

**Kingston, New Hampshire
Board of Selectmen
Meeting of January 27, 2020
FINAL MINUTES**

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

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

APPOINTMENTS:

James Armstrong, tree cutting projects: Mr. Armstrong did not appear. See discussion under Public Comment 1.

James Dufresne Re: Hawks Ridge subdivision status

Mr. Dufresne introduced himself as representing Hawks Ridge of East Kingston. He said he had submitted a request to meet with the town's engineer, Dennis Quintal, and the Planning Board had told him to bring the request to the Selectmen because the site is under enforcement action.

Chairman Heitz asked who the principals of Hawks Ridge are at this point, and if Robert Vilella is still involved. Mr. Dufresne said that Mr. Vilella is not here, that he would like to proceed to correct the drainage issues with the help of contractor Mark Viens. He said that he wants to bring the site into compliance with the original site plan for Hawks Ridge. It was established that the engineering bond for Hawks Ridge of South Kingston has a balance of \$2,391.70. Mr. Heitz said that the town would like proof that Mr. Dufresne has the right to act on behalf of Hawks Ridge of East Kingston, and specifically that he has authorization to expend the funds in the engineering bond (escrow account). The Selectmen agreed there was no reason Mr. Dufresne could not meet with Mr. Quintal; the only question is about using this account to pay him.

Mr. Dufresne said that the town's attorney should contact his attorney, Charles Cleary, to request this document. Mr. Heitz questioned why Mr. Dufresne could not just ask his attorney to supply a letter; Mr. Dufresne said that he wants to be sure the Board gets what they need. It was agreed to work through the attorneys; the question of whether the Town's attorney could be paid out of the escrow account was raised.

Mr. Dufresne was advised to get a set of plans from the Planning Office. Selectman Coombs will talk to the Planning Board and Mr. Quintal to let them know Mr. Dufresne will be coming in.

PUBLIC COMMENT I:

Matthew Steinel of 36 Great Pond Road, and Derek Vater of 44 Great Pond Road said they had been here to support Jamie Armstrong (who had not shown up for his appointment) to get him back to work. They had each hired him to cut trees, and the work is not completed due to the stop work order put in place after problems with Mr.

Armstrong clearing trees on Town land without permission. Mr. Steinel and Mr. Vater each gave details of work that still needs to be done, including trees that are now even more of a hazard due to being exposed to the wind.

Chairman Heitz recapped the events that led to the stop work order. Selectman Briggs said that part of the problem is the mess left behind. Both residents said they would clean up the debris, but need the trees to be taken down. Mr. Armstrong had said he would take the problem trees for free if he could keep the wood, including trees he would take to make a path. Mr. Steinel said he still needs the original trees taken down, and may have to hire a tree cutter at some expense. He was advised that if he needs to cross Town property for access, he should talk to the Road Agent.

Selectman Briggs said that when he spoke to Mr. Armstrong last week, he was asking about a different property, and had said he wanted to come in for permission to cut there. Mr. Steinel and Mr. Vater had received conflicting stories, and said that is one reason they were here.

Selectman Briggs will meet with Mr. Armstrong.

OLD BUSINESS

Driveway/Occupancy - 35 Marshall Road

Road Agent Rich St. Hilaire was present to add to this discussion, which is continued from December 13. The Selectmen asked for details about Town driveway regulations and this driveway in particular. Mr. St. Hilaire said that the town's regulations call for a maximum slope on a driveway of 10%. He said that the driveway at 35 Marshall Road does not meet that; it is currently at around 15% to 17% and the best it can likely get to is 12%. He said that state regulations used to be 15%, and Marshall Road is a state road, so that could have added to the confusion.

Mr. St. Hilaire said that when he first saw this lot, he approached the owner and told him he would have a problem with the fire department due to the steepness; however, as it is on a state road, he has no jurisdiction for inspections. The owner had been under the impression he was aiming for 15% so was not overly concerned. Selectman Coombs said that the best they can do is 12.5% as a compromise. This won't fix all the problems; it is a driveway off an older driveway that is very steep

Town Counsel was asked for an opinion and has suggested that the Board request a bond for the work from the homeowner, to ensure that the driveway work gets done. Town Engineer Dennis Quintal has drawn up a draft plan and estimated the bond at around \$22,000. Selectman Coombs questioned if this is a fair request, given that the homeowner has already put down a \$10,000 deposit with the paving company. Types of acceptable bonds were discussed.

Mr. St. Hilaire said he thinks the owner has tried to work in good faith, and that his lawyer had written up a waiver that would indemnify the town. Selectman Coombs said he does not think this is a willful violation, that the owner saw 15% and shot for that. He added that other driveways in town exceed the regulation as well, and that although the

regulation has been on the books for more than a decade, it has only started to be enforced.

Selectman Briggs said the fire truck had been brought up to the property and was able to get to the house. However, on an icy day he could not get his cruiser up the driveway. He said he is still concerned about liability for the town. There was more discussion on whether adding more cost to the homeowner was fair. It was decided to invite the owners to the next board meeting to work out a solution.

Town Hall floors, furniture, office rearrangement

Selectman Briggs reported on his continuing efforts to find donated furniture for Town offices. He then described proposed changes to the configuration of the Inspectors/Assessing and Permitting/Selectmen's offices; this has been a topic of conversation for several months. It was agreed to go down to look at the areas at the end of the meeting.

2020 Warrant Articles 7, 8 and 9

The Board followed up on actions of the meetings of January 13, 18, and 26, 2020, which have resulted in the decision to place these three articles to remove \$2,595,602 from the town's Infrastructure fund to help offset the cost of the proposed fire station. The placement of the articles was debated after the state Department of Revenue Administration found the articles legally problematic. Questions have been posed to DRA representative Penny Touchette as well as to Moderator Ellie Alessio in the interest of finding a way to correct the problems.

Both the Secretary of State's office and Ms. Touchette have advised that the articles cannot be removed now that they have been posted. Minor changes in wording would be allowed if they do not change the intent of the articles. Discussion took place on how to revise the articles at Deliberative Session in order to solve the problems pointed out by the DRA, mainly that the money from the fund would be placed in the general fund until 2021 and be unavailable to use to fund the Fire Station or re-establish the fund until that time. Suggestions included adding a specific date when the money would be moved, or just not moving it right away, if that would be possible. Counsel will be asked about the question of timing.

Trustee of the Trust Fund Brad Maxwell addressed the board to resolve questions that had arisen about the balance of interest or earnings available in the Infrastructure Fund for spending at the discretion of the Selectmen following a public hearing. He said he had been mistaken when said it stood at \$293,000. He said that the rules of principal he had been using only apply to private trusts; he said that the Infrastructure fund can be taken down to the amount reserved in the 2011 warrant article when it was last reestablished. It was determined that this amount, set in 2012, was \$4 million. Mr. Maxwell informed the board that the balance at the end of 2019 was \$5,430,000, so that \$1,430,000 is currently available to spend without town vote.

NEW BUSINESS

Town Report

The Selectmen reviewed and approved the cover for the 2019 Town Report as well as the Selectmen's page.

Frontage Road trash issue

Selectman Briggs said there has been a complaint of trash being left out on Frontage Road causing a nuisance and possible health issues. A letter will be prepared for him to hand deliver to the residents responsible.

COMMITTEE LIAISON REPORTS:

Selectman Wilson said that the **Heritage Commission** will be coming to the board for signatures on an application for a Certified Government Grant, a 100% grant with no matching funds, to hire a consultant with the goal of placing the Plains Cemetery on the National Register of Historic Places. Committee members will come to the February 3 meeting.

Selectman St. James reported that Fire Chief Graham Pellerin had conducted oral board interviews of seven candidates on Friday, to fill two **Fire Department** openings. Chief Pellerin will want to meet with the board later this evening in nonpublic session to discuss personnel.

Selectman Coombs reported that the **Planning Board** has heard the case of a new business on Main Street, where a new entity will be moving in where there used to be a junk yard. He said it will be now be used for office space, and they will just be parking trailers there. Selectman Coombs also said that the Planning Board has a lot of cases coming up and will reserve the right to cut off the hearings at some point in the evening. The **Inspectors** are reviewing a spreadsheet of proposed permit fees prepared by Assessing/Permitting Clerk Tori Dobrowolski, in anticipation of the warrant article being passed that will allow changes to the fee structure to be made.

Selectman Briggs reported that he attended the last of the Route 125 Corridor project meetings, and that it went well. He said that the median will not be built, just a center turn lane, and the map is available in the Selectmen's office. One more public hearing will be taking place. Selectman Briggs said there is one issue the Board should address, which is that the state is proposing taking some property for drainage purposes, that would impact East Coast Metal Works. He said that this business is in the process of expanding and this would prevent them from doing so, and in effect cause them to lose business.

MOTION: by Selectman Briggs, to send a letter to the NH DOT asking them to find an alternate discharge area than that proposed, as the property owner has expansion plans.

SECOND: by Selectman Coombs
All in favor.

COMMITTEE OPENINGS:

Selectman St. James announced for the benefit of the public that there are many openings on the ballot for elected committee and board members. He emphasized that

the Budget Committee has 8 openings, and that residents should consider volunteering. He said there are about 9 meetings per year, in the past set on weekends.

PUBLIC COMMENT II: None heard.

CORRESPONDENCE, APPLICATIONS, PURCHASE ORDERS:

- A letter has been received requesting refund of tax overpayment for property at Map R34 Lot 1, 53 Church Street, due to the discount for early payment not being taken by the tax service. It was explained by the Selectmen's Administrative Assistant that the letter was dated November 22 and was just re-sent as it had not been acted on. Information and an email shared by the Town Clerk confirm that the letter was sent to the Town before the deadline. On a motion by Selectman Briggs, second by Selectman Wilson, it was voted 4-1 to refund the amount of \$668.93 to Sarnia Properties. (St. James opposed)
- A facilities use application was received from the South Shore Outboard Association and the Kingston Children's Center, to use Greenwood Pond for their 13th Annual Kingston Fall Classic Outboard Regatta. This is to take place on September 26 & 27, 2020. On a motion by Selectman St. James, seconded by Selectman Coombs, the application received unanimous approval.
- One Veterans Credit application was received, for a 100% disability tax credit. This was approved and signed.
- The NH DOT Municipal Work Zone agreement was signed by the Chairman.

APPROVAL OF MEETING MINUTES:

MOTION: by Selectman St James to approve the public and non-public meeting minutes of January 13, 2020 as written.

SECOND: by Selectman Briggs.

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

MOTION: by Selectman St James to approve the minutes of the special January 26, 2020 meeting of the Board and Budget Committee, as written.

SECOND: by Selectman Briggs.

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

MOTION: by Selectman St. James, to go into non-public session under RSA 91-A:3, II(a) and (b): Hiring and compensation of personnel

SECOND: by Selectman Briggs

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

The Board adjourned to Non-public session at 8:28 PM

MOTION: Upon motion of Selectman coombs, **SECOND** of Selectman Wilson, it was voted by roll call to return to public session at 9:10 PM

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

Discussed in non-public:

Personnel- hiring, compensation

The Selectmen took time at the end of the meeting to review proposed changes to the configuration of Town offices.

Adjournment:

MOTION: by Selectman Briggs to adjourn at 9:30 PM

SECOND: by Selectman Coombs

All in favor.

Respectfully submitted,
Susan Ayer
Administrative Assistant