

**Kingston, New Hampshire
Board of Selectmen
Meeting of January 4, 2021
FINAL MINUTES**

The meeting was called to order at 6:30 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.

NON-PUBLIC SESSION:

MOTION: by Selectman Wilson, to enter non-public session under RSA 91-A:3, II (I), legal advice

SECOND: by Selectwoman Alessio

All in favor

Meeting adjourned to non-public session at 6:30 PM.

MOTION: by Selectwoman Alessio, to return to public session at 7:00 PM

SECOND: by Selectman Briggs

All in favor

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 during non-public session: Legal advice from Town Attorney

APPOINTMENTS:

Residents of Jericho Road re: Torrromeo Industries

Robert Berg, 18 Jericho Drive, and Matt Taglieri, 24 Jericho Drive, addressed the Board. Mr. Berg said he had spoken with Town Planner Glenn Greenwood about a report that he says Torrromeo should have filed within a year of zoning regulations being adopted, in order to keep grandfathered status. Mr. Greenwood could not find the report, so Mr. Berg said he is checking with the Town.

Mr. Coombs said that the Town has no record of such a report being requested or filed. He said that at that time, the Bureau of Mines still had jurisdiction, so the report could have been filed there. He said that this agency is now defunct, and there is no way for the Town to follow this any farther.

Chairman Coombs said that before the discussion goes any farther, he would like to inform the neighbors that after consulting with the attorney retained by the Town for this matter, and getting an opinion from a second lawyer as well, the Town will not be taking any legal action. He said this is essentially a civil matter between neighbors. He said the Town is still pursuing some mediation between the parties in order to attempt to mitigate

the damage done and address the legitimate issues raised by the residents. However, he said that beyond trying to facilitate this, the Town is not in a position to demand anything, and is not legally required to do anything, at this time.

Mr. Berg asked if the attorneys had commented at all on the possible consequences to Torrromeo if the report was not filed. Chairman Coombs said that there would have to be documented proof that the Town does not have. He said it has been shown in other cases that RSAs may be nullified over the years, and in this case they are trying to reach back 30 years. He said that there is no one to remember what may have happened, and no proof of the document being requested, never mind received.

Mr. Taglieri read from a document and RSA that states that the onus for filing the report is on the operator, whether they were requested to do so or not. Chairman Coombs said that he can only go by what legal counsel has advised him, and whatever is presented needs to be able to stand up in court.

Asked if the neighbors should contact Torrromeo directly, Chairman Coombs said that the intent is for the Town to reach out and get a line of communication going. He added that this is yet another reason a Code Enforcement Officer is needed, as the Board is made up of volunteers who can only rely on Town Counsel's recommendations. Mr. Berg asked if more information will be available in the next few weeks, as Torrromeo is not as busy this time of year, but is still operating. He added that he is hoping a berm or plantings could be added for noise mitigation. He then asked if Selectman Wilson had contacted the governor's office, and was told there was no answer from that office, but that it seemed the best information was about the GIS mapping, which shows the pit has not increased beyond where it is legally able to operate.

Selectman Coombs said that the neighbors directly affected have better recourse through the court than the Town does.

Ellen Faulconer, 4 Jericho Road, said that there is a second RSA involved, RSA 12, established in 1979, which is separate from RSA 155-e. Ms. Faulconer said that per RSA 12, reports had to be filed with a commissioner of the state, not the Town. She said further action was taken in 1989. She also said there are articles available through the New Hampshire Municipal Association that give information about regulating drilling and blasting, and what actions a town can take.

Ms. Faulconer then said that she has lived on Jericho Drive, not a direct abutter, for 30 years. She said she has never felt her house shake the way it does now, and wanted to know why local permits are still being issued. There was a discussion of who issues the permits to the blaster; Ms. Faulconer said she had been told they are issued locally, by the Fire Department, and doesn't think anything says they can't be asked to blast less. Several in the room attested that the current blasting is damaging houses. Ms. Faulconer asked that the Board speak with the Fire Chief.

PUBLIC COMMENT I:
None heard.

OLD BUSINESS:

Payment Options for Deputy Treasurer

The Board reviewed information collected by the Finance Director from other Towns with similar populations to Kingston. The compensation for the Treasurer is to be revisited as a Deputy Treasurer position has been added.

There was a discussion of paying the Deputy Treasurer \$50 per trip as was done to cover the first few days the new deputy covered in 2020, and also paying only the deputy, not the Treasurer, if the deputy is covering a block of time such as a month.

Selectwoman Alessio said she would like to see what nearby towns are paying. A voluntary survey will be done. Chairman Coombs said a job description is also needed.

GeoInsight Contract for MS-4 Permit work

The Board has been advised that this expense is not eligible to be included in the Capital Improvement Plan, as it is not a capital expense.

Community Revitalization Tax Relief Program (RSA79-e) application

Selectman Wilson said he had asked the Planning Administrator, Ellen Faulconer, to put together committee members for a 79-e committee that will review incoming applications. It was agreed the committee should be formed in time to ask for input on the application just received from Chinburg Properties. Members of Conservation, Heritage, Planning, Historic District Commission and Selectmen will serve. Glenn Greenwood will act as adviser, in a non-voting position. This will be a 5-member board, plus Mr. Greenwood.

It was noted that the public hearing for the Chinburg application had been considered to be held January 11; this will be too soon for the new committee to review it.

MOTION: by Selectman Coombs, to hold the Public Hearing for the Chinburg Properties 79-e application to February 1, 2021.

SECOND: by Selectwoman Alessio

All in favor via roll call vote.

NEW BUSINESS:

Town Meeting

The Deliberative Session (January 30) will be held at the Sanborn High School auditorium due to COVID safety provisions necessary. The Board was in agreement that the voting session of the Town Meeting will be held at Swasey Gymnasium as usual (March 9). A school Facilities Use form will be signed by the Chairman.

COMMITTEE LIAISON REPORTS:

Selectman Wilson reported that instead of the full MS-4 Committee, today's meeting had included only the Town Planner, Town Engineer and Road Agent, as local changes need to be made to present to the full group at the next meeting, which will be on January 25.

There was a discussion of the expense of the MS-4 Stormwater Permit, as the outside consultant (GeoInsight) is needed. There was a suggestion that it could be included in

the permit fee structure. It was decided to consult with Sumner Kalman about options; Selectman Wilson said he will talk with Attorney Kalman.

PUBLIC COMMENT II: None heard

BOARD BUSINESS:

Review draft Warrant

There was a discussion of Article 11 to be placed on the 2021 Warrant, to see if the Town will vote to create a full-time Code Enforcement Officer position. The urgent need for code enforcement was discussed, and the salary to offer.

MOTION: by Selectman St. James, to have the Select Board recommend creating a full time Code Enforcement Officer position, and ask for the sum of \$65,690 for salary and benefits for 9 months.

SECOND: by Selectwoman Alessio

All in favor via roll call vote.

CORRESPONDENCE, APPLICATIONS, PURCHASE ORDERS:

- Details requested from the Trailblazers snowmobile club, about what areas of town property they would like to use, have been received. It was noted that there is a clause in the agreement that it can be terminated for any reason with 30 days' notice.

MOTION: by Selectwoman Alessio, to authorize the Chairman to sign the agreement with the Southern NH Trailblazers for a 5-year term.

SECOND: by Selectman Briggs.

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

- An abutter notice has been received for a Historic District Commission application for a new home at 129 Main Street.
- The Town of Hampstead has sent statistics on towns' involvement in the Fall Household Hazardous Waste Day; 82 Kingston residents participated. The bill for Kingston's share will be \$3,671.90.
- A field report on 4 Bent Grass Circle has been received by the architect involved. This will be referred to the Building Inspector.

APPROVAL OF MEETING MINUTES:

MOTION: by Selectwoman Alessio, to approve the public and non-public meeting minutes of December 28, 2020, as written.

SECOND: by Selectman Briggs

In Favor: Alessio, Briggs, Coombs, Wilson; Abstain: St. James; Passes

Adjournment:

MOTION: by Selectman Coombs to adjourn at 8:20 PM

SECOND: by Selectwoman Alessio

All in favor.

Respectfully submitted,
Susan Ayer, Administrative Assistant