Chairman Coombs said that he understands the difficulties, but in this densely settled area, the company needs to work with its neighbors. He said this is the second issue the company has had; he said they are not currently being good neighbors. He concurred with Selectman St. James, and said that these residents never complained about the quarry until their back yard disappeared and the noise sounded like it is on top of them. He said the Board needs to do something as the residents are very unhappy. He added that the window for planting trees is getting small.

There was a discussion of solutions to the noise and vibration problems. It was agreed that the distances need to be verified, and that Selectman Briggs and Dennis Quintal will have permission to go onto the property.

Mr. Geisel then said, in response to an earlier comment from a resident, that there are no wetlands violations on the property. Selectman Briggs cited the pond; Mr. Geisel said that is why they need access to go around it. Chairman Coombs said that the company should ensure this is a non-issue. He also said communication with the neighbors about what is going on is important. 24-hour notice also needs to be ensured. Selectman Briggs suggested the call should come from the company itself. He said the plan was to shut down the blasting through the Fire Marshall's office, but if these steps are followed it may not have to happen.

OLD BUSINESS:

Accept unanticipated funds received in 2020

MOTION: by Selectwoman Alessio, to accept \$53,407.16 received for first responder stipends, and \$147,322.00 received through the Governor's Office for Emergency Relief and Recovery (GOFERR), and to authorize the Finance Director to disburse the GOFERR funds for library expenditures to the library account.

SECOND: by Selectman Wilson

Selectman St. James said he thought all the funds should go to the General Fund.

Library Director Rebekka Mateyk was present and explained that the expenditures were specifically to improve access to services during the pandemic, and were spent in part because the GOFERR reimbursement was available.

In favor: Alessio, Briggs, Coombs, Wilson. Opposed: St. James; passes

Draft Public Rights of Way Ordinance

The Board reviewed the cover letter and draft ordinance from DTC Lawyers; it was decided to ask Town Counsel to review before a vote to adopt is taken.

NHDOT Route 125 Project: Cross Walk Option

There was a discussion of the option offered by the NH Department of Transportation, to add a cross walk at the Hunt Road intersection with Route 125 when they do the upcoming work on Route 125. Discussion centered on the responsibility of the Town to maintain the crossings once they are in, and whether or not the crossing is necessary. Selectwoman Alessio will get the opinion of the Road Agent.

35 Marshall Road: Driveway update

A letter has been received from the owner of this property, explaining the delay in completing the driveway to Town specifications. It is expected to be completed in the coming week or so.

NEW BUSINESS:

COMMITTEE LIAISON REPORTS:

Chairman Coombs reported on various building activity, and said that the inspectors will be issued ID tags.

Selectwoman Alessio said she had met with the Fire Chief and Road Agent about their employment contracts and there will be some minor amendments. She said she will have the contracts for the next meeting, after which they will be sent to an attorney for review.

Selectman Wilson reported on progress with the History of Kingston book, saying it will be about 750 pages long and will be priced at \$50.

Selectman St. James said that the Fire Chief has completed all the classes and passed the tests that the Town had required of him in order to enter into a contract.

Board Business:

Selectman St. James said that now that boating season is finished, he would like to see the area at Sands Lane marked so that boats won't be parked on Town property in the future. Selectwoman Alessio said she would tell the Road Agent to take care of this, with the input of the Town Engineer as needed, to set the boundaries.

It was agreed that the Finance Director has permission to share the budget with the Budget Committee even though it is not complete.

PUBLIC COMMENT II: None heard.

CORRESPONDENCE, APPLICATIONS, PURCHASE ORDERS:

- A Facilities Use request for a memorial service at the Recreation Center beach was reviewed and approved.
- A letter from Town Counsel has been received, informing the Board that the LED street lighting proposal needs to be put on the Town Warrant for a vote, as it asks for expenditures in future years.
- An intent to cut timber for Wily Fox Road was held until the area can be looked at. There was a discussion of whether the form could be amended to include a sign off from the tree warden.
- An abutter to the proposed project at 266 Route 125 has written a letter alleging that the developer has cut trees and put a test pit on their property. Selectman Wilson will bring this up at the Planning Board meeting.

APPROVAL OF MEETING MINUTES:

MOTION: by Selectman St James to approve the public and non-public meeting minutes of October 5, 2020, as written:

SECOND: by Selectman Wilson

In Favor: Alessio, Briggs, Coombs, St. James, Wilson.

NON-PUBLIC SESSION:

MOTION: by Selectwoman Alessio, to go into non-public session under RSA 91-A:3, II (l) Legal advice and (c), Personnel

SECOND: by Selectman Wilson

In favor: Alessio, Briggs, Coombs, St. James, Wilson

The Board adjourned to Non-public session at 9:15 PM.

MOTION: Upon motion of Selectwoman Alessio, **SECOND** of Selectman Briggs, it was voted by roll call to return to public session at 10:00 PM

In favor: Alessio, Briggs, Coombs, St. James, Wilson

MOTION to seal these minutes for an undetermined length of time, made by Selectwoman Alessio, seconded by Selectman Wilson, because it is determined that divulgence of this information likely would:

xx Affect adversely the reputation of any person other than a member of this board.

Passed by unanimous roll call vote.

Discussed in non-public:

Legal advice, employee compensation

Adjournment:

MOTION: by Selectman Briggs to adjourn at 10:05 PM

SECOND: by Selectman Coombs

All in favor.

Respectfully submitted,
Susan Ayer, Administrative Assistant